Neutral Citation Number: [2025] EWHC 1735 (Admin)

Case No: AC-2025-LON-000515

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 09/07/2025

Before :

MR JUSTICE MOULD

- -

Between :

WADHURST PARISH COUNCIL **Claimant**
- and -
(1) SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT
(2) WEALDEN DISTRICT COUNCIL
(3) ELITE LEISURE (SOLOMANS UK) LIMITED
Defendants

- -
- -

Ben Fullbrook (instructed by **Richard Max & Co LLP**) for the **Claimant**
Hugh Flanagan (instructed by **Government Legal Department**) for the **First Defendant**
The Second and Third Defendants did not appear and were not represented

Hearing dates: 18-19 June 2025

- -

Approved Judgment

This judgment was handed down remotely at 10.30am on Wednesday 9th July 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE MOULD

MR JUSTICE MOULD :

Introduction

1. This is an application by the Claimant under section 288 of the Town and Country Planning Act 1990 **["the 1990 Act"]** challenging the validity of the decision of an inspector appointed by the First Defendant to allow two planning appeals brought by the Third Defendant under section 78 of the 1990 Act. The decision under challenge was made by letter dated 13 January 2025.

2. The Third Defendant's appeals were from the refusal by the Second Defendant, acting as local planning authority, of two planning applications made by the Third Defendant. The first application **["appeal A"]** sought planning permission for the change of use of three parcels of land at Bewl Water, Bewlbridge Lane, Wadhurst, Kent **["the appeal sites"]** to seasonal use as a campsite for up to 80 pitches and for the erection of a portacabin between the months of April and September. The second application **["appeal B"]** sought planning permission for the erection of four yurts at the appeal sites, two retrospectively and two proposed, and the retention of a portacabin housing a toilet and washroom for year-round occupation.

3. The Claimant is the parish council for the area within which Bewl Water and the appeals sites are situated. The Claimant made detailed written representations to the inspector opposing the planning appeals.

4. Bewl Water was created in the mid 1970s. It is a reservoir that is open daily to the public between 8am and 5pm. In its representations, the Claimant said that Bewl Water attracts over 140,000 day visitors annually, who come for the scenery, tranquillity, wildlife and water recreation. The Claimant said that there was widespread popular support for the protection of Bewl Water as a wildlife site. The Claimant drew attention to a petition which specifically addressed the impact of the proposed developments on the protected landscape of the AONB and the local wildlife site. The petition had asked Southern Water "*to halt development to save protected birds and Local Wildlife Site*". The petition had received 80,805 signatures as at 18 July 2024.

5. The inspector visited the site on 11 December 2024. He made his determination on the basis of the written representations which he received in relation to the two planning appeals, including those submitted by the Claimant opposing the appeals. The inspector allowed both appeals and granted planning permission subject to conditions.

The grounds of appeal

6. Bewl Water and the appeal sites lie within the High Weald National Landscape, which is designated as an Area of Outstanding Natural Beauty **["the AONB"]** under the Countryside and Rights of Way Act 2000 **["the 2000 Act"]**.

7. Section 85(A1) of the 2000 Act imposes a general duty on relevant authorities in exercising or performing any functions in relation to or so as to affect land in an AONB in England. That duty is to seek to further the purpose of conserving and enhancing the natural beauty of the AONB. In determining the Third Defendant's

planning appeals, the inspector was performing such a function and so was required to discharge that general duty.

8. The Claimant's application for planning statutory review proceeds on two grounds –

   (1) Ground 1 – Although the inspector mentioned the general duty under section 85(A1) of the 2000 Act in paragraph 10 of his decision **["DL10"]**, the Claimant contends that the inspector erred in his approach to that duty. It is contended that the inspector's decision gives rise to substantial doubt as to whether he asked himself the question posed by that duty, which was whether granting planning permission for the development proposed under the planning appeals would further the purpose of conserving and enhancing the natural beauty of the AONB; and if the proposed development would not do so, how could such development be justified in the light of the inspector's duty to seek to further that purpose.

   (2) Ground 2 – The Claimant contends that the inspector failed to have proper regard to, properly to understand or to apply the policy of the management plan for the AONB, the High Weald AONB Management Plan 2024-2029 **["the HWMP"]** which had been published on 27 March 2024 following its preparation in accordance with section 89 of the 2000 Act. In particular, the inspector's reasons raised a substantial doubt as to whether he had properly understood and applied the objectives of the HWMP in determining the planning appeals.

9. On 2 April 2025 I gave the Claimant permission to bring their claim. I directed that the claim be listed for hearing with CPRE Kent Branch v Secretary of State for Housing, Communities and Local Government and others (AC-2024-LON-004265) as both claims raised issues of some general significance to the operation of the town and country planning system and therefore merited some expedition.

10. I heard those claims together on 18 and 19 June 2025. In this claim, Mr Ben Fullbrook appeared for the Claimant and Mr Hugh Flanagan for the First Defendant. I am very grateful to them both for their characteristically clear and cogent submissions.

The appeal sites and the proposed development

11. The inspector gives a brief description of the appeal sites and their immediate surroundings in DL7 to DL9.

12. Bewl Water provides leisure opportunities to walkers, cyclists, swimmers, anglers and sailors. The activities available at the site include walking and bike trails, water sports including stand up paddleboarding, windsurfing, rowing, canoeing and sailing, fishing, an aquapark and a laser challenge zone. There is a visitor centre containing a cafe, a multi use space, toilets and an office.

13. The appeal sites are on the northern side of the reservoir. They are set back from the shoreline. Appeal A sought planning permission on a permanent basis for seasonal use between April and September of three separate parcels of land or zones for camping for up to 80 pitches, and for a car park. In 2020, use of that land for camping for up to 80 pitches between May and September was granted temporary planning permission for a period of 3 years. Appeal B sought planning permission to retain two yurts which are already in situ and for the siting of two further yurts next to them.

Both appeals include a small toilet and shower block which is positioned at the lower end of the appeal sites.

14. The inspector said that there was an extensive planning history. As well as the grant of temporary planning permission for 80 camping pitches, he drew attention in particular to the dismissal of planning appeals relating to 58 earth lodges, to a planning appeal allowing the conversion of a fishing lodge to four tourist units; and most recently, to the dismissal of an appeal seeking planning permission for extensions and alterations to the boathouse to create 11 tourist units.

15. In DL6, the inspector found the main issue for both planning appeals to be the effect of the proposed development on the landscape and scenic beauty of the High Weald National Landscape, that is to say the AONB, and on biodiversity with particular reference to winter roosting common and black-headed gulls.

16. The inspector set out his assessment of the proposed development on the landscape and scenic beauty of the AONB in DL10 to DL24. His conclusion at DL24 was that the overall effect on the landscape and scenic beauty of the AONB would be *"acceptable"* and that *"no harm would be caused to other important aspects of this designated area"*. As a result, he found that there would be no conflict with relevant policies. It will be necessary to review the inspector's reasoning in DL10 to DL24 in some detail when I come to consider the grounds of challenge later in this judgment.

17. At DL25 to DL33, the inspector then turned to consider the effect of the proposed development on biodiversity. At DL33 he concluded that wildlife interests would be conserved and the impact on biodiversity minimised in line with relevant policies. There is no challenge to the validity of those conclusions.

18. At DL34 to DL42, the inspector addressed other matters. At DL36, he said that the outcomes of these planning appeals should not be seen as a stepping stone to any future developments. The acceptance of seasonal camping and occupation of four yurts should not be taken as setting a precedent for further tourism-related uses.

19. At DL43 and DL44, the inspector considered whether it was necessary to impose conditions on the grant of planning permission for the proposed development. At DL43 he said –

"*Several conditions are required to ensure that the campsite and the occupation of the yurts conserves the National Landscape and protects biodiversity and the ancient woodland. These limit the uses to the summer months, require adherence to the Noise Management Plan, expect pre-arrival information about the sensitivity of the site to be distributed, prevent camping within the 15m wide buffer and require details of any lighting to be provided."*

20. At DL45, the inspector stated his overall conclusion that the appeals should succeed. In relation to the main issue which he had identified in DL6, he said –

"*The effect of the proposals on the landscape and scenic beauty of the High Weald National Landscape would be acceptable and wildlife interests would be conserved and the impact on biodiversity minimised."*

21. In granting planning permission on appeal A, the inspector imposed conditions limiting the use of the site as a campsite to the period beginning on 1 May and ending on 30 September in any year. Outside of that period, all tents, motorhomes, vehicles and portacabin are to be removed and the site to be returned to its former natural condition. The site is to be used only for the accommodation of tents and motorised caravans. The stationing of touring or static caravans is prohibited. A lighting scheme is to be submitted to the local planning authority for approval and any lighting installed at the appeal site must be in accordance with that approved scheme. The scheme shall include only low level, hooded and directional lighting. The campsite is to be operated and managed in accordance with the Bewl Noise Management Plan 2023, which accompanied the planning application.

22. In granting planning permission on appeal B, the inspector imposed conditions limiting the use of the yurts to holiday accommodation only and their occupation for that purpose to the period beginning on 1 May and ending on 30 September in any year. Outside of that period, the portacabin is to be removed. A lighting scheme is to be submitted to the local planning authority for approval and any lighting installed at the appeal site must be in accordance with that approved scheme. The scheme shall include only low level, hooded and directional lighting. The yurts are to be operated and managed in accordance with the Bewl Noise Management Plan 2023, which accompanied the planning application.

Legal Framework

Determining planning applications

23. The approach which a local planning authority is required to take when determining an application for planning permission is stated in section 70(2) of the 1990 Act –

> *"70(2) In dealing with an application for planning permission … the authority shall have regard to –*
>
> *(a) the provisions of the development plan, so far as material to the application,*
>
> *… and,*
>
> *(c) any other material considerations."*

24. Section 79 of the 1990 Act governs the determination of planning appeals by the First Defendant or, as in this case, by an inspector appointed by her –

> *"79(1) On an appeal under section 78 the Secretary of State may -*
>
> *(a) allow or dismiss the appeal, or*
>
> *(b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),*
>
> *and may deal with the application as if it had been made to him in the first instance."*

25. By virtue of section 79(4) of the 1990 Act, section 70 of that Act applies in relation to an appeal to the First Defendant under section 78 as that section applies in relation to an application for planning permission which falls to be determined by the local planning authority.

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 **["the 2004 Act"]** provides –

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

27. The duty to have regard to material considerations does not require a planning inspector to refer to each such consideration in the decision letter determining the planning appeal. In South Bucks District Council v Porter (No. 2) [2004] 1 WLR 1953 at [34], Lord Brown of Eaton-under-Heywood referred to the following passage from the speech of Lord Lloyd of Berwick in Bolton Metropolitan District Council v Secretary of State for the Environment (1995) 71 P & CR 309, 314-315 –

"[I]n so far as [the Court of Appeal] was saying that a decision letter must refer to 'each material consideration' I must respectfully disagree… What the Secretary of State must do is to state his reasons in sufficient detail to enable the reader to know what conclusion he has reached on the 'principal important controversial issues'. To require him to refer to every material consideration, however insignificant, and to deal with every argument, however peripheral, would be to impose an unjustifiable burden.

. . .

Since there is no obligation to refer to every material consideration, but only the main issues in dispute, the scope for drawing any inference [the inference suggested being 'that the decision-maker has not fully understood the materiality of the matter to the decision'] will necessarily be limited to the main issues, and then only … when 'all other known facts and circumstances appear to point overwhelmingly' to a different decision."

28. In his well-known summary at [36] in the *South Bucks DC* case of the authorities governing the proper approach to a reasons challenge in the planning context, Lord Brown said –

"…The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn… The reasons need refer only to the main issues in the dispute, not to every material consideration… Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he has genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision".

Section 85(A1) of the 2000 Act – the general duty

29. Following amendments made by virtue of section 245 of the Levelling Up and Regeneration Act 2023 **["the 2023 Act"]** which came into effect on 26 December 2023, the duty under section 85(A1) of the 2000 Act as it applies to a relevant authority in England is in the following terms –

"85(A1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty".

30. The effect of the amendments made by section 245 of the 2023 Act was to replace a duty to *"have regard"* to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty with a duty to *"seek to further"* that statutory purpose. It was common ground between the parties that those amendments strengthen the duty imposed on relevant authorities by section 85(A1) of the 2000 Act.

31. The inspector was appointed by the First Defendant, who is a relevant authority: see section 85(2)(a) of the 2000 Act. In determining the Third Defendant's planning appeals seeking planning permission for development of the appeal sites, the inspector was performing a function in relation, and so as to affect, land in an AONB in England.

32. Section 85(1A) of the 2000 Act empowers the Secretary of State by regulations to make provision about how a relevant authority is to comply with the duty under section 85(A1), including provisions about things that the authority may, must and must not do to comply with that duty. To date, no such regulations have been made.

33. On 16 December 2024 the Department for Environment, Food and Rural Affairs published non-statutory guidance for relevant authorities on seeking to further the purposes of protected landscapes, including AONBs **["the Defra guidance"]**. The Defra guidance states that the amended duty under section 85(A1) of the 2000 Act –

"…is intended to facilitate better outcomes for England's Protected Landscapes, which are in line with their statutory purposes. The duty does not prevent relevant authorities from undertaking their statutory functions and discharging their legal duties and other responsibilities. The duty is intended to complement these requirements by ensuring that the purposes for which Protected Landscapes are designated are recognised in reaching decisions and undertaking activities that impact these areas.

Consideration of what is reasonable and proportionate in the context of fulfilling the duty is decided by the relevant authority and should take account of the context of the specific function being exercised".

34. The Defra guidance states that relevant authorities will need to apply the duty when undertaking any function in relation to, or so as to affect, land in a Protected Landscape. Such functions are stated to include determining planning applications and planning appeals. The duty is said to be an active duty which means (amongst other things) that–

"For development plan making and development management decisions affecting a Protected Landscape, a relevant authority should seek to further the purposes of the Protected Landscape - in so doing, the relevant authority should consider whether such measures can be embedded in the design of plans and proposals, where reasonably practical and operationally feasible".

AONB Management Plans

35. Section 89(1) of the 2000 Act requires conservation boards for protected landscapes designated as AONBs to prepare and publish a management plan –

"89(1) Every conservation board shall, within two years after the date on which they are established, prepare and publish a plan which formulates their policy for the management of their area of outstanding natural beauty and for the carrying out of their functions in relation to it".

36. The Defra guidance states –

"The Management Plan describes the natural beauty, special qualities and key characteristics of a Protected Landscape. This will articulate the features of the landscape which warrant its nationally designated and protected status".

The following advice is given to relevant authorities –

"When seeking to further the purposes, relevant authorities should consider the information contained in a Protected Landscape's Management Plan. Management Plans describe the natural beauty, special qualities and key characteristics of and targets and objectives for the designation".

37. The current version of the management plan for the AONB, the HWMP, was published by the High Weald Joint Advisory Committee on 27 March 2024.

Conserving and enhancing

38. In R (Great Trippetts Estate Limited) v Secretary of State for Communities and Local Government [2010] EWHC 1677 (Admin) at [10], Collins J said that the two elements of the statutory purpose in section 85(1) of the 2000 Act, that is to say *"conserving and enhancing"* the natural beauty of the AONB, are to be read and understood as being disjunctive –

"Both the legislation and the approach in policies has tended to use "and" and "or" interchangeably in relation to enhancing and conserving. In reality it is common ground, and indeed it must be the case, that they are disjunctive…".

The New Forest case

39. In New Forest National Park Authority v SSHCLG and another [2025] EWHC 726 (Admin), it was necessary for me to consider the effect of the duty now imposed on relevant authorities under section 11A(1A) of the National Parks and Access to the Countryside Act 1949 **["the 1949 Act"]** to seek to further the statutory purposes of national parks –

"5(1) The provisions of this Part of this Act shall have effect for the purpose –

(a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of [National Parks]; and

(b) of promoting opportunities for the understanding and enjoyment of the special qualities of [National Parks] by the public.

...

11A(1A) In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority other than a devolved Welsh authority must seek to further the purposes specified in section 5(1) ...".

40. In *New Forest* at [76] I referred to South Lakeland District Council v Secretary of State for the Environment [1992] 2 AC 141, 150B-F where Lord Bridge of Harwich approved the judgment of Mann LJ in the Court of Appeal, that the statutorily desirable object in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, of preserving the character and appearance of a conservation area *"is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say, preserved"*. At [77], I drew attention to the ordinary English meaning of the word *"conserve"* as being "*to preserve intact or to maintain in an existing state"* and *"to prevent something of natural or environmental importance from being damaged or destroyed"*.

41. Applying the approach approved in *South Lakeland* to the statutory purpose of conserving the natural beauty, wildlife and cultural heritage of a National Park, at [86] I said –

"As things now stand, in my judgment, when determining an application for planning permission in relation to land within the area of a National Park, it is necessary for the decision maker to consider whether the proposed development will leave unharmed the natural beauty, wildlife and cultural heritage of the National Park in its existing state. If the decision maker is satisfied that the proposed development will leave the natural beauty, wildlife and cultural heritage of the National Park unharmed, he or she may grant planning permission on the basis that he or she has thereby discharged the duty under section 11A(1A) of the 1949 Act to seek to further the statutory purpose under section 5(1)(a) of that Act. In such a case, the decision maker will have properly sought to further the statutory purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park, by satisfying themselves that to grant planning permission for the proposed development will leave the specified characteristics of the National Park unharmed".

42. I did not understand either Mr Fullbrook or Mr Flanagan to take issue with that analysis; or to argue against its application in the context of the duty now enacted in

similar terms by section 85(A1) of the 2000 Act, in relation to designated areas of outstanding natural beauty. In its pleaded grounds, the Claimant had argued that it would not be a sufficient performance of the duty under section 85(A1) of the 2000 Act for the inspector simply to satisfy himself of the absence of harm to the natural beauty of the AONB. He must also go on to consider whether the proposed development would enhance the natural beauty of the AONB. Mr Fullbrook did not pursue that particular argument in his written or oral submissions. In my view, he was correct not to do so, for the reasons I gave in [80]-[83] of my judgment in *New Forest*.

The court's approach to legal challenges to planning appeal decisions

43. In St Modwen Developments Ltd v Secretary of State for Communities and Local Government [2017] EWCA Civ 1643; [2018] PTSR 746 at [6], Lindblom LJ set out seven familiar principles which guide the court in determining a challenge to a planning appeal decision by an inspector brought under section 288 of the 1990 Act. Three of those principles bear upon the issues raised in the present claim –

(1) Planning appeal decision letters are to be construed in a reasonably flexible way. Such decisions are written principally for the parties who know what the issues between them are and what evidence and argument has been deployed on those issues. Inspectors need not rehearse every argument or cover every point raised before them.

(2) The reasons for an appeal decision must be intelligible and adequate, enabling one to understand why the appeal was decided as it was and what conclusions were reached on the principal important controversial issues. An inspector's reasoning must not give rise to a substantial doubt as to whether he went wrong in law, for example by misunderstanding a relevant policy or by failing to reach a rational decision on relevant grounds. But the reasons need refer only to the main issues in the dispute, not to every material consideration.

(3) The weight to be attached to any material consideration and all matters of planning judgment are for the inspector and not for the court to determine. An application under section 288 of the 1990 Act does not provide an opportunity for the court to review the planning merits of the proposed development.

44. Where a legal challenge to a planning appeal decision raises the question whether the inspector has discharged a statutory duty in the course of determining the appeal, it is for the claimant to demonstrate that there is at least a substantial doubt whether the inspector has done so: see Palmer v Herefordshire Council [2016] EWCA Civ 1061; [2017] 1 WLR 411 at [7]. Lewison LJ said -

"Where the decision maker refers to the statutory duty, the relevant parts of the NPPF and any relevant policies in the development plan there is an inference that he has complied with it, absent some positive indication to the contrary: Mordue v Secretary of State for the Environment [2016] 1 WLR 2682 at [28]".

Ground 1 – the section 85(A1) duty

The issue

45. The issue raised under this ground is whether the inspector erred in performing his duty under section 85(A1) of the 2000 Act, in that he failed to ask himself the correct question or to give proper and adequate reasons to explain how he had discharged that duty in determining the planning appeals.

Relevant national and development plan policy

46. In order to address that issue, it is necessary to refer to a number of policies of the development plan and to relevant paragraphs of the National Planning Policy Framework **["the Framework"]**.

47. Policy EN6 of the Wealden Local Plan (1998) states –

"EN6 Development within the High Weald Area of Outstanding Natural Beauty, as defined on the Proposals Map, will only be permitted if it conserves or enhances the natural beauty and character of the landscape. Particular care will be paid to the siting, scale, layout and design of the development. In considering any proposals, particular regard will be had to:-

(1) the landscape characteristics of the sub-areas identified in the High Weald landscape assessment;

(2) the well-wooded appearance, especially Ancient Woodlands, together with other woods, tree belts and hedges;

(3) undeveloped steep valleys and ghylls;

(4) open heathland;

(5) undeveloped ridge positions and other visually exposed locations;

(6) areas of unspoilt or remote character;

(7) the traditional settlement pattern, building styles and materials;

(8) the High Weald Management Plan".

48. Part B of policy WAD1 of the Wadhurst Neighbourhood Plan (2024) states –

"Development in the countryside, beyond the adopted development boundaries, will be strictly controlled in the interests of conserving the nationally important landscape, tranquillity and distinctive character of the High Weald National Landscape and will be resisted except in the circumstances detailed below:

…

ii. It conserves and enhances the landscape and scenic beauty of the High Weald National Landscape and its setting and has regard to the objectives of the High Weald Management Plan;….".

49. The inspector's decision in this case was made following publication of the December 2024 edition of the Framework. Paragraphs 187 and 189 of the Framework include the following policies –

"187. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

…

189. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas".

50. The AONB is a National Landscape for the purposes of the Framework.

51. The HWMP describes a series of eight *"core character components"* of the natural beauty of the AONB. These include natural systems, settlement, routeways, woodland, fieldscapes and heath, dark night skies, aesthetic and perceptual qualities and land-based economy and rural living. Among the key characteristics of the AONB identified in the HWMP, the Claimant drew attention to the sensory quality of quietude and tranquillity, with large areas of natural, rural soundscape and perceived distance from urban noise.

52. The HWMP identifies five *"top issues"* to be addressed, including –

"2. Increasing visitor numbers leading to urbanising infrastructure around villages and popular sites, and lack of awareness of the countryside code by new users, creating tension between different user groups.

…

5. Erosion of rurality and tranquillity through 'urbanising' development including new housing, camping/glamping accommodation and activity, telecoms equipment, traffic and noise (including aircraft), including cumulative effects".

53. The HWMP states three objectives, of which the second is in the following terms –

> *"PQ2. To protect the unspoilt rural landscape with its intrinsic sense of naturalness, valued views, and the extent of green space which foster experiences or rurality and tranquillity.*
>
> *Rationale*
>
> *To prevent the loss of contained green space, glimpsed and long views, and tree-canopied skylines, especially regarding developments that fringe existing settlements in the High Weald, which would impinge on people's perception of greenness and rurality".*

The inspector's reasons and conclusions

54. In DL10 to DL24, the inspector explained his assessment of the effects of the proposed development under both appeals on the landscape and scenic beauty of the AONB.

55. In DL10, he referred both to the duty under section 85 of the 2000 Act and to the national and local policy framework which I have set out above, including the HWMP –

> *"10. In addition to the statutory duty at section 85 of the Countryside and Rights of Way Act 2000, the Framework provides that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes. Policy EN6 of the Wealden Local Plan has similar objectives and also indicates that particular regard will be had to certain considerations. Policy WAD 1 of the Wadhurst Neighbourhood Plan refers to development in the countryside being strictly controlled in the interests of conserving the nationally important landscape, tranquillity and distinctive character of the High Weald National Landscape. This policy also mentions the High Weald Management Plan".*

56. In DL11, the inspector briefly summarised both the qualities of the AONB as a whole and of the area local to Bewl Water. As to the latter, he drew attention to the Landscape Character Assessment which found the Bewl Water Area to be a largely unspoilt and tranquil rural landscape. In DL13, he found that the appeal sites themselves contributed little to the characteristic qualities of the AONB. His reasoning in those paragraphs was not criticised and should be set out in full -

> *"11. This National Landscape is an area of ancient countryside and one of the best surviving medieval landscapes in northern Europe. Key characteristics are its ridges and valleys clothed with an intricate mosaic of small fields interspersed with farmsteads and surrounded by hedges and abundant woods arranged around a network of historic routeways. The East Sussex Landscape Character Assessment of 2016 evaluates the Bewl Water Area as a largely unspoilt and tranquil rural landscape with few intrusions. The reservoir has become an established natural and recreational feature.*
>
> *…*

13. The appeal sites are mainly grassed, sloping areas divided by internal access roads and enclosed by hedging and fencing. There are some trees within them and on their periphery and a block of ancient woodland to the south. The existing parking area included in Appeal A would be used by those staying in Zone C. There are fields to the north on the other side of Bewlbridge Lane but to the east and west are the buildings, parking and boat storage areas associated with the leisure and recreational activities. Whilst the undeveloped areas add some value by virtue of being open, the sites contribute little to the wider identified attributes of the High Weald".

57. The inspector's assessment of the effect of the proposed development on the natural and scenic beauty of the landscape of the AONB is given in DL14 and DL15 –

"14. In assessing the landscape and visual impact of the proposals it is notable that the tents, campervans, vehicles and other manifestations of the use would only be present for part of the year. They would also be likely to fluctuate from day-to-day or week-to-week. Two of the zones were previously lawfully used for boat storage. The yurts are and would be modest in size. With this in mind, the implications for the wider landscape would be limited as the proposals would be a minor component of the overall scene and enclosed from the lake by intervening woodland.

15. Because of this, long-distance views of the proposed use and the yurts would not be possible. They would, however, be seen from within the Bewl Water site but this would be by visitors for whom the sight of colourful tents, campervans and associated paraphernalia would not be unexpected. These are often found in the countryside and would not be urbanising. Furthermore, the context is set by the other buildings and uses that are present. The sites are not within an area of pristine countryside where development would be likely to be more apparent. Overall, the proposals would not be intrusive and would not spoil the landscape or visual qualities of the National Landscape".

58. In DL16 to DL20, the inspector considered the effect of the proposed development on the tranquillity of the surrounding area. He said that tranquillity was a particular characteristic of that area during the evenings and at night, by virtue of the large expanse of Bewl Water, limited development on its periphery and visitor opening hours. The area was also noted for its dark skies. He said that through introducing overnight accommodation into the area, the proposed development could result in noise and light, due to matters such as campers' behaviour, their music, vehicle movements and camp lighting, torchlight or vehicle headlights.

59. Dealing firstly with the issue of noise pollution, at DL17 the inspector said that a temporary campsite and two yurts had been use since 2021, operating appropriately in accordance with a noise management plan. There have been no recorded complaints since that date. Nevertheless, there was evidence of noisy episodes associated with the campsite. In DL18 he summarised the revised Noise Management Plan which had been submitted by the Third Defendant. The Plan contained various rules and policies, such as no noise after 2200 hours and no large groups, and gave details of steps to be taken to resolve and log any incidents. Overnight security staff would be in place to monitor campers and enforce the rules when necessary.

60. The inspector said that compliance with the revised Noise Management Plan could be secured by condition. As I have said, the inspector imposed conditions requiring both the seasonal campsite and the yurts to be operated in accordance with the submitted Noise Management Plan. In DL19 he acknowledged that it was nonetheless unrealistic to expect that occupiers of the campsite or the yurts would be completely silent during the evening and the night. There were likely to be isolated incidents when the rules were flouted. His overall judgment on the issue of noise pollution was that -

"... the balance of evidence points to a conclusion that adequate safeguards would be in place and that the scale of any noise would not be so great as to detract from the overall tranquillity of the surroundings after day visitors have left".

61. The inspector addressed the issue of light pollution in DL20. He acknowledged that neighbourhood planning policies sought to protect dark skies and to reduce light pollution. He said that the impact of the proposed development would be modest, being limited to the few hours of darkness before the proposed 'curfew', with some of the lights being transitory and fleeting, such as campers' torches and camping lamps. Although there were no proposals for permanent lighting of the campsite he nevertheless could, and later did, impose conditions which would limit the type and scale of any such lighting in accordance with neighbourhood policy.

62. In DL21 the inspector drew a distinction between the proposed seasonal use of the appeal sites and an earlier proposal which had been refused planning permission on appeal for a year-round use, including the winter months when lighting would have been required during the longer hours of darkness. His overall judgment on the issue of light pollution was as follows –

"The Framework refers to limiting the impact of light pollution on intrinsically dark landscapes rather than precluding artificial light altogether. This aspect of the landscape and scenic beauty of the High Weald would therefore not be prejudiced".

63. In DL23 the inspector said that the Third Defendant had assessed the proposed development against all of the objectives of the HWMP. That was a reference to an assessment submitted on behalf of the Third Defendant on a template form published by the High Weald AONB Unit during the currency of the previous 2019-2024 version of the Management Plan. The inspector said that many of the HWMP's objectives were high level, and others had been or would be addressed -

"... However, what can be said is that the proposals have had regard to them as far as they are relevant and as required by Policy WAD1".

64. In DL24, the inspector concluded his assessment of the effect of the proposed development on the AONB –

"24. The overall effect on the landscape and scenic beauty of the High Weald National Landscape would be acceptable and no harm would be caused to other important aspects of this designated area. As a result, there would be no conflict with relevant policies".

The Claimant's submissions

65. For the Claimant, Mr Fullbrook submitted that in determining the planning appeals, the inspector was required to comply with the duty imposed by section 85(A1) of the 2000 Act. Whilst the inspector had mentioned that duty in DL10, it did not follow that he must be taken to have complied with it in reaching his decision to allow the planning appeals and to grant the planning permissions. The issue was one of substance and not of form. In particular, in order to comply with the duty, the inspector must ask himself the question which the duty posed for him. That question was whether granting planning permission for the proposed development would further the statutory purpose of conserving and enhancing the natural beauty of the AONB. If it would not do so, compliance with his duty under section 85(A1) of the 2000 Act required the inspector then to consider how the grant of planning permission could nevertheless be justified.

66. Mr Fullbrook submitted that the inspector's reasoning gave rise to substantial doubt as to whether he had indeed addressed those matters. Although in DL43 he appeared to conclude that, subject to the imposition of certain conditions, use of the appeal sites for the proposed seasonal campsite and the yurts would at least conserve the AONB, that apparent conclusion was inconsistent with his assessment of the effects of the proposed development and his stated findings in earlier paragraphs of his decision. Moreover, it was inconsistent with the evidence of the parties in their written representations, that the proposed development would result in at least some harm to the natural beauty of the AONB, which, on a fair reading of his decision, the inspector had himself accepted.

67. Counsel relied upon [76] to [79] of *New Forest* for the proposition that, in the context of development management, the statutory purpose of conserving and enhancing the natural beauty of a protected landscape requires for its fulfilment that the proposed development be found not to harm the natural beauty of the landscape. A finding that the proposed development will cause such harm, albeit limited, is inconsistent with the statutory purpose of conservation and enhancement. It was submitted that the inspector's reasoning gave rise to a substantial doubt as to whether he had misunderstood what is meant by conserving the natural beauty of the protected landscape in the context of section 85(A1) of the 2000 Act.

68. Mr Fullbrook acknowledged that the court will respect the expertise of planning inspectors and start from the presumption that they will have understood the planning policy framework: see Hopkins Homes Limited v Secretary of State for Communities and Local Government [2017] 1 WLR 1865 at [26]. However, in its strengthened form following the amendments made by the 2023 Act, the duty imposed by section 85(A1) of the 2000 Act had been in effect only since late December 2023. The expertise of an inspector as to what was needed in order properly to discharge the duty should not be so readily presumed.

Discussion

69. In this case, the function which engaged the duty under section 85(A1) of the 2000 Act was the determination of planning appeals from the refusal of planning permission for proposed development of land situated within the AONB.

70. By virtue of sections 70(2) and 79(4) of the 1990 Act and section 38(6) of the 2004 Act, in determining the planning appeals the inspector was required to have regard to

the relevant policies of the development plan and any other material considerations; and to make his determination in accordance with the development plan unless material considerations indicated otherwise. The relevant policies of the Framework were a material consideration, as were the relevant provisions of the HWMP.

71. In DL6 the inspector said that for both planning appeals a main issue was the effect of the proposed development on the landscape and scenic beauty of the AONB. In DL10, the inspector identified the policy objective in development management decision taking which is common to the development plan, the Framework and the HWMP. That policy objective is to conserve and enhance the landscape and scenic beauty of the natural landscape within the AONB. That policy objective is consistent with the statutory purpose which the inspector, exercising the powers of the First Defendant, was under a duty to seek to further in determining the planning appeals; that purpose being to conserve and enhance the natural beauty of the AONB.

72. In the light of what the inspector said in DL10, there is no room for any doubt as to his recognition of the common objective of both policy and legislation, that development such as that proposed by these planning appeals should not detract from the conservation and enhancement of the natural and scenic beauty of the protected landscape. Nor, in the light of his reasons in both DL24 and DL43, can there be any doubt as to the inspector's conclusion that the proposed development would not have that effect. In DL24, he said that the proposed development would not be in conflict with relevant policies. In order to draw that conclusion in relation to policy EN6 of the Local Plan, the inspector must have been satisfied that the proposed development would at least conserve the natural beauty and character of the AONB. Likewise, in order to draw that conclusion in relation to policy WAD1 of the Neighbourhood Plan, he must have been satisfied that the proposed development would at least conserve the landscape and scenic beauty of the AONB. That he was so satisfied is confirmed, if confirmation were needed, by his reasons in DL43, where he states that conditions are required in order to ensure that both the campsite and occupation of the yurts conserves the National Landscape.

73. Notwithstanding those clear and unambiguous conclusions, the Claimant nevertheless submits that the inspector's reasoning elsewhere in his decision letter justifies the conclusion that he misunderstood the concept of conserving the natural beauty of the protected landscape. In short, it was submitted that the inspector's reasoning reveals that he in fact found the proposed development to be harmful to the natural beauty of the AONB.

74. I do not accept that submission. In my view, it is not a fair or sustainable reading of the inspector's reasoning. In DL15, the overall conclusion that the inspector drew from his assessment of the landscape and visual impact of the proposals was that the proposed development would neither be intrusive into nor spoil the landscape and visual qualities of the AONB. That conclusion is obviously consistent with the inspector's judgment that the proposed development would conserve the natural beauty of the AONB. Indeed, it is a conclusion that lends clear support to that judgment.

75. The inspector's overall conclusion in the final sentence of DL15 is adequately explained by his reasoning in earlier paragraphs of his decision. In DL13, he found the appeal sites to make no more than a limited contribution to the wider

characteristics of the AONB and the rural qualities of the Bewl Water area which he had identified in DL11. In DL14, he found that the effects of the proposed development on the wider landscape would be limited due to the seasonal nature and modest scale of the proposed use, their immediate surroundings and the intervening woodland which enclosed the appeal sites from Bewl Water itself. In DL15, the inspector found that neither the camping site nor the yurts would be visible in long-distance views. The appeal sites are not pristine countryside and, viewed in their immediate surroundings, the campsite and the yurts would be seen in the context of other buildings and uses which form part of the visitor attraction at Bewl Water. Visitors to the Bewl Water site would not be surprised to see use of the appeal sites for seasonal spring and summer camping and the stationing of a small number of yurts.

76. All of that reasoning is germane to the inspector's evaluation of the effects of the proposed development on the landscape and scenic beauty of the AONB. In my view, it sufficiently explains why he reached the conclusion that the proposed development would neither intrude into nor spoil the landscape or visual qualities of the AONB, a conclusion that is in turn consistent with his judgment that the grant of planning permission would fulfil the statutory and policy objective of conserving the natural beauty of the AONB.

77. The inspector's assessment of the effect of the proposed development on the tranquillity of the Bewl Water area is also consistent with his judgment that the landscape and scenic beauty of the AONB would be conserved. In DL19 the inspector made the clear finding that given the safeguards provided by the revised Noise Management Plan, any residual noise from overnight occupation of the campsite and yurts during the spring and summer season would not detract from the overall tranquillity of the area. His reasons in DL16 to DL19 are sufficient to explain why he was able to reach that conclusion. In DL20 the inspector made a clear finding that that any light pollution resulting from overnight occupation of the campsite and yurts during the spring and summer season would not put at risk the landscape and scenic beauty of the AONB. Again, in that paragraph the inspector sufficiently explained why he had reached that conclusion.

78. True it is that the inspector judged it necessary to impose conditions requiring operation of the proposed development to accord with the submitted Noise Management Plan and an approved lighting scheme. That, however, does not give rise to any adverse inference that he misunderstood the statutory and policy objective of conserving the natural beauty of the landscape. The purpose of imposing planning conditions is often to control the effects of development with a view to avoiding impacts that would otherwise give rise to harm. That was the inspector's evident purpose in DL43. It was not suggested by the Claimant that the conditions requiring operation of the appeal sites in accordance with the Noise Management Plan, limiting occupation of the campsite and yurts to seasonal use and requiring the approval of a lighting scheme are unenforceable or ineffective. Far from indicating that the inspector had lost sight of his duty under section 85(A1) of the 2000 Act, in imposing those conditions he is correctly to be seen as seeking to further the statutory purpose by taking steps to ensure that the natural beauty of the AONB is conserved.

79. In my judgment, the inspector's conclusion is clear, that he found the proposed development to conserve the landscape and scenic beauty of the AONB. He founded

that conclusion on his assessment of the landscape and visual effects of the proposed development, on the impact of the proposed development on the tranquillity of the surrounding area and on the application of planning policies which shared the same objective of conserving and enhancing the natural beauty of the protected landscape. For these reasons, I reject the Claimant's submission that the inspector's reasoning gives rise to a substantial doubt as to whether he addressed the question posed by the section 85(A1) duty. He gave proper and adequate reasons for concluding that the proposed development would not result in harm to the landscape and scenic beauty of the AONB; and the grant of planning permission would accordingly further the purpose of conserving and enhancing the natural beauty of the AONB.

80. I do not accept that the representations made by those participating in the planning appeal proceedings assist the Claimant's argument.

81. It was submitted that the evidence and argument in the written representations before the inspector was unanimous that the proposed development would cause some harm to the natural beauty of the AONB. In my view, that is incorrect. The position was more nuanced. In particular, the conclusion of the Second Defendant's planning officers in their report to the Planning Committee North on 28 March 2024 was as follows –

"…having carefully considered the matter, it is not considered that a seasonal campsite use would conflict with the location within the designated High Weald [National Landscape]. That the beauty and tranquillity of the area would be safeguarded and the test within saved policy EN6 of the Local Plan and paragraph 182 of the NPPF….is met.

….

The development would not be harmful to the NL…".

82. The planning officers' professional judgment was essentially the same as that later reached by the inspector in DL24. I should add that the inspector's use of the word *"acceptable"* in DL24 is not to be read as shorthand for *"acceptable level of harm"*. It is clear from its context that the inspector used that word to convey his conclusion that the proposed development would be in accordance with the statutory and policy objective of conserving the natural beauty of the protected landscape.

83. It is true to say that other parties did contend that the proposed development would result in harm to the natural beauty of the AONB. That was the decided view of the Second Defendant's planning committee, who did not accept the conclusion of their planning officers to which I have referred. It was also the view of the Claimant in their written representations. Indeed, the Third Defendant also appears to have accepted that the proposed development for which it sought planning permission would result in some harm to the natural beauty of the surrounding landscape.

84. It was of course for the inspector to reach his own planning judgment on that issue, having regard to and applying the relevant policies of the development plan, the Framework and the HWMP and in the light of his own assessment. That is what he did, assessing the landscape character and visual qualities of the AONB, the contribution of the appeal sites and the effect of the proposed development on the

natural beauty and tranquillity of the protected landscape. Even had the written representations of those participating in the appeal proceedings revealed a consensus on the effect of the proposed development on the natural beauty of the landscape on the AONB, the inspector would not have been bound to accept it. As I have explained, however, there was no such consensus on the evidence before him.

85. In my view, this is a case in which the court should properly respect the expertise and knowledge of the planning inspector determining these planning appeals, in accordance with the approach stated by the Supreme Court in *Hopkins Homes*. As Mr Flanagan submitted, the issue raised by this claim is whether the inspector's conclusion and reasoning gives rise to a substantial doubt as to his proper understanding of the principle that to preserve or to conserve in the planning context means to do no harm. That principle is hardly novel. It was established as long ago as the decision of the House of Lords in the *South Lakeland* case in 1992: see *New Forest* at [76]. As I have sought to explain, the inspector's reasoning in his decision gives rise to no doubt as to his knowledge or understanding of that established principle. Moreover, his judgment that the proposed development would conserve the natural beauty of the AONB was consistent with the professional judgment reached by the Third Defendant's planning officers, who will themselves have had significant experience of evaluating development proposals on land within the AONB in the context of Policy EN6 of the Local Plan.

86. The Claimant's final contention under this ground was that the inspector did not himself assess the performance of the proposed development against the objectives of the HWMP. In DL23, it was submitted, he did no more than to note the Third Defendant's assessment by reference to the completed assessment template. That, however, was not a proper substitute for his own assessment by reference to the objectives of the current HWMP for the period 2024-2029. Moreover, it was submitted, the inspector failed to follow the Defra guidance in that he omitted to determine the extent to which the proposed development met the stated objectives of the HWMP.

87. In my view, there is no merit in these arguments. The Defra guidance advises relevant authorities to consider the information contained in AONB management plans, including the objectives which have led to the landscape's designation as a protected landscape. It is clear from DL10 and D23 that the inspector did consider the HWMP in making his determination of these planning appeals. It is, moreover, clear from DL23 that he recognised the force of policy WAD1 of the Neighbourhood Plan, which required that the proposed development should have regard to the objectives of the HWMP. I can see no basis for drawing the adverse inference that he failed to consider the stated objectives of the HWMP when assessing whether the proposed development would harm the natural beauty of the protected landscape of the AONB.

88. The particular objective of the HWMP upon which Mr Fulbrook relied in support of this part of the Claimant's argument was that stated under Objective PQ2. I have set out the terms of that objective in paragraph [53] of this judgment. Its focus is on the protection of the unspoilt rural landscape and safeguarding the perceptible natural character, rurality and tranquillity of that landscape.

89. It is clear from the inspector's reasons that he did have proper regard to that objective of the HWMP. As I have explained, he gave careful consideration not only to the

effect of the proposed development on the landscape and scenic beauty of the AONB, but also to the extent, if any, to which seasonal occupation of the camping site and the yurts would diminish the tranquillity and unspoilt rurality of the surrounding countryside through noise and light pollution. He imposed conditions to ensure that those characteristics of the AONB would be safeguarded. Those elements of the inspector's decision were directly concerned with the stated objective of the HWMP on which the Claimant particularly relied.

Conclusion

90. In my judgment, in determining these planning appeals the inspector did consider whether the proposed development would leave the natural beauty of the AONB unharmed. His reasons do not give rise to any doubt that he did so. Nor do his reasons leave any doubt as to his conclusion that the proposed development would not harm the natural beauty of the AONB. He provided a sufficient explanation for that conclusion. Having found that to be the position, he was able properly to conclude that the proposed development would conserve the natural beauty of the AONB and to grant planning permission on the basis that he had thereby discharged the duty under section 85(A1) of the 2000 Act.

91. For the reasons I have given, ground 1 is rejected.

Ground 2 – the Management Plan

The Claimant's submissions

92. The issue under this ground arises by reference to the inspector's reasoning in the third sentence of DL15, where he said that colourful tents, campervans and their associated paraphernalia *"are often found in the countryside and would not be urbanising"*. The Claimant contends that this reasoning provides clear evidence that the inspector had failed to have proper regard to the HWMP and misunderstood the policy of the HWMP, which was to resist camping and glamping as forms of *'urbanising'* development in the AONB.

93. Mr Fullbrook drew attention to the fourth of the *'Top 5 Issues'* listed in the HWMP, which identifies camping and glamping accommodation and activity as forms of urbanising development which have the effect of eroding the rurality and tranquillity of the AONB. Such development is said to be contrary to the HWMP's stated objective of protecting the unspoilt rural landscape and fostering experiences of rurality and tranquillity. It was submitted that the inspector had either failed to have proper regard to those relevant provisions of the HWMP, or misunderstood them, or failed to give proper and adequate reasons for departing from the policy of the HWMP that camping sites are an urbanising form of development which harm the rural and tranquil character of the AONB.

94. It was further submitted that these errors on the part of the inspector risked creating a harmful precedent and undermining the HWMP in relation to future development management decision-taking.

Discussion and conclusion

95. I do not accept these submissions. I accept that read in isolation, the third sentence in DL15 may appear to run contrary to the stated policy of the HWMP, which sees camping and glamping as types of development which erode the rural and tranquil character of the countryside in the AONB and are in that sense urbanising development. That, however, is not a fair way of reading the inspector's decision or examining the adequacy of his reasons. In Save Britain's Heritage v Number One Poultry Limited [1991] 1 WLR 153, 165D-F, Lord Bridge referred with approval to the observations of Woolf LJ in Ward v Secretary of State for the Environment (1989) 59 P&CR 486, 487 that a planning appeal decision –

"…must not be construed in the same way as one would construe a statute, and above all it must be looked at as a whole and judged on the basis of the impression created when the decision letter is looked at as a whole, rather than concentrating on a particular sentence or paragraph in the letter".

96. The inspector's reasons in DL15 must be read as a whole. In my view, the clear impression created by the inspector's reasoning in that paragraph and subsequent paragraphs is that he had the particular provisions of the HWMP on which the Claimant relies very much in mind. I do not read DL15 as adopting a policy position on the impact of camping development in the AONB which is at odds with that stated in the HWMP. Rather, the inspector was seeking to assess whether, given it location and immediate surroundings, the proposed campsite in the present appeals will erode the rural and tranquil qualities of the AONB, that being the harm caused by urbanising development that the HWMP seeks to address.

97. The inspector gave clear and cogent reasons for concluding that the proposed use of the appeal sites for seasonal spring and summer camping and glamping – occupation of the yurts – would not be urbanising in the sense given by the HWMP. He explained why the seasonal use and occupation of the appeal sites as a campsite and yurts would not erode the rural and tranquil character of the countryside of the AONB. Firstly, it would not be possible to see the campsite or the yurts in operation and occupation in long distance views. Secondly, the Bewl Water site already operates as a visitor attraction. Visitors to Bewl Water would not be surprised to see a seasonal camping site with tents and camper vans in use at such a site. Thirdly, the appeal sites are not pristine countryside and are set in the context of buildings and uses that presently form part of the Bewl Water site.

98. Reading DL15 as a whole, I am left in no doubt that the inspector's sole purpose was to form a view as to whether the seasonal use of the appeal sites for camping and glamping would erode the rural character and tranquillity of the countryside of the AONB. That he gave thought to that question is sufficient evidence of his having the relevant provisions of the HWMP well in mind as he carried out his assessment of the effects of the proposed development. In my view, the inspector is not to be taken to have misunderstood the policy of the HWMP, that camping and glamping are forms of urbanising development which tend to result in the erosion of the rurality and tranquillity of the unspoilt countryside of the AONB. Instead, the inspector is to be taken to have turned his mind to the much narrower question whether such development in the particular context of the appeal sites and their immediate surroundings will have that harmful impact. That was quite properly a matter for his planning judgment. He has given proper and adequate reasons for concluding that the proposed development would not do so.

99. I bear in mind also that in DL16 to DL20 the inspector went on to assess whether the proposed development would detract from the tranquillity of the surrounding area, concluding that it would not do so.

100. I should make it clear that I have not taken any account of the witness statement of the inspector, David Smith, signed on 29 April 2025. It will very rarely be appropriate for this court to receive evidence from an inspector which in substance adds to the reasoning given in his or her decision letter on the planning appeal under statutory challenge. It is unnecessary to explain again the reasons for that reticence, which have been rehearsed many times in previous decisions of this court: see for example, Ioannou v Secretary of State for Communities and Local Government [2013] EWHC 3945 (Admin) at [51] – [53] *per* Ouseley J.

101. The obvious inference when an inspector refers to a policy document in the body of his or her decision is that the inspector has had regard to the current version of that document. In the present case, there is no reason to infer other than that the inspector's references in the decision letter are to the HWMP published on 27 March 2024. Indeed, as Mr Flanagan pointed out in his pleaded defence and during oral argument, the Claimant had drawn the inspector's attention to the current HWMP in its written representations and provided a hyperlink to the document.

102. Finally, my conclusion that the inspector's reasons in DL15 are not indicative of any failure to take account of or to appreciate the policy position stated in the HWMP is reinforced by what he said in DL35 and DL36 –

> *"It is understandable that there is concern about considering these proposals in isolation and not in conjunction with other proposed or mooted developments at Bewl Water. Whilst the impact of the proposed camping use and of the yurts have been considered together, these decisions can only consider those proposals. In the absence of a clear masterplan for Bewl Water supported by development plan policies, they have to be assessed in their own right.*
>
> *Nevertheless, the outcomes of these appeals should not be regarded as a 'stepping stone' to any future developments. Overnight accommodation at Bewl Water has already been accepted as part of the fishing lodge appeal and no objections in this respect were raised in the boat house appeal. However, the acceptance of seasonal camping and occupation of four yurts should not be taken as setting a precedent for further tourism-related uses"*.

103. Those paragraphs also address the Claimant's concerns about the possible precedent effect of his decision to allow the planning appeals.

104. For these reasons, ground two is rejected.

Disposal

105. The claim must be dismissed.