



Report Reference Number: 2020/1126/COU

To: Planning Committee
Date: 28 April 2021
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APPLICATION NUMBER:	2020/1126/COU	PARISH:	Hillam Parish Council
APPLICANT:	Mr Francis Quilligan	VALID DATE: EXPIRY DATE:	2nd November 2020 28th December 2020
PROPOSAL:	Change of use of land to use as a residential caravan site for 6 gypsy/traveller families, each with two caravans and an ancillary amenity building, together with the laying of hardstanding and construction of new access		
LOCATION:	Hillam Lane Hillam Leeds West Yorkshire		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee at the request of the Head of Planning as the site is located within the Green Belt as defined by the Selby District Local Plan 2005, the application is controversial and there is significant interest in the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is located on Hillam Lane in the open countryside, around 0.5 miles (0.80 km) to the west of Hillam and around 1 mile (1.6 km) to the east of the A162 (Ferrybridge to Sherburn). Google images of the site prior to the unauthorised works shows the site as being a flat, open parcel of agricultural land with no real physical features of note and was covered in scrub grassland. At the time of writing, the site comprises of an area of hard standing, post and rail fencing around the perimeter of the site, screen panel fencing to the front, vehicular access, 4 no portable toilets, two wooden poles with lights and two touring caravans, hence the application is retrospective. A blue van is parked at the entrance road to the site

which appears to have become stuck in the mud/standing water and has been left there. The applicant has advised that the occupiers have left the site to go travelling as they do in March every year. It is understood that the families left the site in February. Within the immediate vicinity of the site existing agricultural holdings, a small stable to the west and a temporary Gypsy and Traveller site to the east.

- 1.2 The site amounts to around 0.68 ha of land as identified by the application form. The form states that the proposal is for change of use of the site as a caravan site for 6 gypsy/traveller families each with two caravans and ancillary amenity building.
- 1.3 The site is classified as being within flood zone 1 (low risk of flooding) as defined by the Flood Maps for Planning.Gov website and is defined as open countryside and Green Belt by the Selby District Local Plan 2005 and the Core Strategy.
- 1.4 The former use of the land is defined by the applicant as agriculture, and it is not known if any of the land is contaminated. There are no trees or hedges on the site that would influence the proposal. Surface water is proposed to be managed by Sustainable Urban Drainage Systems (SUDS) and foul sewerage by a package treatment plans. There are no details or arrangements for storage and collection of waste.

The Proposal

- 1.5 The proposal is for the change of use of land for the siting of a residential caravan site for 6 gypsy/traveller families, each with two caravans and an ancillary amenity building, together with the laying of hardstanding and formation of a new access. The site plan shows the plots to the front of the site running in two parallel rows of three and a turning area and a paddock to the rear of the site. Unauthorised works have been undertaken on site, these take the form of the creation of a hard standing, post and rail fencing, screen fencing, wooden poles with lighting and the use of land for parking of touring caravans/mobile homes. No pre-application engagement has been undertaken with the Council. The ownership certificates are signed by the agent on behalf of the applicant confirming that the site is owned by the applicant.
- 1.6 The proposed amenity buildings amount to 72 m² of internal floor space and the materials are specified as red facing brick, dark grey slates or tiles, white UPVC window frames and timber boarded doors. The application proposes the retention of the 2.0 metre high screen fence and the 1.2 metre high post and rail fencing along with new hedgerows. The entrance is created with porous tarmac and porous stone forms the hard standing.
- 1.7 The proposal puts forward 6 parking spaces for cars and 6 for light goods vehicles.
- 1.8 The application is accompanied by the following:
 - Location Plan ref LOC01
 - Layout Plan LAY02
 - Floor Plans and Elevations 03
 - Details of screen fencing PDA04
 - Details of post and rail fencing 05
 - Foul Drainage Assessment Form

- 1.9 As noted above, the application involves retrospective works as the use of the land as a Gypsy/Traveller site is already occurring. National planning practice guidance states that retrospective applications must be considered in the normal way.

Relevant Planning History

- 1.10 There is no planning history relating to the site.

2. CONSULTATION AND PUBLICITY

Consultation Responses

2.1 Parish Council – Burton Salmon

The Parish Council strongly object to the application on the grounds that it constitutes unsustainable and inappropriate development in the green belt. The application is not in accordance with adopted Local Plan (2013) policies; SP1, SP2, SP3, SP4 and SP11.

In addition, the Parish Council comments that the application is not compliant with the NPPF (2019) and the associated Government Planning Policy for Traveller Sites, Policy E. Also, there is no evidence of 'very special circumstances' to demonstrate that the need for this site in this location, might be considered to be acceptable. The Parish Council also raise serious concerns about the vehicle parking on the road, outside the site which is causing a highway safety issue.

The Parish Council understands that the Council have provided adequate sites elsewhere in the district (in line with their assessment of need) some of which still have capacity. As such, this demonstrates that there are alternative locations that could be utilised in the first instance.

Burton Salmon Parish Council are fully supporting Hillam Parish Council going forward in this process.

2.2 Parish Council – Hillam – Represented by Cunnane Town Planning

The detailed and supporting information accompanying the planning application is inadequate for the Council to arrive at a robust recommendation and properly determine the proposals.

It is unclear what the applicant is seeking to develop of the site as there is a mismatch between the application form and the Design and Access Statement (DAS). The application form states 6 gypsy/traveller families and the DAS states eight gypsy/traveller families. An assumption is made that the application form is correct.

The proposed development is contrary to a number of important planning policies and guidance within the Development Plan and government policy. It is the Parish Council's belief that this conflict with policy has not been outweighed by material considerations and that planning permission should therefore be refused. Detailed consideration of the issues are set out and paraphrased below.

Proposal - No details are provided with regards to the exact nature of the proposal, including the number and layout of pitches, number of families and the total number of inhabitants. Without this information the consultee response are limited to the principle of a residential caravan site rather than an assessment of the likely impact such as vehicle movements, foul sewerage, noise and activity.

Planning Policy – the site is in the open countryside and Green Belt. The emerging Local Plan is at an early stage but critical information about the Council's proposed strategy for meeting the needs of travellers in the District is provided. The Council have completed a 'Call for Sites' exercise. The site is not being promoted through the plan preparation or process nor has the applicant made any attempt to promote an alternative site within the District as part of this process. A Gypsy and Traveller Accommodation Assessment (GTAA) undertaken by the Council as part of the Emerging Plan provides pertinent data with regards to existing facilities and forecast for the need for new facilities.

The Planning Policy for Travellers (PPTS) March 2012 updated in August 2015 represents specific guidance with regards to the development of traveller sites throughout England. The NPPF encourages a presumption in favour of sustainable development where there is conflict with an up-to-date plan. But only material considerations in a particular case indicate that the plan should not be followed.

The representation sets out the issues with the application and are paraphrased below:

The site is outside the development limits in the open countryside. The proposal is inappropriate in the open countryside and will appear and alien and incongruous feature in the local area. As such the proposals cannot reasonably be considered to be well designed. The site is not a rural exception site.

The site is located in the Green Belt, the DAS states that the applicant accepts the proposal constitutes inappropriate development in the Green Belt. The applicant's case on Green belt confirms the inappropriateness of the proposal and bases a case for Very Special Circumstances (VSC) on the bases of unmet need, Council acknowledgement of securing permission due to local opposition, few available sites in the district due to Green Belt and flooding constraints the nearby Designated Service Village of Monk Fryston makes the location sustainable. Having regard to the considerations the PC are firmly of the view that the circumstances cited by the applicant in support of the proposal are insufficient to be considered either 'very special' or to attract sufficient weight to 'clearly outweigh the harm to the Green Belt by reason of inappropriateness. VSC have not been demonstrated and therefore planning permission should be refused.

Despite the NPPF being clear that prematurity to an emerging plan being seldom justified at this stage the application proposal has the potential to fundamentally undermine the Council's Emerging Strategy in relation to Gypsy and Traveller accommodation and I consider that a refusal on this ground is justified.

The site does not drain sufficiently, the occupiers will be affected by noise, vibration and light impacts due to the lack of landscaping and comings and goings between Hillam and the A162.

There are no formal assessments with the application in regard to safe access and egress of the site. There have been accidents outside the site and as such

concerns raised about increasing vehicle movements and the creation of a new junction to be used by large vehicles towing potentially long caravans and trailers alongside other vehicles associated with the various businesses proposed to operate from the site which will conflict with other road users in this location.

There are no details as to how the proposed visibility splays have been arrived at and to what specification they are designed to.

There are no assessments of the proposed junction arrangement to demonstrate that vehicles are able to use the carriage way and complete manoeuvres without undue risk to the public.

There is no ecology assessment, and the proposal involves the permanent removal of the grasses and vegetation that previously occupied the site. The neighbouring sites provide opportunities for protected species. The proposal is contrary to the NPPF and provisions of the Wildlife and Countryside Act due to a lack of information to assess the impact on protected species.

The site is defined as 'very good' land quality of agricultural land and therefore should be maintained and protected into the future. Therefore, its permanent development for use as a gypsy and traveller site is contrary to policy SP18 of the Core Strategy.

Reference has been made to the ill health of the occupants in other legal proceedings. There is no claim being made in the planning application documents with regards to this. All proposals should look for opportunities to achieve the aims of the NPPF with regards to achieving healthy, inclusive and safe places. The site would establish an isolated and inward looking community with the fear of crime in relation to quality of life of the occupiers of the proposal as well as existing residents and the ability of the proposal to support a healthy lifestyle.

The response on behalf of Hillam Parish Council concludes that there are no material considerations identified by the application that would outweigh the development plan. The application package is incomplete. The onus lies with the applicant to demonstrate to the Council that the application is appropriate and justified. It is self-evident that any decision to approved would be based on incomplete information, unsafe and potentially capable of challenge.

2.3 The Environment Agency (EA)

No comments, detailed advice provided with regards to drainage, waste water and water supply.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone. A soakaway used to serve a non-mains drainage system must be sited no less than 10metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good

state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development. Where the existing non-mains drainage system is covered by a permit to discharge an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before the EA decide whether to vary a permit.

2.4 Waste and Recycling Officer

Collection vehicles will not access private drives or use them for turning and so a bin presentation points would need to be provided at the junction with the highway. External bin store at each new plot should be large enough to accommodate 4 x 240 litre wheeled bins (refuse, green waste and 2 x recycling) and the presentation points should be large enough to accommodate two bins per plot each collection day. Finally, as there are 4 properties, the developer will be required to pay for the waste and recycling containers.

2.5 NYCC Highways

The Highways Authority has provided the following advice:

Visibility Splay - Although the applicant has provided a plan showing a 6m wide access road, 6m radius kerbs, a turning head and 2.4m visibility splay measurement, the simple wording of visibility splay is not enough for the County Council to fully assess the application.

A measurement for the visibility splay along Hillam Lane is required, which as it stands will require a measurement of 215m unless a speed survey is undertaken to allow a lesser distance depending upon the results. Further advice will be provided upon receipt of the information.

2.6 Yorkshire Water

Yorkshire Water have provided the following advice:

Water Supply

A water supply can be provided under the terms of the Water Industry Act, 1991.

Waste Water

This proposal is in an area not served by the public sewerage network. In this instance, the application should be referred to the Environment Agency and the Local Authority's Environmental Health Section for comment on private treatment facilities.

2.7 Selby Area Internal Drainage Board

The IDB has provided the following comments/recommendations:

If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that

percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.

If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.

If the surface water is to be discharged to any ordinary watercourse within the Drainage District, consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or greenfield runoff.

No obstructions within 7 metres of the edge of an ordinary watercourse are permitted without Consent from the IDB. If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.

Advice/recommendations:

SHOULD Consent be required from the IDB as described above then we would advise that this should be made a CONDITION of any Planning DECISION. ANY surface water discharge into ANY watercourses in, on, under or near the site requires CONSENT from the Drainage Board.

2.8 **SDC Environmental Health**

No objections.

2.9 **SDC Planning Policy**

Selby District Council Policy Team provided the following advice with regards to the Local and National Planning Policy.

Inappropriate development in the Green belt is, by definition, harmful and must be given substantial weight. Added to this is the actual harm cause to the openness of the Green Belt.

Based on the above and unless it can be demonstrated that very special circumstances exist to outweigh harm to the Green Belt, this application cannot be supported from a planning policy perspective. This is because:

- Officers are confident that a 5-year supply of pitches can currently be demonstrated; and
- The delivery of sites is being dealt with through the emerging Local Plan which is programmed to reach Publication stage early next year.

Publicity

2.10 The application has been advertised by posting a site notice near to the site, 227 letters of objection have been received. A further round of advertisement has been undertaken for completeness based on the proposal being a departure from the Adopted Development Plan, this expires after the planning committee.

2.11 Objectors have raised the following issues:

- Conflict with Green Belt Policy
- Noise
- Traffic and highways implications
- Impact on the character and appearance of the countryside
- No need
- Impact on residential amenity
- No footpaths or street lighting between the site and the village
- Visual impact
- Impact on openness
- Contrary to the development plan
- Out of keeping with the area
- Loss of quality agricultural land
- Negative effects on wildlife
- Unauthorised development in the Green Belt
- Impact of infrastructure
- No very special circumstances
- Impact on village infrastructure
- Pressure on schools
- Prospect of expansion with further impact

A comment has been received about the impact of the proposal on house values, for clarity this is a non-material planning comment and cannot be taken into account as part of the decision-making process.

3 SITE CONSTRAINTS

- 3.1 The site is not allocated in the Local Plan; it is located outside of the defined development limits of nearby settlements and is therefore defined as open countryside and the site falls within the Green Belt. There are no protected trees on the site. The site is identified as a low-risk development coal area and an area affected by overhead lines. To the north west is a Site of Importance for Nature Conservation and the site was formerly covered in surface vegetation.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "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". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of

a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up-to-date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

“213....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Saved Policies are:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP3 Green Belt
- SP11 Travellers
- SP15 Sustainable Development and Climate Change
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Saved Policies are:

- ENV1 Control of Development
- ENV5 Flood Risk
- ENV2 Environmental Pollution and Contaminated Land
- ENV9 Site of Importance for Nature Conservation
- T1 Development in Relation to the Highway Network
- T2 Access to Roads

Other Policies/Guidance

4.8 The following are also considered relevant:

- Planning policy for traveller sites (DCLG, August 2015)
- National Planning Policy Framework (NPPF)

5 APPRAISAL

5.1 This report will consider the harms and benefits of the proposal and the main issues are considered to be:

- The Principle of Development including need and supply
- Impact on the Openness of the Green Belt
- Very Special Circumstances

The Principle of Development

5.2 Paragraph 2 of the NPPF confirms the legal position that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 re-emphasises that an up-to-date development plan is the starting point for decision-making, adding that development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should not usually be granted, unless other material considerations indicate otherwise.

5.3 CS Policy SP2 of the Core Strategy sets out the spatial development strategy for the District and provides that the majority of new development will be directed to the towns and more sustainable villages. The application site lies within the Green Belt. Part A.(d) of Policy SP2 states that development in the Green Belt must conform to CS Policy SP3 and national Green Belt policies.

5.4 Policy SP3 B states “In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted.”

5.5 CS policy SP11 provides guidance with regards to traveller sites and states the following:

- A. In order to provide a lawful settled base to negate unauthorised encampments elsewhere, the Council will establish at least a 5-year supply of deliverable sites and broad locations for growth to accommodate additional Traveller sites/pitches/plots required through a Site Allocations Local Plan, in line with the findings of up to date assessment of other robust evidence.
- B. Rural Exception Sites that provide Traveller accommodation in perpetuity will be considered in accordance with Policy SP10. Such sites will be for residential use only.
- C. Other applications for Traveller development will be determined in accordance with national policy.

5.6 CS policy SP10 refers to small scale ‘rural affordable housing’ and states that permission will be granted for such schemes as an exception to normal planning policy provided all the following criteria are met:

- i) The site is adjoining Development Limits in the case of Designated Service Villages;
- ii) A local need has been identified by a local housing needs survey, the nature of which is met by the proposed development; and

- iii) The development is sympathetic to the form and character and landscape setting of the village in accordance with normal development management criteria.

Government planning policy for Gypsies and Travellers was updated in 2015

- 5.7 The main change in policy is that the definition of what constitutes a Gypsy / Traveller for planning purposes now excludes those people that have ceased to travel permanently, i.e. a Gypsy / Traveller now only comprises those that are nomadic. It is those Gypsies and Travellers, that are able to demonstrate that they travel for work, that Local Planning Authorities must deliver pitches for in the Local Plan and it is their needs that require consideration when setting out the 5 year supply of pitches. However, it should be noted that those that don't meet the definition are still likely to culturally identify as Gypsies / Travellers and will still have accommodation needs.
- 5.8 Policy H of PPTS sets out how planning applications for traveller sites should be determined. The policy reiterates that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and that planning law requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.9 Para 24 states that local planning authorities should consider the following issues amongst other relevant matters when considering applications:
 - 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) That 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
- 5.10 Para 25 states that local planning authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on local infrastructure.
- 5.11 Para 26 requires that when considering applications, weight should be given attached to the following matters:
 - a) Effective use of previously developed, untidy or derelict land
 - b) Sites being well planned or soft landscaped in such a way to positively enhance the environment and increase its openness
 - c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
 - d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

- 5.12 Para 27 confirms that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the temporary grant of planning permission. PPTS notes that there is no presumption that a temporary grant of permission should be granted permanently.
- 5.13 Para 28 identifies that local planning authorities should consider how they can overcome planning objections to particular proposals, using planning conditions or planning obligations including:
- a) Limiting which parts of the site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise
 - b) Specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events)
 - c) Limiting the maximum number of days for which caravans might be permitted on a transit site

5-year supply of Gypsy and Traveller Pitches

- 5.14 As the section above indicates, in determining planning applications for windfall gypsy and traveller sites, it is important to consider the existing level of local provision and need for sites along with the availability (or lack) of alternative accommodation for the applicant, including whether the Council are able to demonstrate a 5 year supply of deliverable pitches.
- 5.15 The Council's latest evidence is contained in the Gypsy and Traveller Accommodation Assessment (GTAA) (2018) which is based on site work undertaken in March 2018. The level of need identified in the GTAA is five pitches in the period to 2028, which increases to 8 pitches by 2033. It is important to note that this need is generated only from those households that meet the government's definition and does not include those households which exist in the district where the occupants either don't meet the definition or where their status is unknown (a household interview was not possible).
- 5.16 Since the GTAA was published, the Council has approved two planning applications for gypsy and traveller pitches at The Smallholdings in Kellington (permanent consent for 8 pitches) South Milford Caravan Park (temporary consent for 12 pitches). As part of negotiations on these applications, the authority has agreed to an updated need figure of 21 pitches for the district (up to 2033). This is due to:
- The GTAA approach undertaken to "unknown households", specifically the 10% applied was challenged and considered to be too low. On this basis, it has been increased to 25% to reflect recent appeal decisions and Local Plan Examinations. This increases the 5-year figure to 7 pitches and the total need to 2033 increases to 11 pitches.
 - Evidence was submitted by the agent for the South Milford site demonstrating that households that were currently living on the site could demonstrate that they met the definition (previously in the GTAA they did not).

The supply of pitches is currently as follows:

- South Milford Caravan Park – 12 pitches consented until June 2025 (ref. 2019/0030/COU). Furthermore, the Council are proposing the removal of this site from the Green Belt for its permanent use as a gypsy and traveller site (for 12 pitches) through the Local Plan process.
- The Small Holdings, Kellington – permanent consent granted for 8 pitches (ref. 2018/1299/FUL).

5.17 The above permitted schemes provide a supply of 20 pitches. In addition to these through the Local Plan process, there is the potential to create additional pitches on the North Yorkshire County Council (NYCC) owned sites at Burn and Carlton. Selby District Council (SDC) believe that within the existing sites (areas of 0.05ha and 0.04ha) there is the potential based on an initial assessment that this could provide between 2-4 pitches in total.

5.18 SDC have approached NYCC concerning the options that may be available for the expansion of their existing sites at Burn and Carlton. NYCC has indicated a willingness to work with SDC to investigate whether small-scale expansion of these sites is feasible. There may be options for a small-scale increase in pitches subject to reaching agreement on a suitable delivery mechanism, timing, funding and the formal approval process.

On the basis of the above, Officers are confident that they can demonstrate a 5-year supply of pitches.

Green Belt

5.19 The application site is located in the Green Belt and therefore relevant Green Belt policy applies. As mentioned above Policy SP4 (d) of the Core Strategy states that in Green Belt, including villages washed over by Green Belt, development must conform to Policy SP3 and national Green Belt policies. Policy SP3 B states “In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted.”

Policy E of PPTS provides guidance specific to traveller sites in the Green Belt. It confirms that traveller sites in the Green Belt are inappropriate development and inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

5.20 Para 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5.21 Para 144 states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and other harm resulting from the proposal, is clearly outweighed by other considerations

5.22 The proposal includes operational development and the construction of new buildings. Paragraph 145 sets out that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt unless they fall within the exceptions set out:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and⁴³
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

5.23 The proposal does not fall within any of the above categories.

5.24 Given the above, it is clear that the proposal constitutes inappropriate development in the Green Belt which is, by definition, harmful and such harm carries substantial weight. The proposal is therefore considered to be unacceptable in principle. Other material considerations and the weight applied to each consideration is discussed below.

Impact on Openness of the Green Belt

5.25 Core Strategy Policy SP 3 Green Belt and Chapter 13 Protecting Green Belt land of the NPPF set out the importance of Green Belts and openness being a fundamental characteristic. The essential characteristic of Green Belts is their ‘openness’ and their ‘permanence’ for which the Government attaches great importance. The fundamental aim is to keep Green Belt land “open”. Selby District Council local planning policy contained in the Core Strategy and the Local Plan remains in alignment with national planning policy and as such considered to be up to date.

5.26 Paragraph 134 of the NPPF sets out the 5 purposes of the Green Belt:

- a) To check the unrestricted sprawl of large built up areas.
- b) To prevent neighbouring towns merging into one another.
- c) To assist in safeguarding the countryside from encroachment.
- d) To preserve the setting and special character of historic towns; and
- e) To assist in urban regeneration, by encouraging the recycling or derelict and other urban land.

In regard to this proposal purposes a, b and c are relevant. The site does not relate to a historic town (d) and is not derelict land (e).

5.27 The Government's Planning Practice Guidance (PPG) sets out what factors can be taken into account when considering the potential impact of development on the openness of the Green Belt. Assessing the impact requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

Spatial and Visual Aspects

5.28 The site was previously un-developed and devoid of any particular features, being flat and particularly 'open' in nature. Images taken from Google Maps are shown in the presentation (Image Capture August 2012). The site, prior to any development, was clearly both visually and spatially open and flat, also absent from any natural boundary features or changes in topography. The site takes a prominent location along a well-used route from Hillam to the A612. The development clearly and demonstrably alters both the spatial and visual aspect of the site. As the PPG suggests, the visual impact of the development may be relevant. In this particular case the visual impact is considered to be important due to the original open nature of the site and its location with an area that is characterised by open fields. The introduction of any form of development on this site would result in encroachment of the countryside.

5.29 The retrospective works includes the laying of hard core, formation of the access, erection of fencing and siting of the portable toilets. The proposal also includes the erection of amenity buildings. The DAS is clear that *'the access would be from Hillam Lane which, although having bends to the north and south of the site, has an open frontage, providing clear visibility in both directions from the access'*. The DAS goes on to accept that *'the site is clearly visible from Hillam Lane, but only over a short length of the public road because of the bends in the road and intervening vegetation'*. The applicant suggests that the proposed development would include structural landscaping, hedgerows and trees, along site boundaries, additional hedgerow and tree planting is proposed within the site to provide privacy for residents and to break up the mass of the caravans, despite stating the Planning Policy for Traveller Sites August 2015 (PPTS) does not require sites to be hidden from view or adequately screened from the outset. Whilst the suggestion of screening and landscaping may soften the appearance of the site this would not change the fact that the proposal has a direct impact on openness spatially and visually until such a time that the landscaping is matured enough for the site to blend into the rural surroundings. View points from various locations are shown in the presentation.

Duration

- 5.30 The applicant has not made reference to whether the proposal is for a permanent or temporary permission, as such it is assumed that a permanent permission is sought. The development applied for includes the erection of amenity buildings and other works (such as infrastructure and sewerage treatment plant) that would be deemed as permanent structures and as such the proposal resulting in the impact on the Green Belt being permanent. The duration of the development is therefore permanent and there is no likelihood that the site would be returned back to its original state.

Degree of Activity

- 5.31 Whilst there are no details supplied with regard to comings and goings and traffic impact, the application form states that parking is required for 12 vehicles. 6 Cars and 6 light goods vehicles. Taking account of the degree of activity on the site originally, which may amount to periodic agricultural traffic, the degree of activity associate with the comings and goings of 12 vehicles, along with the very nature of the Gypsy and Traveller lifestyle will significantly change.
- 5.32 Taking into account the above assessment the proposal will have a significant impact on the openness of the Green Belt. The applicant agrees that the development will reduce openness and encroaches into the countryside, however, states that Very Special Circumstances (VSC) exists in the applicant's particular case that outweighs the impact on the Green Belt through openness and the encroachment into the countryside. VSC are discussed below.

Very Special Circumstances

- 5.33 The development is considered to be inappropriate and is by definition harmful to the Green Belt. It is clear, and the applicant agrees, that the proposal is harmful by reason of it constituting inappropriate development in the Green Belt added to is the harm to openness. It is appropriate therefore to consider whether the identified harm to the Green Belt is 'clearly' outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The applicant has asserted that the following factors, when taken together, amount to very special circumstances.

1. Identified unmet need.
2. Lack of alternative sites.
3. Absence of a five-year supply.
4. Failure of policy to bring forward and adequate supply of gypsy sites.
5. Residents' personal needs including the needs of the children.

5-year supply of deliverable sites

- 5.34 In the situation where the Council are unable to demonstrate a 5-year supply of deliverable pitches, this provides a significant material consideration, which could with other material considerations, weigh in favour of the proposal.
- 5.35 However, recent consents at South Milford Caravan Park and The Smallholdings, Kellington, along with the proposed expansion of the Burn and Carlton sites, means that Officers are confident that they can demonstrate a 5-year supply of pitches.

Personal circumstances of the existing occupants

- 5.36 The benefits of a settled base for travellers, along with the need for access to healthcare, education, welfare and employment infrastructure are a material consideration. Whilst these are arguably the benefits that any settled base would provide, this site does provide an existing home for two households. The result of refusing this application, along with enforcing the site, would result in their displacement.
- 5.37 However, PPTS makes clear that, subject to the best interests of the child, personal circumstances are unlikely to clearly outweigh harm to the Green Belt and any other harm as to establish very special circumstances.

Officers have also requested information with regards to:

1. The efforts made by the applicants to find land outside the Green Belt.
2. Details of “residents’ personal circumstances” together with any evidence to support any circumstances given.

- 5.38 No information has been supplied despite the efforts of officers. On this basis, it is considered that no details have been provided with regards to personal circumstances and as such it is not possible to determine if there are any very special circumstances or what weight should be afforded to them.

Summary

- 5.39 Based on the above, Officers are of the view that there are no very special circumstances by way of need/supply of sites or any personal circumstances identified and as such the proposal is inappropriate development and harmful to the Green Belt.

Other considerations

Flooding and Drainage

- 5.40 Policy ENV 5 Development in Flood Risk Areas of the SDLP, policy SP15 SDCS and Chapter 14 of the NPPF meeting the challenge of climate change, flooding and coastal change set out the key considerations with regards to flooding and drainage. The site is located within Flood Zone 1 (low risk) as identified by the Government Flood Maps for Planning and as such there are no concerns with regards to flooding impact. There is no evidence to suggest that there are any critical drainage issues in the area. The applicant proposes non mains drainage. The Environment Agency, Yorkshire Water and The Council’s Environmental Health Team have been consulted.
- 5.41 Yorkshire Water have advised that a Water Supply can be provided under the terms of the Water Industry Act 1991 and that the area is not served by the public sewerage network.
- 5.42 The Environment Agency have provided advice with regards to the requirements for non mains drainage and advise that the site is not within an inner Groundwater Source Protection Zone.

- 5.43 The Council's Environment Health Team have been consulted and raise no objections to the proposal with regards to the proposed non mains drainage system for sewerage.
- 5.44 The Selby Area IDB, as part of the Shire Group of IDB's has been consulted and have provided advice with regards to the disposal of surface water drainage. Guidelines are provided should planning permission be granted.
- 5.45 Taking into account the above considerations, the proposal would not be at risk of flooding or increase flood risk elsewhere. A water supply can be provided and the principle of a non mains sewerage treatment plant is acceptable in principle. Further details would be required via condition should planning permission be granted.

Highways

- 5.46 Saved Policies T1a and T2 of the Selby District Local Plan set out the local planning policies with regards to development in relation to the highway network and access to roads. Paragraph 109 of the NPPF, states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the highway would be severe.
- 5.47 North Yorkshire County Council Highways Officers have been consulted. Whilst the plan submitted with the application shows a 6-metre-wide access road, 6 metre radius kerbs a turning head and 2.4 metre visibility splay measurement the details provided are insufficient to enable Highways Officers to fully assess the application. A measurement is required for the visibility splay along Hillam Lane. Details have been requested however, none provided despite officers' efforts.
- 5.48 It is on this basis that the suitability and safety of the proposed access cannot be fully assessed and as such the proposal is contrary to saved Policies T1 and T2 of the Selby District Local Plan and paragraph 109 of the NPPF.

Waste and Recycling

- 5.49 Saved Core Strategy Policy SP15, the Developer Contributions Supplementary Planning Document (SPD) and the National Planning Policy for Waste set out the considerations with regards to waste and recycling. The SPD sets out the detailed guidance with regards to the handling of waste and recycling. The NPP for Waste states that waste management is to be considered alongside other spatial planning concerns recognising the positive contribution that waste management can make to the development of sustainable companies.
- 5.50 The Waste and Recycling Team have advised that collection vehicles will not access private drives or use them for turning and so a bin presentation points would need to be provided at the junction with the highway. External bin store at each new plot should be large enough to accommodate 4 x 240 litre wheeled bins (refuse, green waste and 2 x recycling) and the presentation points should be large enough to accommodate two bins per plot each collection day. They have also advised that as there are 4 properties, the developer will be required to pay for the waste and recycling containers. Therefore, should planning permission be granted a financial contribution would be required to provide for waste and recycling services.

Ecology and the Natural Environment

- 5.51 Policy SP18 of the Core Strategy, ENV9 and ENV14 of the Local Plan and paragraphs 175 to 177 of the NPPF set out the key considerations with regard to the impact of the development on ecology, biodiversity and the natural environment.
- 5.52 No ecological assessment has been undertaken or submitted with the application to assess potential harm to biodiversity resulting from the development. Whilst the site was devoid of boundary hedgerows and trees it was covered in surface vegetation and located within an agricultural area with a Site of Importance for Nature Conservation to the north. Policy ENV9 is a saved policy within the Local Plan and states that proposals for development which would harm a site of local importance for nature conservation will not be permitted unless there are no reasonable alternative means of meeting the development need and it can be demonstrated that there are reasons for the proposal which outweigh the need to safeguard the intrinsic local nature conservation value of the site or feature.
- 5.53 As there has been no Preliminary Ecological Appraisal of the site and the nearby it is not possible to assess the harm that the development has had or will have on the harm to biodiversity either on the site or the Site of Importance to Nature Conservation.
- 5.54 Paragraph 170 of the NPPF requires that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside along with minimising impacts on and providing net gains for biodiversity including establishing coherent ecological networks. The NPPF is considered to be more up to date with regards to the Governments aspirations for enhancing the local environment and as such weight should be added to the lack of proper assessment to establish the harm to the biodiversity and any minimising impacts.

Loss of Agricultural Land

- 5.55 Saved SP18 of the Core Strategy and paragraph 170 b) of the NPPF places importance on the economic benefits of the best and most versatile agricultural land.
- 5.56 The Government has provided advice on when and how the loss of agricultural land should be assessed. Even smaller sites (under 20 hectares) should be considered if they are significant when making the decision.
- 5.57 The Yorkshire and the Humber Region Agricultural Land Classification identifies the site as 'Very good' agricultural land.
- 5.58 There has been no justification provided for the loss of the 'very good' agricultural land. It is therefore considered that the proposal is contrary to policy SP18 of the Core Strategy and paragraph 170 b) of the NPPF that it does not recognise the economic benefits of the best and most versatile agricultural land.

Impact on Residential Amenity

- 5.59 Saved policies ENV1 (1) and ENV2 of the Selby District Local Plan 2015 and Paragraph 127 of the NPPF set out the key considerations with regards to the impact of development on residential amenity.
- 5.60 The proposal will lead to an increased level of comings and goings that have the potential to have an unacceptable impact on occupiers of existing residential properties within the vicinity of the site and wider areas subject to noise and nuisance. Detailed information has not been supplied with regards to the exact comings and goings and the development would not trigger the need for a transport assessment or transport statement, however, due to the nature of the proposal as a site for Gypsies and Travellers, the traffic movements will increase from the previous use of the site as an agricultural field along with a change in the vehicle types. There are no details with regards to routing and as such the nearby residents and those within the settlement of Hillam are likely to expect an increase in traffic movements along with a change in the type and frequency of movements which have the potential to create impacts in terms of noise and nuisance.
- 5.61 It is considered that there will be an impact on residential amenity due to the change in nature of the use on the site, however, insufficient details have been provided to fully assess the level of impact of the development on residential amenity.

Sustainability

- 5.62 Sustainable development is at the heart of the role of the Planning System. Chapter 2 of the NPPF sets out the purpose of the planning system is to contribute to the achievement of sustainable development.
- 5.63 Planning decisions should take local circumstances into account, to reflect character, needs and opportunities in each area.
- 5.64 Whilst PPTS states at para 25 that local authorities should very strictly limit new traveller site development in the open countryside, it does not explicitly preclude it.
- 5.65 The site is located in the open countryside but closely located to the settlement of Hillam / Monk Fryston which is identified as a Designated Service Village and has the benefit of a range of facilities including a primary school, village shop and GP surgery, however, the nearest bus stops are located at the junction of Hillam Lane/Ledgate Lane to the west and Hillam Lane round 400 metres (taken from Google Maps) from the site. The walking distances are potentially acceptable considering the advice in the Institute of Highway and Transport (IHT) guidance, however Hillam Lane is subject to a national speed limit (30 mph), there are no footpaths towards the village of Hillam or Burton Salmon and both routes are unlit. The desirability of pedestrians using the route would be limited particularly for those that may be less able bodied or during inclement weather. Realistically, occupiers of the site would rely upon the private vehicles to access services.
- 5.66 Furthermore, consideration needs to be given to whether the proposal respects the scale of, and does not dominate, the nearest settled community of Hillam / Monk Fryston. The proposal is for 6 pitches, taking into account the vacant parcels of land either side of the site, the proposal may set an undesirable present which may

result in the expansion of the site, which would potentially dominate the settlement of Hillam.

- 5.67 The NPPF sets out that there are three overarching objectives in achieving sustainable development, an economic objective, a social objective and an environmental objective. No economic benefits have been identified, the proposal does not put forward any environmental benefits and there has been no details put forward to demonstrate any social needs for present and future generations.
- 5.68 Officers are therefore of the view that the proposal is an unsustainable form of development as set out in Chapter 2 of the NPPF.

Procedural

- 5.69 A revised Design & Access Statement to correct inaccuracies, in particular relating to the number of pitches to correspond with the application description has been requested, despite the officers' efforts this has not come forward. For clarity, the proposal has been considered on the application form description and email from the agent confirming the proposal is for 6 pitches.
- 5.70 The application has been re-advertised as a Departure from the Development Plan, Members are advised that if they are minded to approve the application contrary to the officer recommendation as set out below, that the Head of Planning is authorised to issue the decision after the expiry of the additional advertisement, subject to no further representations being received raising new material planning issues.

6 CONCLUSION AND PLANNING BALANCE

- 6.1 Taking into account all of the material planning considerations set out above, it is considered that the proposal is unacceptable on the basis that the Council can justify that there is no unmet need, lack of alternative sites or an absence of 5-year supply, significant weight has been attached to the lack of need for the site and the alternatives available.
- 6.2 The proposal is in direct conflict with both National and Local Planning Policy with regard to the protection of Green Belts. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their 'openness' and their 'permanence'. Inappropriate development is harmful to the Green Belt and the Government is clear that it should not be approved except in very special circumstances.
- 6.3 The proposed use is harmful to the Green Belt by means of inappropriateness and has a harmful impact to the openness of the Green Belt. The proposed new buildings do not fall within any of the exceptions set out in paragraph 145 of the NPPF, and as such the new buildings are also considered to be inappropriate and by definition harmful. Substantial weight has been attached to the harm to the Green Belt.
- 6.4 Whilst the applicant suggests that personal circumstances exist, including the needs of children, no details have been supplied. As such officers are of the view that there are no very special circumstances that can be considered in the weights and balances of this proposal.

6.5 Significant weight has also been attached to The Planning Policy for Traveller Sites which sets out considerations for which weight should be applied. Each consideration is assessed below.

a) effective use of previously developed (brownfield), untidy or derelict land

The site is not classed as previously developed, untidy or derelict land prior to the unauthorised works. This weighs against the proposal.

b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.

The application puts forward the principle of landscaping but not firm details have been provided. The development would not increase the openness of the site. Limited weight is attached based on the lack of details and the impact on openness weighs against the proposal.

c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children.

Landscaping details have been put forward in principle but no details. A paddock area is shown but no play areas specifically for children. The lack of details and lack of play area weighs against the proposal.

d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

The site is covered in hard landscaping and a 2 metre high fence has been installed which gives the impression of separation. The remainder of the site is screened by post and rail fencing which forms part of the proposed retention. This weighs against the proposal.

6.6 In addition to the weight attached to the main issues set out above, the proposal has also failed to take account of the impact on and enhancement to biodiversity, the value and loss of the agricultural land, impact on highway safety and the wider transport network and the impact on residential amenity of both the occupiers of the site and of properties close to the site and the nearby villages of Hillam and Burton Salmon.

Taking into account of the weight attached to the material planning issues as set out above, on balance officers recommend that planning permission is refused.

7 RECOMMENDATION

Planning permission be **REFUSED** for the following reasons:

1 Green Belt

The proposal is considered to be inappropriate development and harmful to the Green Belt. It has not been demonstrated that there are any very special circumstances that would outweigh the harm to the Green Belt by inappropriateness. The proposal will have an impact on the openness of the Green Belt visually and spatially along with the level of permanence. The proposal is

therefore contrary to Policy SP3 of the Core Strategy Local Plan (2013) and paragraphs 133, 134, 143-145 of the NPPF.

2 Lack of need

The proposal in principle as a Gypsy and Traveller Site is considered to be unacceptable as the Local Planning Authority can demonstrate a 5 year supply and alternative sites that are available and as such there is no unmet need. The proposal is therefore contrary to Policy SP11 of the Core Strategy (2013) and the Planning Policy for Traveller Sites (DCLG, August 2015).

3 Unsustainable development

The proposal is considered to be unsustainable development as set out by Chapter 2 of the NPPF, in that it does not deliver the overarching objectives as set out by Paragraph 8 of the NPPF by virtue of failing to reflect the character, needs and opportunities of the area. The proposal would occupy a site which is classified as very good agricultural land and as such will sterilise its future use compromising the ability of future generations to meet their own needs. The proposal will be wholly reliant on private vehicles to access local facilities to meet the occupiers day to day needs.

4 Insufficient information – Ecology

Insufficient information has been provided for the Local Planning Authority to properly assess the impact of harm or mitigation required with regards to biodiversity. The proposal is therefore considered to be contrary to Policy SP18 Protecting and Enhancing the Environment of the Core Strategy, saved Policies ENV9 and ENV14 of the Local Plan and paragraphs 175 to 177 of the NPPF.

5 Insufficient information – Highways and amenity

Insufficient information has been provided for the Local Planning Authority to properly assess the impact on highway safety, the impact on the wider transport network and impact on residential amenity. The proposal is therefore considered to be contrary to Saved policies ENV1 (1) and ENV2, T1a and T2 of the Selby District Local Plan 2015 and Paragraphs 109 and 127 of the NPPF.

INFORMATIVE

The Local Planning Authority has requested further information from the applicant in order to consider if any Very Special Circumstances can be identified. Despite the efforts no further information has been received. Without further information the development would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

8 Legal Issues

8.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However, it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9 Financial Issues

Financial issues are not material to the determination of this application.

10 *Background Documents*

Planning Application file reference 2020/1126/COU and associated documents.

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Appendices: None