



Report Reference Number: 2019/0030/COU

To: CEO Urgent Decision Session - Planning
Date: 29 April 2020
Author: Gary Bell (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0030/COU	PARISH:	Huddleston With Newthorpe South Milford
APPLICANT:	Mr J Taylor Snr	VALID DATE: EXPIRY DATE:	15th February 2019 8 th May 2020
PROPOSAL:	Change of use of land to 12 gypsy / traveller pitches and associated works including 12 mobile homes, 12 touring caravans and 12 dayrooms		
LOCATION:	Milford Caravan Park Great North Road South Milford Leeds		
RECOMMENDATION:	GRANT		

This application has been brought before the Chief Executive Officer at the Urgent Decision Session - Planning as the proposal is contrary to the requirements of the Development Plan. However, officers consider that there are material considerations which would support the recommendation for approval.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is close to the administrative boundary with Leeds City Council and is about 1.5 km from the villages of Micklefield and Ledsham (both in the Leeds) and approximately 3 km from both South Milford and Sherburn-in-Elmet to the east. The land comprises an area of hard standing previously associated with Hillcrest Café, a former transport café that has been unused for some time. The hard standing was used for the parking and circulation of vehicles many of which were heavy goods vehicles. The site amounts to 0.5 hectares and is bounded by mature hedgerows to three sides inside which for the majority of their length is 1.8 metre high concrete post and timber panel fencing. The remaining boundary to the north-west is formed by a stone wall beyond which are 4 bungalows owned by the applicant and occupied by family members.
- 1.2 The site lies immediately north of, and is accessed from, a dual-carriageway section of the A63 and further to the north beyond an embankment lies the A1(M). There are no physical features of note within the main body of the site which is roughly surfaced as a result of the former use and on which are now found a number of mobile homes and touring caravans, hence the application is retrospective. The site lies within the adopted Green Belt and is classified as being within Flood Zone 1.

The Proposal

- 1.3 The application seeks planning permission for 12 Gypsy/Traveller pitches with each pitch comprising a mobile home together with space for a touring caravan and parking. Each pitch will also include a utility building, measuring 5.48 by 2.7 metres and providing separate male and female shower and WC facilities.
- 1.4 The Planning Statement accompanying the application anticipates that any permission granted will include a condition restricting occupation of the mobile homes to persons falling within the meaning of gypsies and travellers as set out in national policy. The Statement also asserts that the proposed mobile homes must meet the legal definition of a caravan as set out in Section 29 of Caravan Sites and Control of Development Act 1960 and, by their nature, are interchangeable structures such that size or appearance may differ.
- 1.5 The application is accompanied by the following documents:
 - Application form, Certificate A and Agricultural Holdings Certificate
 - Planning Statement (together with an Additional Submissions document)
 - Drawing No: JTaylor 19 –SLP, Site Location Plan
 - Drawing No: 18203/01 Site Survey
 - Drawing No: 18203/02 Proposed Site Layout
 - Drawing No: 18203/03 Proposed Utility Building
 - Various appeal decisions relating to gypsy and traveller development

As noted above, the application is retrospective 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

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 1.7 An application (reference: 8/59/15) for the construction of a vehicle parking area on land to the south east of Hillcrest Cafe was approved on 8 March 1982.
- 1.8 An application (reference: 2010/0324/COU) for change of use of land from truck stop to use as a residential caravan site for Gypsies and Travellers was refused on 8 July 2011. An Enforcement Notice (reference: 2011/0876/EAP) alleging the unauthorised change of use of the land to a Gypsy caravan site was subsequently issued. Appeals against both the refusal of planning permission and the Enforcement Notice were considered at a public inquiry in early 2012. The appeals were recovered by the Secretary of State for his own determination and resulted in the Enforcement Notice being upheld but planning permission being granted for a temporary period until 31 December 2014 for the use of the land as a residential caravan site for gypsies and travellers.

2. CONSULTATION AND PUBLICITY

Consultation

- 2.1 **Huddlestone with Newthorpe Parish Council** – no comments received.
- 2.2 **NYCC Highways** – have confirmed that the road accessing the site is not a North Yorkshire Highway Maintainable at Public Expense so the consultation letter should be redirected to Leeds City Council.
- 2.3 **Leeds City Council Highways** – have raised no objection to the proposed development. Comments have been provided as follows which are for information only and do not alter the formal response; the site location is inappropriate for typical residential use due to accessibility issues. The pedestrian environment is poor, there are limited local services, primary and secondary education and access to town centre services etc.
- 2.4 **Yorkshire Water** – no comments received albeit it has previously been confirmed that there is no public sewer network in the area.
- 2.5 **Selby Area IDB** – no comments received albeit the site lies close to but outside of the area covered by the Board.
- 2.6 **SDC Environmental Health** – has no objection.
- 2.7 **SDC Planning Policy** – comments that traveller sites in the Green Belt are considered to be inappropriate development which is, by definition, harmful. Added to this is actual harm caused to the openness of the Green Belt. However, the site is previously developed and it was agreed by the parties at the earlier appeal that the existence of gypsy pitches on the site does not compromise the 5 purposes of including land in the Green Belt, a conclusion that was also reached by the Inspector and the Secretary of State in considering the previous appeals. This is considered to be a significant material consideration when assessing the proposal.

It is suggested that the following additional factors could weigh in favour of the proposal: the immediate shortfall in pitches, along with the displacement of existing households from the site which will generate a greater need for pitches in the district; the benefits that a settled base would give the current occupants; the fact that the site does not contribute positively to the landscape quality of the wider surrounding area; and the relative sustainability of the site.

Appropriate weight should be accorded to such factors to assess whether, taken individually or collectively, these are of sufficient weight to 'clearly' outweigh the harm by reason of inappropriateness to the Green Belt and harm caused to the openness of the Green Belt.

Given the absence of any alternative available Gypsy/Traveller pitches in the district and on balance from a policy perspective, the proposal is considered to be acceptable.

Representation

2.9 All immediate neighbours were informed by neighbour notification letter; a site notice was erected and an advert place in the local press. A letter has been received from Ledsham Parish Council objecting to the application on the following grounds:

- Increased traffic in to and out of the site poses an increased risk to vehicles driving along the Great North Road outside the site. In addition, quad bikes driving along the wrong side of the road into the site have been observed.
- Planning permission has been refused previously and there are no reasons to give permission now.

3. SITE CONSTRAINTS

3.1 The site is not allocated in the Local Plan, is located outside the defined development limits of nearby settlements and is therefore defined as open countryside. Whilst in the immediate vicinity there are a number of buildings which front the A63, the site falls within the Green Belt. The application has consequently been advertised as a Departure from the Development Plan. There are no protected trees on the site but it is situated within an area designated as a Locally Important Landscape Area (LILA). There are no Conservation Area designations or heritage assets (including listed buildings) that are affected. The site is situated within Flood Zone 1.

4. POLICY CONSIDERATIONS

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that "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 National Planning Policy Framework (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 and consultation on issues and options took place earlier this year. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The NPPF (February 2019) 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 (CS)

- 4.6 The relevant Core Strategy Policies are:
- SP1 - Presumption in Favour of Sustainable Development
 - SP2 - Spatial Development Strategy
 - SP3 - Green Belt
 - SP11 - Travellers
 - SP18 - Protecting and Enhancing the Environment
 - SP19 - Design Quality

Selby District Local Plan (SDLP)

- 4.7 The relevant Selby District Local Plan Policies are:
- ENV1 - Control of Development
 - ENV2 - Environmental Pollution and Contaminated Land
 - ENV15 - Locally Important Landscape Areas
 - T1 - Development in Relation to the Highway Network
 - T2 - Access to Roads

Other Policies/Guidance

- 4.8 The following is considered relevant:

- Planning policy for traveller sites (DCLG, August 2015)

5. APPRAISAL

5.1 The main issues to be taken into account when assessing this application are:

- The Principle of Development
- Impact on the Openness of the Green Belt
- Impact on the Visual Amenity of the Green Belt and the Character and Appearance of the Surrounding Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Determining whether Very Special Circumstances exist

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 SP1 outlines that "when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. 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 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 goes on to state that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include the partial or complete redevelopment of previously developed land whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.

5.6 CS Policy SP11 provides guidance with regards to traveller sites and states:

“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.”

- 5.7 The Government’s Planning policy for traveller sites (PPTS) was updated in 2015. 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. The PPTS definition of gypsy and traveller is as follows;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

Local Planning Authorities must identify a supply of sites in the Local Plan to accommodate pitches for those meeting this definition 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 gypsy and 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 Paragraph 24 of PPTS states that local planning authorities should consider the following 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 Paragraph 25 states that local planning authorities should very strictly limit new gypsy and 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 PPTS 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. It also notes that there is no presumption that a temporary grant of permission should be granted permanently.
- 5.12 As the section above indicates, in determining planning applications for pitches that are not allocated in the Local Plan, it is important to consider the existing level of local provision and need for sites and 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. Consultants ORS were commissioned to provide an updated Gypsy and Traveller Accommodation Assessment (GTAA) in 2018 that will form part of the evidence base for the forthcoming Local Plan. The level of need identified in the GTAA is 5 pitches up until 2027, all of which falls within the first five years. Beyond that, to 2033, this figure increases to 8 pitches. This need is generated from existing unauthorised pitches in the district, along with concealed households, teenage children that are likely to require their own pitch within the next 5 years and any temporary consents which are due to expire within 5 years.
- 5.13 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 their status is unknown (i.e. they were unavailable or refused to answer interview questions to determine their status). ORS identified the need generated by households whose status is unknown as 7 pitches over the first five years (a total of 10 in the period to 2033) and by those who do not meet the Government's definition as 15 pitches over the first five years (an overall figure of 25 pitches to 2033). The survey work undertaken by ORS identified a total of 8 pitches at the current application site in March 2018. Three of these households were identified as not meeting the government's definition of gypsy/traveller and the status of the remaining 5 households was marked as unknown. The applicant's agent has both challenged elements of the methodology used in producing the Council's GTAA and presented evidence to suggest that the current occupancy of the South Milford site is higher than when the initial survey work was undertaken. Evidence has also been provided to show that the current occupants of the site also meet the relevant definition contained in PPTS. As a result of this additional information, and further discussion with ORS, it is accepted that the need for pitches has increased since the original survey work was undertaken (which can of course provide only a 'snapshot' at a point in time). Notwithstanding the fact that an evidence-based assessment of the need for gypsy and traveller pitches will form part of the on-going development plan process, Officers currently consider an appropriate figure of need to be 21 much of which is required immediately. It should be noted that, as the Council is currently working on a new Local Plan, and there are no allocations for additional pitches within the Selby District Local Plan (2005), the Council is unable to demonstrate a 5-year supply of deliverable pitches.
- 5.14 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.

- 5.15 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. Other material considerations are as discussed below.

Impact on the Openness of the Green Belt

- 5.16 The site's status as previously developed land (PDL) was established as part of the earlier appeal decision (appeal ref. APP/N2739/A/11/2158757, application no. 2010/0324/COU) which granted temporary consent for the change of use of the site from a truck stop to a residential caravan site for gypsies and travellers. One of the purposes of including land in the Green Belt is to safeguard the countryside from encroachment. The area to which the current application relates is no greater than the area which could accommodate vehicle parking and so the proposal could not be said to encroach further into the countryside than the fall-back position. All parties at the appeal were also in agreement that the proposal for gypsy and traveller pitches would not affect any one of the remaining four purposes of including land in the Green Belt, a view with which the Inspector concurred. Given that the application site is the same as the appeal site, and there have been no physical changes to the site that would take it out of the definition of PDL in the 2019 NPPF, there is no basis for coming to a different view on this issue. In addition, the use of the application site for vehicle parking is the lawful fall-back position against which the actual harm to openness arising from the proposal should be assessed.
- 5.17 The Inspector concluded that the 10 caravans under consideration at the appeal would have "an urbanising impact and cause a reduction in openness" resulting in a modest level of harm and that 21 caravans (also the subject of the appeal) would result in a significant level of harm. The current proposal is for 24 caravans, together with 12 day rooms, and it is concluded that a similarly significant level of harm to openness would result. Whilst paragraph 145 of the NPPF allows for the redevelopment of previously developed land if it would not have a greater impact on the openness of the Green Belt than the existing use (whether redundant or in continuing use), it is still the case that the proposal will have a greater impact on openness and on this basis remains to be considered as inappropriate development in the Green Belt with an additional element of significant harm due to the impact on openness.

Impact on the Visual Amenity of the Green Belt and Character and Appearance of the Surrounding Area

- 5.18 The site is located within a defined LILA. SDLP Policy ENV15 states that, within LILAs, particular attention should be paid to the design, layout and landscaping of development in order to minimise its impact on the traditional character of buildings and landscape in the area. SDLP Policy ENV1 and CS policies SP18 and SP19 similarly require the impact on local character to be taken into account. PPTS, at paragraph 25, provides that local planning authorities should strictly limit new gypsy and traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. It does however go

on to say that, when considering applications, weight should be given to the effective use of previously developed land.

- 5.19 The site lies within the West Selby Limestone Ridge Character Area as defined in the 2019 Selby Landscape Character Assessment. The area is characterised as an undulating and rolling landscape with large areas of woodland which, together, has the effect of limiting visibility and providing a greater sense of enclosure than elsewhere in the District. This also results in the area having a lower sensitivity to change as new features may be screened by intervening topography.
- 5.20 As recognised by the previous appeal Inspector, although located in the LILA, the site and the area in the immediate vicinity is not reflective of and does not contribute positively to the landscape quality of the wider area as it remains relatively commercial in appearance with a number of disused buildings and considerable areas of hardstanding. It is important to note that whilst the existing development within and near the site has already changed the character of the countryside in this vicinity, the quality of the landscape is not relevant to the continued protection of Green Belt land.
- 5.21 The existing hedges forming the site boundaries offer some screening of the caravans present on the site and of the existing hardstanding. The site is currently unattractive and not visible over any great distance along the Great North Road. Notwithstanding this, given that caravans can appear relatively stark in appearance and that there is a limited opportunity to provide for additional landscaping within the proposed layout, the development would have an urbanising impact that would be difficult to satisfactorily assimilate to a point where a positive impact on the immediate area could be said to result. However, the proposed change of use would not result in any significant harm to the immediate area by reason of the neighbouring commercial uses and the limited views of the site which are primarily gained from passing vehicles on the adjacent A63 dual carriageway. As such, it is considered that there is no conflict with those relevant Development Plan policies listed above.

Impact on Residential Amenity

- 5.22 Policy concerned with impacts on residential amenity and securing a good standard of residential amenity are provided by SDLP policies ENV1 (1) and ENV2 and Paragraph 127 of the NPPF. There are 4 bungalows on the adjacent site which are owned and occupied by the applicant and other members of his family. Even if they were not in the ownership and control of the applicant, the relationship between caravans on the application site and the bungalows is such that the residential amenity of the occupiers of the dwellings would not be harmed. The submitted layout plan shows a 1.6m high stone wall separating the site from the land associated with the bungalows and the orientation and design of both the proposed mobile homes and the existing bungalows protects amenity of both sets of occupiers.
- 5.23 Separate accesses serve the application site and the neighbouring bungalows although there is a gated route between the two which is not considered to result in any detrimental impact on residential amenity. It would, however, be appropriate to condition the number of pitches and caravans along with the size of commercial vehicles associated with the site. A condition should also be attached preventing

commercial uses within the site (a previous pallet storage business at the south-eastern end of the site has now ceased to operate).

- 5.24 Having taken the matters discussed above into account, it is considered that the proposal would not result in any significant harm to the residential amenities of either existing or future occupants in accordance with relevant Local Plan policies.

Impact on Highway Safety

- 5.25 SDLP Policy T1 requires new development to be well related to the existing highway network and Policy T2 states that development resulting in the intensification of the use of an existing access will be supported provided there would be no detriment to highway safety. Notwithstanding the concerns raised by Ledsham Parish Council in relation to traffic safety, the site access/egress is formed by a slipway from/to the Great North Road (A63) which despite being a dual carriageway now carries considerably reduced levels of traffic as a result of the re-alignment of the A1. Visibility when moving between the site and the adjacent highway is good. No objections have been raised by Leeds City Council as local highway authority and it is considered that the proposal is acceptable and in accordance with SDLP policies T1 and T2.

Determining whether Very Special Circumstances exist

- 5.26 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 which 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:

- The sustainability of the site
- The site's status as previously developed land
- The unmet need for gypsy and traveller sites
- The Council's lack of a 5-year supply of gypsy and traveller sites
- The failure of planning policy and difficulties in providing sites
- The lack of alternative sites and the likelihood of sites being provided for in the Green Belt.

5.27 Sustainable location

PPTS sets out criteria that should ensure gypsy and traveller sites are sustainable which include; promoting peaceful and integrated co-existence between the site and the local community; promoting access to health and education services; providing a settled base thereby reducing long-distance travelling and unauthorised encampment; consideration of environmental quality and flood risk; and avoiding placing undue pressure on local infrastructure. Given the location and nature of the site and its reasonable proximity to nearby villages, the site is considered to meet the identified criteria. Other sites not in the Green Belt would, however, be equally capable of meeting the same criteria and it is not considered that this factor amounts to very special circumstances such as to justify support for the site.

5.28 Previously developed land

It is acknowledged that the site represents previously developed land, given that the previous appeal established that the lawful use of the site was for vehicle parking, and that PPTS encourages the effective use of brownfield or untidy land. Again, however, such land is available outside of the Green Belt and this factor is not considered to amount to very special circumstances.

5.29 Need for gypsy and traveller sites

The applicant has referred to the Council's 2016 Gypsy and Traveller Accommodation Assessment as identifying a minimum need for 19 pitches between 2016 and 2037 although this figure included those where it was unknown as to whether or not the households involved met the planning definition for gypsies and travellers. However, as set out in 5.12 above, the Council has an updated GTAA which identifies that a need does exist for those households meeting the planning definition and this could increase should the status of those currently unknown households be clarified. Whilst the level of need is a matter for the development plan process, there is a clear and identifiable need for pitches to be provided in the District. This shortfall of pitches is a consideration that is capable of amounting to very special circumstances and carries considerable weight.

5.30 Lack of a 5-year supply of sites

As with general housing need, the Council is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of gypsy and traveller sites against locally set targets. To be considered deliverable, sites should be available now and be both suitable and achievable with a realistic prospect of development being delivered within 5 years. The Council has set out in the Core Strategy that it will establish a 5-year supply of sites through its Sites Allocation Local Plan. Whilst it is now the intention to address the supply issue through a new Local Plan, it remains the case that the Council is unable to demonstrate a 5-year supply of pitches. Whilst PPTS makes clear that such a lack of a 5-year supply is a significant material consideration when considering applications for temporary permission, land in Green Belt is one of a number of listed exceptions. PPTS states that unmet need (demonstrated here by a lack of a 5-year supply) is unlikely, alone, to outweigh harm to the Green Belt so as to establish very special circumstances. However, this is a factor which together with others can be considered to weigh in favour of the development at least in terms of a temporary permission.

5.31 Failure of planning policy and difficulties in providing sites

The Council has, to date, failed to identify sites for gypsies and travellers based on any quantitative assessment of need and this has led to under provision of sites in the district. Preparation of a new Local Plan is ongoing and will be seeking to identify suitable sites through the process. Previous appeal Inspectors have recognised that the Council has made "concerted efforts" and has acted with "good intentions" but it remains the case that there has been little progress in identifying sites for gypsies and travellers. The applicants argue that this historic lack of

progress suggests it would be unreasonable to assume that there is a likely prospect of alternative sites coming forward in the next 5 years to the point where significant weight can be attributed to this in terms of very special circumstances.

5.32 The Council, however, remains committed to delivering site allocations through the Development Plan process. The latest position is set out in the update on the new Local Plan webpage which states “The preparation of a new Local Plan will help to ensure that the Council has a development plan for the whole district, in line with current national planning guidance which properly reflects its Economic Strategy and Corporate Priorities.” It is not difficulties with gypsy and traveller sites that have inhibited progress on the Local Plan and it remains likely that meaningful progress will be made towards identifying suitable sites in an appropriate timescale. Notwithstanding this, it is considered reasonable that significant weight can be attached to these failures of policy to address need, again in terms of a temporary permission.

5.33 Lack of alternative sites

There are two publicly owned sites in Selby District (at Burn and Carlton), both of which are at capacity and subject to waiting lists for pitches. The applicant has argued that there is a lack of alternative sites across the District and has highlighted the refusal of permission in 2013 for an extension to the public site at Burn and the subsequent approvals granted by appeal Inspectors which in some cases have been on Green Belt land. It is consequently suggested that it is reasonable to assume that there is a significant likelihood that some future provision for gypsy and traveller sites will be in the Green Belt. The current occupiers of the site, including a number of children, are in need of a settled base which would provide them with access to healthcare, education, welfare and employment infrastructure. Whilst these are benefits that any settled base would provide, in the absence of suitable alternative sites, the personal accommodation needs of the site occupiers for a settled base is a consideration that can amount to very special circumstances and be afforded significant weight particularly when considering the best interests of the children.

6. CONCLUSION

6.1 Whilst the site is previously developed land, and the existence of gypsy and traveller pitches on the site does not compromise the 5 purposes of including land in the Green Belt, the proposal constitutes inappropriate development in the Green Belt, a point that is accepted by the applicant. Such development should only be permitted where there are very special circumstances and such circumstances can only arise where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

6.2 Weighing against the development is the harm caused to the Green Belt by reason of inappropriateness which must carry substantial weight. Added to this is the actual harm caused to openness, considered to be significant. Weighing in favour of the development is the immediate need for additional pitches in the District that is unlikely to be met in the near future pending progress being made on the new Local Plan, a matter to be afforded considerable weight. The personal accommodation needs of the occupiers of the site are material and should be afforded significant weight in the absence of any alternative sites that are available to them. There has

been a failure, on the part of the Council, to make provision for sites in the past which, despite the intention to address the matter through the development plan process, can also be considered to carry significant weight.

- 6.3 Overall, it is not considered that the identified harm is clearly outweighed by the other considerations advanced by the applicant such that very special circumstances exist to justify the grant of permanent permission. Whilst it is recognised that a refusal of permission would require those currently residing on the site to vacate the land and seek an alternative base, the harm to the Green Belt is substantial and refusal of permission would be a proportionate response.
- 6.4 The advice contained in National Planning Practice Guidance (NPPG) sets out when a temporary permission might be appropriate including where it is expected that the planning circumstances will change in a particular way at the end of a certain period of time. As outlined above at 5.30, the Council anticipates progress being made on the new Local Plan such that appropriate sites for gypsies and travellers will be identified and allocated within a realistic timescale. Whilst NPPG does suggest that granting a second temporary permission will be rare, the circumstances in this particular case (and especially the relative lack of progress in identifying sites through the Local Plan process) are such that it is considered reasonable to consider granting another temporary permission.
- 6.5 The proposed day rooms are clearly buildings as opposed to the mobile homes and touring caravans that will occupy the site which are moveable structures that meet the legal definition of a caravan as set out in the relevant Act. Whilst requiring the demolition of a building after a stated period of time is unusual, and may be considered to be unreasonable in different circumstances, the applicant accepts that there is no guarantee that a temporary permission will be granted permanently but has indicated a strong desire to provide the day rooms. Such provision is culturally important to the gypsy and traveller community and the applicant feels it important to offer day rooms on what is effectively a privately rented site (both public sites within the Selby district provide such day rooms). The day rooms offer separate male and female sanitation facilities discrete from the main living quarters without which there would need to be communal facility buildings provided.
- 6.6 Notwithstanding that the continuing harm to Green Belt is substantial, it is considered that such harm can be outweighed by other material considerations in the context of a temporary period of 5 years. As such, very special circumstances are established, and a temporary planning permission is recommended.
- 6.7 In recommending that this application is approved, the Chief Executive Officer is requested to recognise that the application is not in accordance with the Development Plan but that the nature and extent of the material considerations amount to very special circumstances which outweigh the conflict with the Development Plan such that temporary planning permission should be granted. With regard to applications for inappropriate development in the Green Belt which has a significant impact on openness, The Town and Country Planning (Consultation) (England) Direction 2009 requires local planning authorities to consult the Secretary of State should it not propose to refuse the application.

7. RECOMMENDATION

- a) That the Chief Executive Officer is minded to APPROVE this application subject to the attached schedule of conditions.
- b) That authority is confirmed to Officers to refer the application to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009 with the Chief Executive Officer's resolution to support it.
- c) That in the event that the application is not called in by the Secretary of State, authority is delegated to the Planning Development Manager to approve this application subject to the imposition of the attached schedule of conditions. That delegation to include the alteration, addition or removal of conditions from that schedule if amendment becomes necessary as a result of continuing negotiations and advice and provided such condition(s) meet the six tests for the imposition of conditions and satisfactorily reflect the wishes of the Chief Executive Officer.
- d) That in the event that the application is called in for the Secretary of State's own determination, a further report will come to the Chief Executive Officer.

01. The use hereby permitted is granted for a temporary period only and, at the end of 5 years beginning with the date of this permission, the use shall cease and all caravans, buildings, structures, materials or equipment brought onto the site or erected on the land in connection with the use shall be removed. Thereafter the land shall be restored to its former condition within two months of the expiration of this permission in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

02. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Site Location Plan – JTaylor 19-SLP
- Proposed Site Layout – 18203/02
- Proposed Utility Building – 18203/03

Reason: For the avoidance of doubt.

03. The site shall not be occupied by any persons other than gypsies and travellers, as defined in Annex 1: Glossary of Planning policy for traveller sites 2015 (or its equivalent in replacement national policy).

Reason: This condition is necessary in order to ensure that the site meet the needs of the travelling community

04. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: In the interests of the residential amenity of the site occupiers and those of neighbouring properties.

05. No commercial activities shall take place on the land, including the storage of materials.

Reason: In the interests of the residential amenity of the site occupiers and those of neighbouring properties.

06. There shall be no more than 12 pitches on the site and on each of the 12 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed on the site at any time. of which only 1 shall be a static caravan.

Reason: In the interests of the character and appearance of the area and the visual amenities of the Green Belt.

07. No generators shall be permitted to be operated on the land.

Reason: In the interests of the residential amenity of the site occupiers and those of neighbouring properties.

08. Within 3 months of the date of this permission, there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities; an implementation programme. Thereafter, the scheme shall be implemented in accordance with the approved details.

Reason: In the interests of the character and appearance of the area and the visual amenities of the Green Belt.

09. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area and the visual amenities of the Green Belt.

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 although a decision made in accordance with this recommendation results in an interference with the private and family lives of those currently residing on the site, and that Article 8 of the European Convention on

Human Rights is engaged, the recommendation made in this report is proportionate, taking into account the conflicting matters of public and private interest so that there is no violation of those rights.

8.3 Equality Act 2010

In deciding whether to grant planning permission for this proposed development the Council must pay due regard to its Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and those who do not. The protected characteristics include race.

In formulating this recommendation officers have paid due regard to the PSED and in particular the need to foster good relationships between the applicants and those who do not share their protected characteristic as Gypsies and Travellers

9. **Financial Issues**

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

10. **Background Documents**

Planning Application file reference 2019/0030/COU and associated documents.

Contact Officer: Gary Bell, Principal Planning Officer
gbell@selby.gov.uk

Appendices: None