



**Report Reference Number:** 2018/1299/FUL

**To:** CEO Urgent Decision Session - Planning  
**Date:** 13 May 2020  
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APPLICATION NUMBER:	2018/1299/FUL	PARISH:	Kellington Parish Council
APPLICANT:	Mr George Sanderson	VALID DATE:	26th November 2018
		EXPIRY DATE:	21st January 2019
PROPOSAL:	Proposed change of use of land to a travellers site to provide 8 pitches including the erection of associated amenity blocks and external lighting		
LOCATION:	Small Holding Broach Lane Kellington Goole North Yorkshire DN14 0ND		
RECOMMENDATION:	MINDED TO GRANT		

This application has been brought before the Chief Executive Officer at the Urgent Decision Session - Planning as the ward councillor for the area where the proposal lies, Cllr McCartney, has requested that the application be heard by the planning committee for the following reasons: (1) the site lies outside the village development limits; (2) although the site is developed, very little of what is on the site has planning permission; and (3) Upper Common Lane is an unadopted private dirt track and having so many units down a private drive is against planning policy. Furthermore, the application is a minor application where 10 or more letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations. In addition, the application is a minor application which is being recommended to be approved contrary to the requirements of the Development Plan, as Officers consider that there are material considerations which would support a recommendation for approval.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located outside the defined development limits of Kellington and is therefore located within the open countryside in planning policy terms.
- 1.2 The application site comprises part of The Smallholding - a mixed use site containing two existing mobile homes, a scrap yard and a commercial repairs and MOT garage, located to the northern side of Uppercommon Lane, to the east of its junction with Broad Lane. The application site itself comprises an area of hardstanding, with a vehicular access and driveway to the southern part of the site leading to an open area enclosed by approximately 2-metre-high walls to the northern part of the site. The Smallholding site is principally surrounded by open fields, with an isolated neighbouring property a minimum of approximately 60 metres to the east and the development limits of Kellington a minimum of approximately 120 metres to the north west.

### **The Proposal**

- 1.3 The application seeks full planning permission for the proposed change of use of the land to a traveller site to provide 8 pitches including the erection of associated amenity blocks and external lighting.
- 1.4 The submitted proposed site layout plan (drawing no. 9-16-19 Sanderson) demonstrates how the open hardstanding area enclosed by approximately 2-metre-high walls to the northern part of the site would be subdivided into nine areas by 0.9 metre high walls to provide eight pitches and an area for additional parking alongside an existing timber cabin (used as an amenity block) - these areas would be arranged around a central open area. Each of the eight pitches would include an amenity block, an area of hardstanding to site a static/chalet or touring van, two car parking spaces and an amenity area. Each amenity block would measure a maximum of 5.2 metres in width by 4.1 metres in depth and would have a pitched roof with eaves to a height of 2.6 above ground floor level and ridge to a height of 3.9 above ground floor level. No details have been provided regarding the materials to be used in the external construction of the amenity blocks. In addition, external lighting is to be provided by means of 10 lamp posts measuring a maximum of 1.6 metres in height around the site boundary, each one fitted with control sensors.

### **Relevant Planning History**

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- 1.6 An application (reference 2013/0682/FUL) for the extension of an MOT test unit was permitted on 31.10.2013.
- 1.7 An application (reference 2011/0193/CPE) for a lawful development certificate for the existing use of vehicle dismantlers, scrap vehicle salvage, HGV/LGV/car repairs and MOT centre was permitted on 15.04.2011.
- 1.8 An application (reference 2015/0187/CPE) for a lawful development certificate for the continued use of land for vehicle dismantlers, scrap vehicle storage, HGV/LGV/car repair and MOT centre and the stationing of two mobile homes for residential purpose for period in excess of 10 years was permitted on 11.09.2015.

## 2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – Set out the scope of the proposals as set out in the submitted application documents and the relevant policy considerations including Policy SP2 and SP11 of the Core Strategy, Policy ENV1 of the Selby District Local Plan, the Council's 'Traveller's Needs Assessment' published in June 2016, the Planning Policy for Traveller Sites published August 2015, and the NPPF. Object to the application on the following grounds: (1) Need - The Council's 'Traveller's Needs Assessment' published in June 2016 states that the need during the period 2016-2021 is for 3 pitches across the District. That assessment period is yet to be complete so it remains open to identify suitable sites to meet this need. The application provides for 9 pitches which is above the need referred to. Furthermore the identified need should be met in a manner which takes account of relevant policy - this remote site, detached from Kellington village fails that test; (2) Sustainability of the application site – the site is located well beyond the development limits of Kellington does not meet well established criteria. There is only a fragmented footpath on the east side of Broach Lane leading to the village. At least 100 metres of this distance is without a defined footpath. The village itself no longer has either a shop or a Post Office as both have closed. There is only an irregular bus service to either Selby (5 a day) or Pontefract (5 daily). The limited facilities available make this a poor option for potential occupants - access to a range of services would involve a significant journey which could only realistically be made by car; (3) Consultation process – the Planning Policy for Traveller Sites published August 2015 PPTS states there should be there should be "early and effective consultation" as part of the decision making process and as part of this reference is made to both the settled and traveller communities. On the basis of the documents submitted with the planning application, there is no evidence that this has taken place; (4) Site specific considerations – future occupants would find themselves neighbours to a scrap yard as well as a commercial garage. In addition, there is currently a 1.9m high stone wall separating the site from upper Common Lane, an ugly urban feature which sits uneasily within a largely rural landscape. Furthermore, the Highway Authority are seeking the upgrade of the Uppercommon Lane/Broach Lane junction via a condition, but there are questions over whether this could be achieved; (5) insufficient information regarding foul drainage.
- 2.2 **Development Policy** – Comments provided in relation to: (1) the principle of the development; (2) planning policy for traveller sites; and (3) five year supply of gypsy and traveller pitches.

An updated Gypsy and Traveller Accommodation Assessment (GTAA) was undertaken in 2018 that will form part of the evidence base for the forthcoming Local Plan. The level of need identified by the latest GTAA is five pitches for the remainder of the plan period (until 2027), all of which occurs in the first five years. Beyond the plan period 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. The need generated by households whose status is unknown is 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 is 15 pitches over the first five years (an overall figure of 26 pitches to 2033). The new Local Plan is an emerging document and there are no allocations for additional pitches within the Selby District Local Plan (2005). On this basis the Council are unable to demonstrate that they have a 5-year supply of deliverable pitches.

The application is not in accordance with the development plan as a whole. Paragraph 12 of the NPPF states that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate as such. Material considerations in this case include the lack of a five year supply of deliverable sites; the personal circumstances of the applicant; redevelopment of previously developed site; and the location of the site.

In summary, Planning Policy offers no objections to the application proposal.

- 2.3 **Environmental Health – Initial response dated 09.12.2018**: Raise concerns around the proposals and the site. The site is currently used as a scrap yard and MOT service yard and it is not stated within the application whether these functions will remain on the site. If they are, there are concerns regarding disturbance from industrial use operations affecting the proposed residential use of the site. Also there is a risk of land contamination to the residential area. Furthermore, the site will require licensing under the Control of Development Act 1960 and the Mobile Homes Act 2013. Within this applicable legislation are specific requirements around spacing; and there are concerns about the proposed development meeting those requirements.

Further response dated 23.01.2019 following a site visit: Information has now been provided by the applicant and following a site visit I have no further concerns around the scrap yard and MOT service yard at the adjacent site. Concerns over the proposed residential units and compliance with licensing conditions applicable under the Control of Development Act 1960 and the Mobile Homes Act 2013 have been discussed with the applicant for consideration and any subsequent amendments to be made. In terms of drainage, the information provided suggests the site would be served by an existing cess pit system to which the capacity is currently unknown. Cess pit systems are required to have capacity of 18,000 litres per two users, plus an additional 6800 litres per additional user. On this basis it is strongly recommended that the applicant considers a package treatment plant.

Further response dated 19.11.2019: Aware concerns have been raised regarding the potential for the established commercial and industrial uses adjacent to the application site to have a significant impact on future occupants of the residential development in terms of environmental pollution. However, the applicant has provided assurances that the existing commercial and industrial uses will not negatively impact on the proposed development. It is noted that this land is within the ownership of the applicant, such that the applicant has a degree of control over the site. However, if this situation were to change, the possibility exists that complaints may come in from residents which may affect the viability of those businesses. It is therefore recommended that should planning permission be granted, it should be exclusively for the applicant and cannot be transferred. In terms of drainage, it is considered that foul drainage is likely by septic tank rather than cess pit as stated. Consideration needs to be given to the 2020 General Binding Rules. Connection to the public sewer would be the most sustainable drainage solution if that that were possible.

- 2.4 **NYCC Highways –** At present the access off Broach Lane (Public Highway) onto Uppercommon Lane (Private Road) is in poor state and loose material is being drawn onto the public highway and water is ponding. To remove this highway safety matter, it would be expected that the access be upgraded to highway specification

E2. Therefore, there are no objections to the proposals, subject to a condition relating to the construction requirements of private access/verge crossings.

- 2.5 **Danvm Drainage Commissioners Shire Group Of IDBs** – 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 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.
- 2.6 **Yorkshire Water Services Ltd** – No response within statutory consultation period.
- 2.7 **Public Rights of Way Officer** – Informative relating to claimed public rights of way.
- 2.8 **Council's Contaminated Land Consultants** - There is the potential that the current use of the site has led to land contamination. The contaminants of concerns include heavy metals, PAHs, hydrocarbons, VOCs, SVOCs and asbestos. Given the proposed sensitive end use of the site and the potential for contaminants to be present, it is recommended that site investigation is undertaken. If contamination is found, appropriate remedial action will be required to make the site safe and suitable for its proposed use. Therefore there are no objections, subject to four conditions relating to: (1) investigation of land contamination; (2) submission of a remediation scheme; (3) verification of remedial works; and (4) reporting of unexpected contamination.
- 2.9 **Neighbour Summary** – A site notice was erected and an advert placed in the local press. Eleven letters of representation have been received as a result of the advertisement of the application, nine of which object to the application, one of which provides comment of the application and one of which supports the application. The nine letters of representation raise concerns in respect of: (1) the impact of the proposed development on the character and appearance of Kellington and the residents of Kellington; (2) the potential for untidy, unfriendly and disrespectful occupiers of the site as has been evidence elsewhere in the District; (3) whether there is a need for this site in this location; (4) whether an extension to an existing site would be more appropriate to a new site in this location; (5) while informed that the applicants family would occupy the site, what would happen if the site was sold; (6) the site should be used to provide market housing as opposed to a traveller site; (7) what services are available on site; (8) clear access along Uppercommon Lane would need to be retained and maintained; (9) highway safety issues; and (10) noise, light and traffic disruption resulting from the proposed development.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is not allocated in the Selby District Local Plan and is located outside the defined development limits of Kellington and is therefore located in the open countryside in planning policy terms. The application has consequently been advertised as a departure from the Development Plan.
- 3.2 The application site is located within Flood Zone 1.

#### **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 would take place early in 2020. 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 Policies are:
- SP1 – Presumption in Favour of Sustainable Development
  - SP2 – Spatial Development Strategy
  - SP11 – The Travelling Community
  - 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 Policies are:

ENV1 – Control of Development

ENV2 – Environmental Pollution and Climate Change

T1 – Development in Relation to the Highway Network

T2 – Access to Roads

### **Other Policy/Guidance Documents**

4.8 Planning policy for traveller sites (Department for Communities and Local Government, August 2015)

## **5 APPRAISAL**

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Land Contamination
- Other Issues

### **The Principle of the 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 development plan should be approved and proposed development that conflicts with an up-to-date development plan should not usually be granted, unless material considerations in a particular case indicate otherwise.

5.3 Policy SP1 of the Core Strategy 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. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.

5.4 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 outside the defined development limits of Kellington, which is a Designated Service Village as identified in the Core Strategy and is therefore located within the open countryside in planning policy terms.

- 5.5 Policy SP2A(c) of the Core Strategy states *“Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”*.
- 5.6 The proposal does not meet Policy SP2A(c), as the proposal is not for the replacement or extension of existing buildings or the re-use of buildings, and is not for the erection of well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and enhance or maintain the vitality of rural communities in accordance with Policy SP13. Furthermore, the proposal would not meet rural affordable housing need (which meets the provisions of Policy SP10) and there are no other special circumstances. The proposal should therefore be refused unless material considerations indicate otherwise.
- 5.7 Policy SP11 of the Core Strategy specifically relates to ‘Travellers’ 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 findings of up to date assessments or 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”*.
- 5.8 National policy for traveller sites was updated in August 2015 and comprises ‘Planning Policy for Traveller Sites’ (PPTS) published by the Department for Communities and Local Government. This should be read in conjunction with the NPPF. Paragraph 3 of the PPTS states *“The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life for travellers while respecting the interests of the settled community”*.
- 5.9 The main changes in the updated 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. gypsy/travellers now only comprise those that are nomadic. The PPTS definition of ‘gypsies and travellers’ 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 dependent’s 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”*.

Therefore, it is those gypsy/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 gypsy/travellers and will still have accommodation needs.

- 5.10 Policy H of the PPTS sets out how planning applications for traveller sites should be determined. The policy reiterates that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (paragraph 22), and should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF and the PPTS (paragraph 23).
- 5.11 Paragraph 24 of the PPTS states *“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:*
- 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; and*
  - e) That they should determine applications for sites from any travellers and not just those with local connections.”*
- 5.12 Paragraph 25 of the PPTS states *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. 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 the local infrastructure”.*
- 5.13 Paragraph 26 of the PPTS states *“Local planning authorities should attach weight to the following matters:*
- a) Effective use of previously developed (brownfield), untidy or derelict land;*
  - b) Sites being well planned or soft landscaped in such a way as 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.”*
- 5.14 The PPTS, at paragraph 27, sets out that where 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 grant of temporary planning permission. However, there is no presumption that a temporary grant of planning permission should be granted permanently.

Existing level of local provision and need for sites and the availability (or lack) of alternative accommodation for the applicants

- 5.15 The Council commissioned Opinion Research Services (ORS) to provide an updated Gypsy and Traveller Accommodation Assessment (GGTA) in 2018 that will

form part of the evidence base for the forthcoming Local Plan. The level of need identified in the GGTA is 5 pitches for the remainder of the plan period (until 2027), all of which falls within the first five years. Beyond the plan period 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 five years, and temporary consent which are due to expire within five years.

- 5.16 It is important to note that this need is generated only from those households that meet the Government's definition of 'gypsy and traveller' and does not include those households which exist in the District where the occupants either do not meet the definition or their status is unknown (i.e. where they were unavailable or refused to answer interview questions to determine their status). The need generated by households whose status is unknown is 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 is 15 pitches over the first five years (an overall figure of 25 pitches to 2033).
- 5.17 The survey work undertaken by ORS identified 2 authorised pitches at The Smallholding (granted through a Certificate of Lawful Development) and 10 unauthorised pitches at The Smallholding, in March 2018. The two authorised pitches were marked as being 'unknown' in terms of whether they met the Government's definition of 'gypsies and travellers' as the occupiers were not available to interview; while the 10 unauthorised pitches were marked as being 'unknown' as they were vacant.
- 5.18 The Local Planning Authority currently have another pending application for a travellers site (reference 2019/0030/COU, at Milford Caravan Park, Great North Road, South Milford), wherein 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 has been 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 is generated from households that meet the Government's definition of 'gypsy and traveller', to be 21 much of which is required immediately.
- 5.19 The GTAA 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. 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. There are no allocations for additional pitches within the Selby District Local Plan (2005). 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, this is an emerging document and it remains the case that the Council are currently unable to demonstrate a 5-year supply of deliverable pitches.

- 5.20 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.
- 5.21 The lack of alternative accommodation, specifically the lack of a 5-year supply of deliverable pitches, provides a significant material consideration. The PPTS, at paragraph 27, sets out that where 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 grant of temporary planning permission. This provides the Local Planning Authority with the opportunity to have a 5-year supply of pitches in place by the end of the temporary period.
- 5.22 To grant the current application for 8 pitches, would allow the Council to meet its 5-year need generated from those households that meet the Government's definition of 'gypsy and traveller'. The existing level of local provision and need for sites and the availability (or lack) of alternative accommodation for the applicants, as highlighted above, carry significant weight in favour of the proposals.
- 5.23 This report will now go onto look at other material considerations. Given the existing level of local provision and need for sites and the availability (or lack) of alternative accommodation for the applicants, it is considered that in the situation where a site is, on balance, an appropriate location for gypsy and traveller use this would weigh in favour of a permanent approval rather than a temporary grant of planning permission.

#### Personal circumstances of the applicant

- 5.24 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, in the absence of any suitable alternative sites, the personal accommodation needs of the gypsy and traveller community and the ability of this site to meet those needs can be afforded significant weight.
- 5.25 The supporting information submitted with the application sets out that the site owners and occupiers (The Walker Brothers) have lived at the site for over 20 years and have been active members of the local community throughout their residence. They own and operate the adjacent scrap yard and a commercial repairs and MOT garage. Historically they also owned and managed the breakers yard, but this side of the business is no longer being pursued and they are making in-roads to remove all of the associated vehicles and paraphernalia. The site owners and occupiers children have all been born and raised in the village of Kellington and the applicants wives and children (those old enough to) work in Kellington or neighbouring villages. The family has long term ties to the village and local area and have no intention of changing this. The site owners and occupiers would retain control over the pitches and over who stays at the site, who are likely to be the applicants extended family and/or friends within the travelling community. One of the site owners and occupiers children will be taking one of the pitches and their children attend the local school in Kellington.
- 5.26 The proposed living arrangements on the overall site, whereby the extended family live together for mutual support, is characteristic of the gypsy way of life, and the

proposal would therefore be consistent with the Government's aim of facilitating the traditional and nomadic way of life of travellers.

- 5.27 Having a settled base enables the children to have a settled and consistent education, as well as having access to health and welfare resources, significantly enhancing their life prospects by comparison with a roadside existence. Being able to live within an extended family environment with all of the other advantages of a settled base is in the children's best interests.
- 5.28 Poor access for travellers to education and healthcare is one of the problems that PPTS seeks to address through the provision of settled bases that reduce the need for long-distance travelling, allow children to attend school on a regular basis, and enable access to appropriate health services. In view of the lack of identifiable alternatives, it is very likely the refusal of a grant of planning permission would lead to some gypsy and traveller households who would have been able to take up pitches at the site having to resort to a roadside existence. This would have negative consequences for the children.
- 5.29 Further, a family based group would find it difficult to find a settled base elsewhere that would accommodate all of them, so refusal of a grant of planning permission would fail to support a key characteristic of the gypsy way of life, and this is a matter which weighs in favour of the application for an extension to an existing site.
- 5.30 The personal circumstances of the applicant, as highlighted above, carry significant weight in favour of the application.

#### Sustainable Location

- 5.31 The application site is located approximately 120 meters to the south east of the development limits of Kellington, which is a Designated Service Village as identified within the Core Strategy, thus being one of the larger, more sustainable villages within the District. The application site is within walking distance of a number of the village's facilities, including a primary school (albeit not all of the route from the site to the village has the benefit of a pavement) and there is a local bus route which provides connections to neighbouring villages and towns with further facilities and transport connections and employment opportunities.
- 5.32 In PPTS terms the site can be considered as one of those which is physically away from existing settlements, but it is also in an area that is not remote, being located only 120 metres south east of the development limits of the nearest settlement and from which access to many services and facilities would not necessarily be dependent on private cars, or would only involve short journeys. The site owners and occupiers have lived at the site for over 20 years and have been active members of the local community throughout their residence. Therefore, although away from an existing settlement, the site is not in a location that would lead to unsustainable patterns of travel or significant difficulties in accessing services or social integration, and given its size and scale in relation to Kellington, it would not dominate the nearest settled community or place undue pressure on the local infrastructure.
- 5.33 Having regard to the above, the site's location is considered to be sustainable and would not be contrary to the guidance in paragraph 25 of the PPTS. Nevertheless, the proposal would strictly be contrary to Policy SP2 and the Spatial Development Strategy for the District, being located beyond the defined development limits of the

settlement of Kellington and therefore being located within the open countryside in planning policy terms.

#### Previously Developed Land

- 5.34 The application site represents previously developed land and comprises a mix of uses including two existing 2 authorised gypsy/traveller pitches (granted through a Certificate of Lawful Development), a scrap yard and a commercial repairs and MOT garage. The PPTS, at paragraph 26, encourages the effective use of previously developed (brownfield), untidy or derelict land. The use of this previously developed site would result in the extension of an existing gypsy/traveller site, rather than the creation of a new one, which would not dominate the nearest settled community or place undue pressure on the local infrastructure. This is considered to carry significant weight in favour of the proposals.

#### Conclusion on the Principle of the Development

- 5.35 The proposal is contrary to the requirements of the development plan as it does not meet the requirements of Policy SP2A(c). The application should therefore be refused unless material considerations indicate otherwise.
- 5.36 The GTAA identifies that a need does exist for those households meeting the planning definition of 'gypsies and travellers and this could increase should the status of those currently unknown households be clarified. Furthermore, evidence has been provided under another pending application for a travellers site which has led to it being 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). Officers therefore currently consider an appropriate figure of need is generated from households that meet the Government's definition of 'gypsy and traveller', is higher than as set out in the GTAA. There is a lack of alternative accommodation, specifically a lack of a 5-year supply of deliverable pitches, and this carries significant weight in favour of the proposals.
- 5.37 As set out earlier in this report, the application site is considered to be in a sustainable location, would make use of a previously developed site would result in the extension of an existing gypsy/traveller site, which would provide for the extended family and friends of the applicants to occupy the site, where they could live together for mutual support, which is a key characteristic of the gypsy way of life. The proposal would therefore be consistent with the Government's aim of facilitating the traditional and nomadic way of life of travellers.
- 5.38 On balance, the location of the application site (in a sustainable location, on a previously developed site, providing for an extension to an existing gypsy/traveller site) would weigh in favour of a permanent approval in this instance.

#### **Design and Impact on the Character and Appearance of the Area**

- 5.39 Local and national planning policies expect development to respond to local character. Policies SP18 and SP19 of the Core Strategy require consideration of the impact of development on the character and appearance of the area. Policy ENV1 of the Selby District Local Plan requires a good quality of development to be achieved that takes account of the effect of the proposed development on the character of the area and the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping. This is consistent with the

advice contained within the NPPF, which requires development to be sympathetic to local character and history, including the built environment and landscape setting, and to establish and maintain a strong sense of place through consideration of the layout, scale, appearance and landscaping of development (paragraph 127). The PPTS at paragraph 25 provides that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However, at paragraph 26 it requires that Local Planning Authorities should attach weight to; (1) the effective use of previously developed (brownfield), untidy or derelict land; (2) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness; and (3) 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.

- 5.40 From a site visit, it was noted that some works had already taken place on the site to provide a hardstanding area to the northern part of the site, which had then been subdivided by 0.9 metre high walls to provide nine pitches (note: amended plans have been submitted showing eight pitches and so remedial works would need to be undertaken at the site to ensure the development was in accordance with any plans approved under this application). The works which had been undertaken at the time of the site visit had been done so to a high quality with good quality materials used and the site appeared to be in a very clean and tidy condition. The existing approximately 2-metre-high walls to the northern part of the application site (note: boundary treatments of up to 2 metres in height could be constructed under permitted development without the need for planning permission) provide a high level of screening to the site itself, including to the amenity blocks, static/chalet or touring vans, parked cars and amenity areas which would form part of each pitch. Notwithstanding this, the site is not highly visible from many public viewpoints, including Broach Lane, one of the main roads into Kellington, which itself is bordered by high hedges to the east. No public footpaths or bridleways run in close proximity to the application site at a point where there would be readily available view of the site.
- 5.41 The proposal, although located on land within open countryside, is within walking distance of the nearest settlement of Kellington and would make effective use of previously developed (brownfield), untidy and derelict land. While the site is enclosed by walls, these are of a similar height to those which could be erected under permitted development, without the need for planning permission (similar to those which residential properties would erected within their garden areas to provide privacy from neighbouring properties), and as such are not considered to result in the site appearing isolated from the rest of the community. There is limited opportunity to provide additional landscaping within the proposed layout, given the the existing hardstanding and the space available, however, it is considered that the development has been well planned in terms of its layout and design in relation to the context of the site.
- 5.42 Conditions could be attached to any planning permission granted restricting the number of pitches at the site having regard to the character and appearance of the area.
- 5.43 Having regard to the above, it is considered that the proposed development would not result in any significant harm to the character and appearance of the area in accordance with Policies SP18 and SP19 of the Core Strategy, Policy ENV1 of the Selby District Local Plan, national policy contained within the NPPF (specifically

paragraph 127 and national policy contained within the PPST (specifically paragraphs 25 and 26).

### **Impact on Residential Amenity**

- 5.44 Local and national planning policies expect development to protect the amenities of existing and future occupiers. Policy ENV1 of the Selby District Local Plan requires a good quality of development to be achieved that takes account of the effect of the proposed development on the amenity of adjoining occupiers. Policy ENV2 of the Selby District Local Plan requires consideration to be given to development which would give rise to, or would be affected by, unacceptable levels of noise or nuisance. This is consistent with national policy contained within the NPF, which requires development to create places with a high standard of amenity for existing and future users (paragraph 127).
- 5.45 The application site is located adjacent to two mobile homes to the south, which are owned and occupied by the applicants and other members of their family. The application site is also located adjacent to commercial and industrial uses to the east, which are also owned by the applicant. The proposed travellers site, the two existing mobile homes and the commercial and industrial uses are all approached from a shared access from Uppercommon Lane.
- 5.46 In terms of the relationship between the existing mobile homes and the proposed travellers site, whether they remain in the same ownership or not, the layout and design of the proposed development and its relationship to the existing mobile homes is such that the residential amenities of the occupiers of the dwellings would not be harmed by reason of overshadowing, oppression, overlooking, noise or disturbance.
- 5.47 In terms of the relationship between the existing commercial and industrial uses and the proposed travellers site, it should be noted that at present these areas of land are within the same ownership, along with the existing mobile homes. This ensures that the residential and commercial and industrial uses can exist harmoniously without the latter land use giving rise to any adverse impacts on the adjacent residential properties. The applicants have stated that this situation is to remain the same. Even if the adjacent commercial and industrial uses were not within the same ownership and control of the applicants, the relationship between the proposed travellers site and the existing commercial and industrial uses is such that it is considered that the residential amenities of the future occupiers of the travellers site would not be harmed to a significant or detrimental extent. The submitted layout plan shows an approximately 2-metre-high wall between the proposed travellers site and the existing commercial and industrial uses, which would provide protection to the residential amenities of the occupiers of the travellers site from operations occurring at the adjacent commercial and industrial site.
- 5.48 The Council's Environmental Health Team have been consulted on the proposals. Initially, the Council's Environmental Health Officer raised concerns regarding the relationship between the proposed travellers site and the existing commercial and industrial uses on the adjacent land – that the latter could negatively impact upon the former in terms of noise and disturbance. However, following a site visit by the same Environmental Health Officer, where they were able to fully appreciate the relationship between the application site and the adjacent land use, they advised that their objections were removed as they considered that the relationship between the two was such that the existing commercial and industrial uses would not give

rise to a significant or detrimental impact of the residential amenities of the future occupiers of the proposed travellers site. Subsequently, a different Environmental Health Officer has made comments on the proposals as a result of amended plans being submitted reducing the number of pitches proposed, and while noting the previous comments of the Environmental Health Team, has raised concerns regarding the relationship of the application site to the adjacent commercial and industrial uses. These comments have been made without the benefit of a site visit, as was undertaken by the previous Environmental Health Officer, which lead to such objections being removed. Therefore, it is considered reasonable to take account of the comments from the Environmental Health Officer who has visited the site and therefore been able to make a more informed judgement of the proposals.

- 5.49 Having regard to the above, it is considered that the proposal would not result in any significant or determinantal impact on the residential amenities of either existing or future occupiers in accordance with Policies ENV1 and ENV2 of the Selby District Local Plan and national policy contained within the NPPF (specifically paragraph 127).

### **Impact on Highway Safety**

- 5.50 The application site would be accessed from an existing vehicular access onto Uppercommon Lane (a private road) to the south of the application site, which would join Broach Lane (a public highway) to the west of the application site.
- 5.51 NYCC Highways have been consulted on the application and have advised that at present, the access off Broach Lane to Uppercommon Lane is in a poor state of repair and loose material is being drawn on to the public highway and water is ponding. The proposal would intensify this access and therefore to remove this highway safety matter, NYCC Highways recommend that the access off Broach Lane to Uppercommon Lane is upgraded to highway specification E2 and that this is secured by way of condition. The applicant has indicated that they would be agreeable to upgrading the access off Broach Lane to Uppercommon Lane, as per NYCC Highways recommendation.
- 5.52 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

### **Flood Risk and Drainage**

- 5.53 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 5.54 In terms of drainage, the submitted application form sets out that surface water drainage would be disposed of via sustainable drainage system, while foul water would be disposed of via main sewer. The local Internal Drainage Board, Yorkshire Water and Environmental Health have been consulted on the proposals. The local Internal Drainage Board and Yorkshire Water have not raised any objections to the proposals. However, Environmental Health have advised that mains sewerage services start at the property known as Southlands on Broach Lane, which is a significant distance from the application site and have therefore asked that the foul drainage proposals are clarified.

- 5.55 Following the comments received from Environmental Health regarding foul drainage, the applicant confirmed that foul drainage would be disposed of via an existing cess pit, to which the capacity is currently unknown. Environmental Health advised that cess pit systems are required to have a capacity of 18,000 litres per two users, plus an additional 6800 litres per additional user. On this basis, Environmental Health request further details of the capacity of the cess pit and strongly recommend that the applicant considers a package treatment plant to dispose of foul sewage.
- 5.56 The applicant has provided further information on the capacity of the cess pit, which is significantly below the requirements set out by Environmental Health. From the information provided by the applicant, Environmental Health has doubts that the existing drainage for the site is via a cess pit and consider it is more likely to be a septic tank, which does have an outfall and requires emptying less frequently. Environmental Health advise that if the system is a septic tank and the outfall is to a watercourse, ditch or dyke, then the operator would be required to upgrade the system in 202 under the General Binding Rules. However, the applicant has indicated that they are investigating connection to the main sewer. Environmental Health has advised that if it is feasible to connect to the public sewer, this would be the most sustainable drainage solution and that Yorkshire Water would be able to provide further information regarding connection to the public sewerage system.
- 5.57 Subject to a condition requiring details the disposal of foul sewage being submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use; it is considered that the proposals would be acceptable in terms of flood risk and drainage.

### **Land Contamination**

- 5.58 The application has not been supported by a contaminated land assessment. However, the Council's Contaminated Land Consultant notes that the land is currently used a scrap yard and a commercial repairs and MOT garage, while the application seeks full planning permission for the proposed change of use of the land to form a traveller site to provide 8 pitches including the erection of associated amenity blocks and external lighting.
- 5.59 The Council's Contaminated Land Consultant advises there is the potential that the current use of the site has led to land contamination. The contaminants of concerns include heavy metals, PAHs, hydrocarbons, VOCs, SVOCs and asbestos. Given the proposed sensitive end use of the site and the potential for contaminants to be present, the Council's Contaminated Land Consultant recommends site investigation is undertaken. If contamination is found as part of that site investigation, appropriate remedial action would be required to make the site safe and suitable for its proposed use. As such, the Council's Contaminated Land Consultant raises no objections to the proposal, subject to four conditions relating to: (1) investigation of land contamination; (2) submission of a remediation scheme; (3) verification of remedial works; and (4) reporting of unexpected contamination.
- 5.60 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

## **6 CONCLUSION**

- 6.1 The proposal is contrary to the requirements of the development plan as it does not meet the requirements of Policy SP2A(c). The application should therefore be refused unless material considerations indicate otherwise.
- 6.2 The GTAA identifies that a need does exist for those households meeting the planning definition of 'gypsies and travellers' and this could increase should the status of those currently unknown households be clarified. Furthermore, evidence has been provided under another pending application for a travellers site which has led to it being 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). Officers therefore currently consider an appropriate figure of need is generated from households that meet the Government's definition of 'gypsy and traveller' and is higher than as set out in the GTAA. There is a lack of alternative accommodation, specifically a lack of a 5-year supply of deliverable pitches, and this carries significant weight in favour of the proposals.
- 6.3 The application site is considered to be in a sustainable location, located approximately 120 meters to the south east of the development limits of Kellington, which is a Designated Service Village as identified within the Core Strategy, thus being one of the larger, more sustainable villages within the District. Although away from an existing settlement, the site is not in a location that would lead to unsustainable patterns of travel or significant difficulties in accessing services or social integration (as the applicant[s have already demonstrated over the past 20 years occupying the adjacent site), and given its size and scale in relation to Kellington, it would not dominate the nearest settled community or place undue pressure on the local infrastructure.
- 6.4 The proposal would make use of a previously developed site would result in the extension of an existing gypsy/traveller site. The extension of this existing site would provide for the extended family and friends of the applicants to occupy the site, where they could live together for mutual support, which is a key characteristic of the gypsy way of life. The proposal would therefore be consistent with the Government's aim of facilitating the traditional and nomadic way of life of travellers. Furthermore, the applicant's young relatives would be able to continue to attend the local school, which would be in the children's best interests.
- 6.5 On balance, the location of the application site (in a sustainable location, on a previously developed site, providing for an extension to an existing gypsy/traveller site) would weigh in favour of a permanent approval in this instance.
- 6.6 Furthermore, the proposals would be acceptable in terms of their impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, flood risk and drainage, and land contamination.

## **7 RECOMMENDATION**

This application is recommended to be MINDED TO GRANT subject to the expiration of the consultation period with no new material considerations being raised and the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

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

9-10-18 Sanderson os – Location Plan

9-16-19 Sanderson – Site Plan, Floor Plans and Elevations

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. There shall be no more than 8 pitches on the site and on each of the 8 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, having had regard to Policies SP18 and SP19 of the Core Strategy and Policy ENV1 of the Selby District Local Plan.

05. Prior to the erection of the amenity blocks hereby permitted, details of the materials to be used in the construction of their exterior walls and roof(s) shall have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

In the interests of the character and appearance of the area, having had regard to Policies SP18 and SP19 of the Core Strategy and Policy ENV1 of the Selby District Local Plan.

06. 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, having had regard to Policies SP18 and SP19 of the Core Strategy and Policy ENV1 of the Selby District Local Plan.

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, having had regard to Policies ENV1 and ENV2 of the Selby District Local Plan.

08. The development hereby permitted shall not be occupied until the access to the site off Broach Lane (Public Highway) onto Uppercommon Lane (Private Road) has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

a. The existing access shall be improved in accordance with the approved details and/or Standard Detail number E2.

b. Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and shall be maintained thereafter to prevent such discharges

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

09. Prior to the development hereby granted being brought into use, a scheme for the disposal of foul sewage shall have been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details.

Reason:

To ensure the development is provided with satisfactory means of drainage.

10. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

13. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptor.

**INFORMATIVE:**

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

**INFORMATIVE:**

Notwithstanding the submitted plan, no works are to be undertaken which may create an obstruction, either permanent or temporary, to the route of the claimed Public Right of Way. Applicants are advised to contact the County Council's Access and Public Rights of team at County Hall, Northallerton via [paths@northyorks.gov.uk](mailto:paths@northyorks.gov.uk) to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

## **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**

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

## **10 Background Documents**

Planning Application file reference 2018/1299/FUL and associated documents.

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**Appendices:** None