

**Meeting:** Thirsk and Malton Area Constituency Planning Committee

**Members:** Councillors Joy Andrews (Vice-Chair), Alyson Baker, Lindsay Burr MBE, Sam Cross, Caroline Goodrick (Chair), Nigel Knapton and Malcolm Taylor.

**Date:** Thursday, 20 June, 2024

**Time:** 10.00 am

**Venue:** Ryedale House, Malton, YO17 7HH

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The Council operates a scheme for public speaking at planning committee meetings. Normally the following people can speak at planning committee in relation to any specific application on the agenda: speaker representing the applicant, speaker representing the objectors, parish council representative and local Division councillor. Each speaker has a maximum of three minutes to put their case. If you wish to register to speak through this scheme, then please notify the Democratic Services Officer by midday on Monday 17 June 2024.

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If you are exercising your right to speak at this meeting but do not wish to be recorded, please inform the Chairman who will instruct anyone who may be taking a recording to cease while you speak.

## **Agenda**

- 1. Apologies for absence**
- 2. Minutes for the meeting held on 23 May 2024** **(Pages 3 - 6)**
- 3. Declarations of interests**

All Members are invited to declare at this point any interests, including the nature

of those interests, or lobbying in respect of any items appearing on this agenda.

4. **ZE24/00344/FUL - Change of use of existing open space/playground to form additional domestic curtilage to Mulberry House to include erection of a greenhouse and formation of tennis court with 2.75 metre high fencing and change of use of equivalent area of agricultural land to form public open space/playground for community use adjacent to Oswaldkirk Village Hall to include play equipment, timber shed, pergola and site landscaping at OS Fields 4490 and 4090, York Road, Oswaldkirk** (Pages 7 - 22)
5. **22/00102/FUL - Change of use of land to a gypsy/traveller site with 4no. family pitches each with 1no static caravan, 1no. touring caravan, 1no. dayroom/amenity block and parking spaces; together with the installation of 1no. bio-disc treatment plant and associated landscaping on land at Cornborough Road, Sheriff Hutton** (Pages 23 - 54)
6. **ZE23/00437/FUL - Change of use of former agricultural building for use as a (small breeds) dog breeding kennel and domestic storage together with an extension to the building to provide toilets and external alterations including the installation of insulated acoustic sheeting to the exterior of the building (part retrospective) and the change of use of agricultural land to dog exercise area.** (Pages 55 - 68)
7. **Any other items**  
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.
8. **Date of next meeting**  
Thursday, 18 July 2024 at 10.00am.

Members are reminded that to expedite business at the meeting and enable Officers to adapt their presentations to address areas causing difficulty, they are encouraged to contact Officers prior to the meeting with questions on technical issues in reports.

**Agenda Contact Officer:**

Nicki Lishman, Senior Democratic Services Officer  
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Wednesday, 12 June 2024

## North Yorkshire Council

### Thirsk and Malton Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 23 May, 2024 commencing at 10.00 am.

Councillor Caroline Goodrick in the Chair, plus Councillors Joy Andrews, Alyson Baker, Lindsay Burr MBE, Sam Cross, Nigel Knapton and Malcolm Taylor.

Officers Present: Jill Thompson, Alpha Love-Koh, Ann Rawlinson, Nicki Lishman, Alan Goforth, Connor Harrison and Niamh Bonner.

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**Copies of all documents considered are in the Minute Book**

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#### **92 Apologies for absence**

There were no apologies for absence.

#### **93 Minutes of the meeting held on 18 April 2024**

The minutes of the meeting held on 18 April 2024 were confirmed and signed by the Chair as a correct record.

#### **Voting record**

Confirmed by general affirmation.

#### **94 Declarations of interests**

Councillor Caroline Goodrick declared a personal interest as a Member of the Howardian Hills National Landscape Joint Advisory Committee. The boundary for the Howardian Hills National Landscape is adjacent to the site of the application to be considered at Item 6.

Councillor Lindsay Burr MBE declared a personal interest with reference to Item 6 as she had supported and donated to several events in Swinton village when she was a Ryedale District Councillor.

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#### **Planning Applications**

The Committee considered reports of the Assistant Director Planning – Community Development Services relating to applications for planning permission. During the meeting, Officers referred to additional information and representations received.

Except where an alternative condition was contained in the report or an amendment made by the Committee, the conditions set out in the report and the appropriate time limit conditions were to be attached in accordance with the relevant provisions of Section 91 and 92 of the Town and Country Planning Act 1990.

In considering the reports, regard had been paid to the policies of the relevant development plan, the National Planning Policy Framework and all other material planning considerations. Where

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the Committee deferred consideration or refused planning permission, the reasons for that decision were as shown in the report or as included below.

Where the Committee granted planning permission, in accordance with the recommendation in a report, this was because the proposal was in accordance with the development plan, the National Planning Policy Framework or other material considerations as set out in the report, unless otherwise specified below. Where the Committee granted planning permission contrary to the recommendation in the report the reasons for doing so and the conditions to be attached are included below.

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**95 ZB24/00145/FUL - Change of use of land for the siting of 5no. holiday lodges, improvements to existing access and associated infrastructure works at Newlyn, Oulston Road, Easingwold, North Yorkshire**

Report of the Assistant Director Planning – Community Development Services sought determination of an application for full planning permission for the change of use of land for the siting of 5 no. holiday lodges and associated works at Newlyn, Oulston Road, Easingwold.

This application was appropriate to be determined by the Area Planning Committee following a referral by Councillor Knapton due to the site having a history of dismissal at appeal and a number of material factors.

Neil Goodrum spoke to object to the application.

Jon Saddington, Agent, spoke in support of the application.

Presenting the report, the Planning Officer drew Members' attention to:

- The planting plan, protection of existing trees and planting of replacement trees if required.
- The site's position adjacent to a settlement and its facilities.
- The land levels and drainage within the site and the adjacent land.

During consideration of the item, the Committee considered the following matters:

- The location of the site adjacent to a residential area.
- The history of the previous planning application for the site.
- Details of how the site will operate and the Management Plan.
- The design and specification of the lodges.
- The land levels within the site.

**DECISION**

That planning permission be DEFERRED subject to more information being received on;

- The land levels of the site.
- The Management Plan for the use of the site.
- Details of the ownership of the lodges and whether long or short term lets.
- Details of the design of the proposed lodges.
- The street scene and elevations of the lodges, in particular those in the northwest corner of the site.

## **Voting record**

Unanimous

- 96 ZE23/01660/MFUL - Change of use of agricultural and equestrian land to allow the siting of 24no. holiday lodges, 1no. wardens lodge and 1no. reception/shop with associated access, parking, infrastructure and landscaping (revised detail to planning approval 20/00701/MFUL dated 15.11.2021) at Land off Daskett Hill, Sheriff Hutton**

Report of the Head of Development Management – Community Development sought determination of a planning application for change of use of agricultural and equestrian land to allow the siting of 24no. holiday lodges, 1no. wardens lodge and 1no. reception/shop with associated access, parking, infrastructure and landscaping (revised detail to planning approval 20/00701/MFUL dated 15.11.2021) on land at Daskett Hill, Sheriff Hutton.

The application was referred to the Committee for determination owing to the range of issues raised.

The Planning Officer advised the Committee that the Planning Agent had advised that the units proposed for the site were no longer available. Officers were of the view that the exact appearance of the units should be secured, prior to any decision on the application being made.

Officers had been advised that amended plans would be submitted and therefore sought deferral of the item.

## **DECISION**

That planning permission be DEFERRED in order for more information to be received including amended plans showing the exact appearance including the form, glazing and footprint of the alternative units. Any material difference may be subject to re-advertising.

## **Voting record**

Confirmed by general affirmation.

- 97 22/01290/MFUL - Erection of 20no. dwellings comprising 3no. one bedroom, 6no. two bedroom, 9no. three bedroom and 2no. four bedroom dwellings with associated access, garaging, parking and landscaping on land at OS field 0042, East Street, Swinton, Malton**

The Assistant Director Planning – Community Development Services sought determination of a planning application for the erection of 20no. dwellings comprising 3no. one bedroom, 6no. two bedroom, 9no. three bedroom and 2no. four bedroom dwellings with associated access, garaging, parking and landscaping on land at OS Field 0042, East Street, Swinton, Malton.

The application was reported to the Area Planning Committee for determination because it was considered that significant planning issues had been raised.

Presenting the report, the Planning Officer drew Members' attention to:

- New information shared in the Updates List issued on 20 May 2024.
- A request for authority to be delegated to the Planning Manager to agree and impose suitable conditions regarding the drainage of the site.

- The proposals to address highway issues on East Street, Swinton.
- Off-site highway works to be the subject of a S278 agreement under the Highways Act and therefore not necessary to be included in the S106 agreement.
- The available evidence of the need for affordable housing.

Kavitha Thiagarajan spoke to object to the application.

Jon Saddington, Agent, spoke in support of the application.

During consideration of the item, the Committee considered the following matters:

- The location and security of the battery storage building
- The definition of the affordable housing proposed, the demonstrable need for affordable housing, its allocation and monitoring.
- Highway and accessibility issues on East Street.
- The safety issues associated with the pond, which was in close proximity to the site.

## **DECISION**

That the Committee be minded to approve the planning permission, subject to the conditions listed in the report and to the completion of a Section 106 legal agreement with terms as detailed in Table 1 on page 71 of the agenda. Authority be delegated to the Planning Manager in consultation with Chair of the Committee to amend the conditions subject to any further requirements of the Local Lead Flood Authority.

### **Voting record**

Unanimous.

## **98 Any other items**

There was no other business.

## **99 Date of next meeting**

Thursday, 20 June 2024 at 10.00am

## North Yorkshire Council

### Community Development Services

#### Thirsk and Malton Area Constituency Committee

20 June 2024

**ZE24/00344/FUL - Change of use of existing open space/playground to form additional domestic curtilage to Mulberry House to include erection of a greenhouse and formation of tennis court with 2.75 metre high fencing and change of use of equivalent area of agricultural land to form public open space/playground for community use adjacent to Oswaldkirk Village Hall to include play equipment, timber shed, pergola and site landscaping at OS Fields 4490 and 4090, York Road, Oswaldkirk on behalf of Trustees Of Oswaldkirk Village Hall & Mr William Brannon**

#### **Report of the Head of Development Management – Community Development Services**

##### **1.0 Purpose of the Report**

- 1.1. To determine a planning application for change of use of existing open space/playground to form additional domestic curtilage to Mulberry House to include erection of a greenhouse and formation of tennis court with 2.75 metre high fencing and change of use of equivalent area of agricultural land to form public open space/playground for community use adjacent to Oswaldkirk Village Hall to include play equipment, timber shed, pergola and site landscaping on land at OS Fields 4490 and 4090, York Road, Oswaldkirk.
- 1.2. The application has been referred to the Committee for determination owing to the range of issues raised.

##### **2.0 SUMMARY**

**RECOMMENDATION: That planning permission be GRANTED subject to conditions listed below and a Unilateral Undertaking.**

- 2.1. This application seeks full planning permission for the change of use of existing open space/playground to form additional domestic curtilage to Mulberry House to include erection of a greenhouse and formation of tennis court with 2.75 metre high fencing and change of use of equivalent area of agricultural land to form public open space/playground for community use adjacent to Oswaldkirk Village Hall to include play equipment, timber shed, pergola and site landscaping.
- 2.2. The application relates to two parcels of land. The existing playing field is located to the west of York Road, south of the village of Oswaldkirk. The site is located immediately to the north of Mulberry House and is accessed by a footpath adjacent to York Road. The site provides timber play equipment and open space.
- 2.3. The second parcel of land is located immediately to the south of the Village Hall and is currently agricultural land. The site is located to the east of the public house and west of

residential dwellings. Both parcels of land are located outside of the village developments, within the wider open countryside and are both within the Oswaldkirk Conservation Area and Howardian Hills National Landscape.

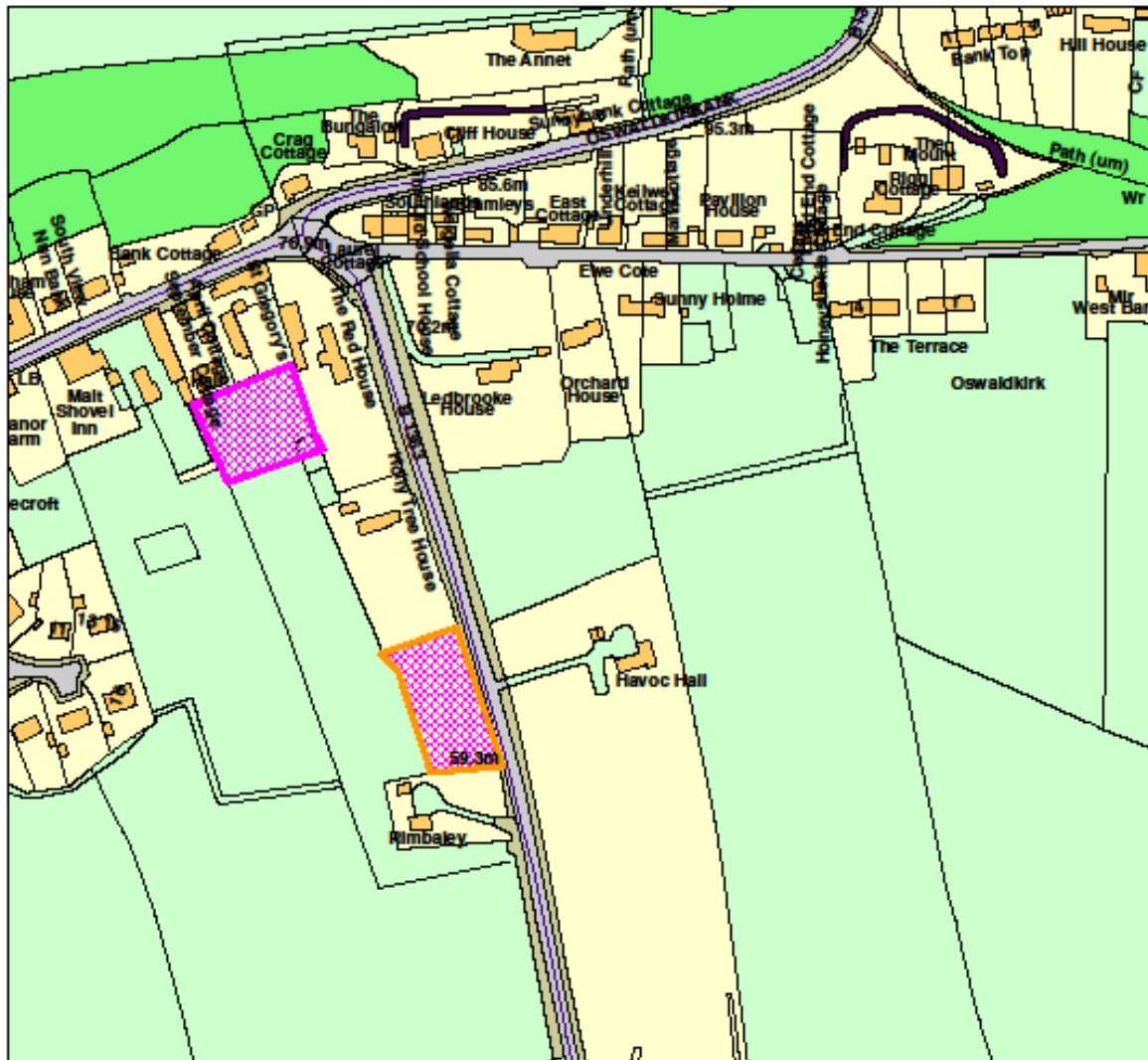
- 2.4. The scheme for the proposed community facility is considered to be acceptable in principle and would align with the provisions of SP11 (Community Facilities and Services) of the Ryedale Plan – Local Plan Strategy. The position of the site in relation to the Village Hall and wider community is considered to provide better and safer access for users and would in turn, likely help to sustain the existing Village Hall.
- 2.5. Both schemes are considered to be acceptable in terms of character and form and subject to conditions, it is considered that they can both be delivered without causing harm to the surrounding wider landscape, Conservation Area or Howardian Hills. Consideration has been given to neighbouring residential amenity and it is considered that the proposed playing field can be accommodated without causing material harm to residential amenity, with the scheme complying with guidance provided by the Designing Out Crime Officer.
- 2.6. To ensure that the new play area/open space is delivered, and in a timely manner, the applicants have entered into a Unilateral Undertaking which will ensure that the new play area be open for use within six months of the date of the permission, or date of the transfer of the land ownership, whichever is the later. On this basis, the scheme is considered to be acceptable and the application is recommended for approval.



ZE24/00344/FUL



Not Set



Scale: 12,500

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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	12/06/2024
MSA Number	Not Set

### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found here:-  
<https://planningregisterdocs.ryedale.gov.uk/planning/planning-documents?SDescription=ZE24/00344/FUL>
- 3.2. There are two relevant planning applications for this application which are detailed below.
- 97/00424/FUL – Formation of a vehicular access onto B1363 and Erection of Gates.–  
 Approved 27.06.1997
- 22/00556/FUL – Demolition of existing dwelling to allow erection of a 5no. bedroom dwelling, a detached double garage with office space and recreation area above, detached building to form BBQ/entertainment area and change of use of part of existing paddock to domestic curtilage and erection of a field barn within the paddock area – Approved  
 02.08.2022

### **4.0 Site and Surroundings**

- 4.1. The application site relates to two separate parcels of land within the village of Oswaldkirk. The existing playing field site is located on York Road, immediately to the north of the property known as Mulberry House and west of the property known as Havoc Hall. The site equates to an area of around 0.15 hectares and is served by a pedestrian access to the east, off York Road. The site also benefits from a timber, five bar gate providing vehicular access. The existing playing field is laid to grass and includes an area of open space and play equipment, with the site bounded by mature planting.
- 4.2. The second, currently a parcel of agricultural land, is located immediately to the south of the Village Hall, accessed off Main Street. This site also equates to an area of around 0.15 hectares, with post and rail fencing to the eastern and western boundaries. The Malt Shovel Inn public house is located immediately to the west of the site, with residential properties to the north-east and east.
- 4.3. Both parcels of land are located within the Howardian Hills National Landscape and Oswaldkirk Conservation Area. Both parcels of land are located outside of the Oswaldkirk development limits and are therefore considered as being located within the wider open countryside under the Ryedale Plan – Local Plan Strategy. The existing playing field is allocated as a Playing Field in the Ryedale Plan.

### **5.0 Description of Proposal**

- 5.1. This application seeks full planning permission for the change of use of the existing open space/playing field to form additional domestic curtilage for Mulberry House and the change of use of an equivalent area of agricultural land to form open space/playing field adjacent to the Village Hall.
- 5.2. The change of use of the existing open space to form domestic curtilage would include the formation of a tennis court featuring 2.75 metre high fencing, the erection of a Victorian style greenhouse, provision of raised beds and additional landscaping including a mature Yew hedge to the eastern boundary.
- 5.3. The proposed greenhouse would measure 8.844 metres in length and 4.887 metres at its widest point. The greenhouse would be of dual pitched roof construction, featuring a dual pitched central lobby. The greenhouse would measure 1.723 metres to the eaves and 3.844 metres to the highest point.

- 5.4. The change of use of the land to a playground would include the erection of a 1.2 metre high post and rail fence to the southern boundary, the erection of a timber pergola and timber shed, the installation of play equipment, provision of outdoor seating areas together with the provision of additional landscaping to the boundaries and within the site.
- 5.5. The access to the site would incorporate an access ramp. The timber shed would occupy a footprint of approximately 8.5m<sup>2</sup>, whilst the pergola would occupy a footprint of approximately 9m<sup>2</sup>.
- 5.6. Natural un-edged stone paths would be provided within the site, along with wildflower areas, and native trees.

## 6.0 Planning Policy and Guidance

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is the Ryedale Local Plan Strategy, adopted 5 September 2013

### Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework
  - National Planning Practice Guidance
  - National Design Guide 2021

## 7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Parish Council:** Support – the application puts into effect the long-held ambition of the Village Hall Trustees to bring the village’s play area within the curtilage of the Village Hall. The application has been formulated after a series of open and transparent consultations which were well attended by residents of the village. The first round of consultation was in July 2023, when residents were able to view the 5 potential development options. These included detailed drawings, plans and illustrations. Those voting at this consultation divided 60% to 40% in favour of option 1, which subsequently became the basis for this application. A second round of consultation took place on 6<sup>th</sup> and 7<sup>th</sup> of October 2023, after financial modelling had been completed. 70% of those voting supported option 1 at this stage. Under the charitable constitution of the Village Hall Trustees, at this point a vote of eligible parishioners on the electoral roll was mandated. On the 9<sup>th</sup> November 2023, a duly notified and quorate Parish Meeting was held, at which those attending and on the electoral roll of the civil parish were invited to vote on the proposal. The voting was independently managed and supervised by Community First Yorkshire to ensure complete transparency of the voting process. Individuals voting were required to provide their name and address to CFY, such that they could be confirmed as eligible voters (i.e. on the parish electoral roll). The vote to approve the submission of this planning application was as follows:  
 Approve: Yes---47 (53%)  
 Approve: No----42 (47%)

(Note: Chair did not vote)

Following this meeting, the Village Hall Trustees decided that a detailed, professional review of the entire process leading up to the meeting for the vote on Thursday 9<sup>th</sup> November would be appropriate. The Solicitor undertaking the review found that all aspects of the process had been undertaken correctly, trustees had sought appropriate advice from the specialists as necessary, had complied with the Charity's Constitution, Charity Commission Guidance and that the Trustees had behaved fully in accordance with Charity Law. In addition, the Solicitor further commented that the Trustees had done much more than what was necessary or required.

- 7.3. **Division Member(s):** No comments received
- 7.4. **Building Conservation Officer:** No Objection in principle. Please condition any lighting in relation to the tennis court/additional domestic curtilage to be submitted and approved in writing by the Local Planning Authority.
- 7.5. **Environmental Health:** No comments received
- 7.6. **Howardian Hills National Landscape:** No comments received
- 7.7. **Local Highway Authority:** No Objection
- 7.8. **North Yorkshire Police Designing Out Crime Officer:** Comments
- 7.9. **Sport England:** The proposed development does not fall within our statutory or non-statutory remit and therefore, Sport England has not provided a detailed response in this case, but would give advice to aid the assessment of this application

#### Local Representations

- 7.10. Ten local representations have been received, six in support and four objecting to the application. A summary of the comments is provided below, however, please see website for full comments.
- 7.11. Support:
  - We have used the play area on York Road when the children were younger, but with the increase in traffic and the change of type of traffic using this main road we can see it has become significantly dangerous to access. The proposed new site is in a central location off the Village Hall and the outside space by their location being adjacent to each other.
  - The new site also opens up the opportunity for other uses of both the village hall and the outside space by their location being adjacent to each other. We have attended and taken part at events in the new space when it was loaned to the village for one-off special events and the benefits of a dry space, with toilets and catering facilities being on hand rather than a 10 minute walk up the busy road created a relaxed and joyful atmosphere.
  - The application makes sense moving the playground near to the village hall particularly having access to the facilities nearby and to hand.
  - The Village Hall would have direct access to outdoor space, increasing the versatility of the venue for both village and income generating events which was demonstrated during the Jubilee event in 2022 where the current owners kindly allowed use of the land and a superb village event was held
  - The current playground is isolated on the outskirts of the village and can only be accessed by a narrow footpath alongside the B1363. Speeding and ever-increasing numbers of HGVs represent a very real danger. A great deal of time and effort has

been spent consulting with residents at every stage of this process and when put to a vote, the majority were strongly in favour.

- This community space is crucial for fostering social interaction and unity among all residents and its benefits far outweigh the concerns of a minority. The new space promises to enhance the quality of life for everyone in Oswaldkirk, making it a valuable asset for the whole village.
- The existing space is underutilised. Oswaldkirk is a lovely village where most people know each other and it has a lovely community spirit and I like to encourage my son with his close friend in the village of the same age, to start to gain independence and walk around the village. However, I am uncomfortable with him using the existing playground due to the required walk along the B1363 and once you arrive in the playground it feels secluded.
- The new location and access will be much improved which will facilitate older residents or those with wheelchairs being able to use the community area, as well as gardeners or cooks interested in the community garden. The open space without any specific designation is flexible to allow for multiple activities.
- The plans for the proposed change of use of the existing space to domestic curtilage, and specifically a kitchen garden, greenhouse and to reinstate a tennis court look really nice but will be largely hidden from view from those external to Mulberry House due to existing screening.

#### 7.12. Objections:

##### Community Facility

- The existing playground has served the village since the early 1990s and has been well used for a wide variety of activities. The site was originally gifted to the village as a tennis court and whilst this has ceased it is noteworthy that the prospect of it being reinstated was requested as part of the Village Plan of 2014
- The proposed playground makes no provision for formal/adult/community activities as was the original intention of the land donor and is not able to accommodate such by virtue of the design and topography of the site. The proposal does not give rise to a comparable alternative provision in this regard
- It is necessary to identify what greater benefit the proposal provides for the community as the proposed activities can already be undertaken on the present open space/playground
- The proposed playground/open space site is not flat therefore meaning that for many events it is not suitable. To be equivalent to the status quo, the site would need to be levelled. In light of this, the proposed amenity gain compared to the status quo is limited.
- The area dedicated to play equipment is considerably smaller than the status quo; as is the amount of play equipment. The ability to site play equipment safely on such a sloping site has not been considered in the accompanying planning documentation.

##### Landscape and Heritage Impacts

- The proposal seems to be predicated by a significant enlargement of the domestic curtilage surrounding Mulberry House into an open/undeveloped part of the landscape that contributes to the rural setting of the village, within the Conservation Area and National Landscape. The proposal encompasses notable built development and formal surfacing as well as replacing the existing boundary hedge. The proposal will extent the degree of formal development and domestic activities associated with the dwelling further into the countryside, undermining the open/tranquil character of the site
- It is questioned whether a formal tennis court in this location could operate effectively without additional lighting, enclosures etc which would entail further development of an incongruous character within the countryside and should be resisted.

- The change of use will impact upon existing views from Main Street, identified as key views within the Conservation Area. The proposed planting and provision of public seating areas will interrupt this view and fundamentally alter the character of the site.
- This will ruin what is a beautiful view from the properties and such a proposal should not be permitted in a Conservation Area

#### Residential Amenity

- The proposed playing field site raises significant concerns regarding the impact on residential amenity. The proposed provision of a community space that will be readily accessible on a continued/permanent basis for use by residents and visitors will have a significant impact in this respect, resulting in greater activity at the site
- The proposed peripheral tree planting will over time, have an overbearing and enclosing impact on neighbouring properties
- The site immediately behind the village hall looks directly into my bedroom and bathroom window and as such will have a significant impact on my property
- This represents a material change to the current tranquil status of the site and locality and will have significant adverse implications for the privacy, enjoyment and security of neighbouring properties
- The community area should be closed off during hours of darkness and access limited

#### Other matters

- The proposed tree planting along the northern and eastern boundaries will reduce the efficiency of solar panels on neighbouring properties
- No artificial lighting should be permitted within the community/play area to discourage use after dark and ensure dark skies are maintained
- The proposed tennis court and extended garden should not be illuminated with no external lighting permitted
- The application should be accompanied by an arboricultural statement or resultant impact assessment or methodology statement. The retention of trees and hedges should be assured. A scheme of landscaping for the new play area should be submitted and trees to the present play area should be retained, not grubbed up, or reduced in height
- Details of play equipment and structures should be agreed with the LPA prior to installation and not replaced without further prior approval
- Permitted development rights should be removed from the proposed extended domestic curtilage area
- The proposal assumes that the existing Village Hall car park will be used for access. Given a covenant exists on the car park, this is a change of use of the said car park and contrary to the terms of the covenant.

### **8.0 Environment Impact Assessment (EIA)**

- 8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

### **9.0 Main Issues**

- 9.1. The key considerations in the assessment of this application are:
- Principle of Development
  - Heritage, Design and Landscape Impact
  - Impact on neighbouring amenity

## 10.0 ASSESSMENT

### Principle of Development

10.1. Policy SP11 (Community Facilities and Services) of the Ryedale Plan – Local Plan Strategy states that in all other villages, the provision of new facilities outside of development limits is supported where the facility is needed to serve the local area and could not be provided within development limits.

10.2. Policy SP11 further states that:

*“In rural Ryedale and in particular those villages that are not well served by public transport, the loss of such facilities can have a major impact on the vitality of local communities as well as individuals, particularly the less mobile and those without access to a car. Once lost, these facilities can be difficult to replace. This Strategy considered these facilities to have an importance and they should be protected as far as possible. Projects which help to improve access to existing services and facilities or involve the creation of new facilities will be supported across the District.”*

And-

*“The Council is keen to assist in the delivery of meaningful and practical open space provision which meets the needs of the people of Ryedale. The key issue is to ensure that there is quality provision with sustainable long-term management.”*

10.3. Policy SP11 further states that *“Existing local retail, community, cultural, leisure and recreational services and facilities that contribute to the vitality of the towns and villages and the well-being of local communities will be protected from loss/redevelopment unless it can be demonstrated that:*

- *Proposals involving replacement facilities provide an equivalent or greater benefit to the community and can be delivered with minimum disruption to provision”*

10.4. Furthermore, paragraph 97 of the NPPF (2023) states that *“to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) Plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;*
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”*

10.5. The existing playing field is located to the south of the village of Oswaldkirk, on York Road, accessed by a footpath which runs adjacent to the road. The existing playing field features timber play equipment and open space, with evidence of a former tennis court.

10.6. The proposed playground would be located immediately to the south of the Village Hall, within an existing parcel of agricultural land. The new playground would cover the same extent of land as the existing playground and would include the provision of timber play equipment, a timber pergola, seating areas and a storage shed. The site would be bounded

by a 1.2 metre high post and rail fence with a mixed species hedgerow. Additional landscaping would be provided to the northern, eastern and southern boundaries.

- 10.7. The new location of the playing field is considered to be more appropriate, providing better and safer access for users, located adjacent to the village hall building, off the village Main Street. Furthermore, it is likely that new location of the site will provide wider community benefits given its proximity to the village hall.
- 10.8. Given the topography of the site for the proposed playing field, it is acknowledged that the facility will not be able to provide equivalent facilities to the existing site, such as a tennis court. However, the proximity of the site to the Village Hall and in a more central position within the village, will likely lead to wider benefits including helping to sustain the Village Hall.
- 10.9. Given a replacement playing field is proposed, which would provide the same scale of open space as existing, the principle of the change of use of the existing playing field to domestic curtilage for Mulberry House is considered to be acceptable, subject to the wider considerations.
- 10.10. To ensure that the new playing field facility is delivered, the applicants have entered into a Unilateral Undertaking which specifies that:
- “The Owner and Developer Covenants with the Council:-  
to deliver the new play area referred to in the Planning Application so that it is open for community use by the date which is six months from the date of Planning Permission or six months from the transfer of the Property from the Owner to the Developer, whichever is the latter.”*
- 10.11. The LPA would have preferred that the new playing field be completed and open for use prior to the cessation of the use of the existing playing field to ensure the continuous provision of the community facility. However, due to the transfer of land ownership and subsequent insurance liability concerns, this is not considered to be reasonably possible. As such, the requirement that the new play area be open for use within six months of the date of the permission, or date of the transfer of the land ownership, is considered to be acceptable and will ensure that the new play area is delivered and in a timely manner.
- 10.12. Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 10.13. The relocation of the playing field, which would be of the same size and provide a similar level of facilities as the existing playing field, but located in a central, and more safely accessible, position within the village, is considered to have a positive effect on persons with The Equality Act protected characteristics.
- 10.14. To conclude, subject to the Unilateral Undertaking which will ensure the delivery of the new open space/play area, the principle of both elements of the development is considered to be acceptable.



## Heritage, Design and Landscape Impact

10.15. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.

10.16. The application site is located within the Oswaldkirk Conservation Area and Howardian Hills National Landscape.

10.17. Policy SP12 (Heritage) of the Ryedale Plan – Local Plan Strategy states that:

*“Distinctive elements of Ryedale’s historic environment will be conserved and where appropriate, enhanced.”*

And-

*“Designated heritage assets and their settings, including Listed Buildings, Conservation Areas, Scheduled Monuments and Registered Parks and Gardens will be conserved and where appropriate, enhanced. Proposals which would result in less substantial harm will only be agreed where the public benefit of the proposal is considered to outweigh the harm and the extent of harm to the asset.”*

10.18. The Council's Building Conservation Officer has been consulted on the application, providing the following comments:

*“No Objection in principle. Please condition any lighting any lighting in relation to the tennis court/additional domestic curtilage to be submitted and approved in writing by the Local Planning Authority.”*

10.19. In regards to the Howardian Hills National Landscape, Paragraph 176 of the NPPF (2023) states that:

*“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”*

10.20. Policy SP13 (Landscapes) of the Ryedale Plan – Local Plan Strategy states that:

*“The natural beauty and special qualities of the Howardian Hills Area of Outstanding Natural Beauty (AONB) will be conserved and enhanced and the impact of the proposals on the AONB, its setting or the setting of the North York Moors National Park will be carefully considered.”*

And-

*“The District Council and Howardian Hills AONB Joint Advisory Committee will resist development proposals or land management practices that would have an adverse impact on the natural beauty and special qualities of the AONB unless it can be demonstrated that the benefits of the proposal clearly outweigh an adverse impact and the proposal cannot be located elsewhere in a less damaging location.”*

10.21. Policy SP16 (Design) states that *“To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context*

*provided by its surroundings” and that “development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which:*

- *Reinforce local distinctiveness*
- *Provide a well-connected public realm which is accessible and usable by all safe and easily navigated*
- *Protect amenity and promote well-being”*

- 10.22. Whilst the extension to the domestic curtilage of Mulberry House would be located forward of the principal elevation of the dwelling, it is considered to relate well to the host dwelling and its existing curtilage. The existing playground, by virtue of the timber play equipment and mown grass is considered to feel somewhat domesticated, particularly given its relationship and proximity to Mulberry House and as such, it is not considered that the change of use of this site to domestic curtilage would appear incongruous, or inappropriate.
- 10.23. Furthermore, it is considered that the extended grounds are commensurate with the size and status of Mulberry House. The size and design of the proposed greenhouse is considered to be appropriate for a dwelling of this size and status and it is not considered that its position forward of the principal elevation of the dwelling would result in any harm to its character or appearance.
- 10.24. The proposed tennis court is considered to be acceptable. It would appear that a tennis court has been provided within the existing playing field site historically due to high fencing and as a result, the provision of a tennis court is not considered to be an incongruous addition within the open countryside location, nor would it detract from the setting of the dwelling. It is considered that the host dwelling and resulting curtilage are of a good size and capable of accommodating a tennis court without appear cramped or overdeveloped.
- 10.25. The northern boundary is currently bounded by a mature beech hedge, with the proposal seeking to plant a mature Yew hedge to the eastern boundary along with the provision of additional tree planting within the site.
- 10.26. It is therefore considered that the proposed extension to the domestic curtilage is acceptable. The scale, siting and landscaping is appropriate and the additional planting will soften the appearance of the development, conserving the natural scenic qualities of the National Landscape and the character and appearance of the Conservation Area.
- 10.27. It is not proposed to install external lighting within the extended domestic curtilage and this will be secured by condition to protect the qualities of the area and reduce light pollution. The proposal is for domestic purposes only and shall be controlled as such by condition. It is also considered prudent to remove permitted development rights of buildings and structures within the site in light of the proposal including an extension to domestic curtilage within the National Landscape and Conservation Area.
- 10.28. Within the new play area, timber is the predominant material for the development, together with natural un-edged stone paths, wildflower areas and native species tree planting. The proposed materials are considered to be acceptable for a new play area and would respect the character of the local area.

- 10.29. The open space/play area would be located immediately to the rear of the Village Hall, extending 40 metres south of the Village Hall building. It is noted that the adjoining Public House, the Malt Shovel Inn, benefits from a car park area that extends approximately 30 metres south of the Village Hall building and as such, it is not considered that the proposed development would represent an unacceptable incursion into the agricultural landscape.
- 10.30. Furthermore, the proposal involves limited structures, with the proposal seeking to erect a small timber pergola to the southern boundary and a small timber shed to the northern boundary. As a result of the limited structures, the proposed materials for the play equipment and the additional planting of native species hedgerows and trees, it is considered that the proposed play area is appropriate, with the additional planting softening the appearance of the development, conserving the natural scenic qualities of the National Landscape and the character and appearance of the Conservation Area.
- 10.31. Whilst the play area would be open 24/7, it is not expected that the site will be used throughout the night, with the extent of any lighting within the site to be conditioned to ensure that the impact on the nocturnal character is minimised.
- 10.32. To conclude, it is considered that both elements of the proposed development are acceptable and would not result in unacceptable harm to the Conservation Area or National Landscape in compliance with Policies SP12 and SP13.

#### **Impact on neighbouring amenity**

- 10.33. Policy SP20 states that *“new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings, or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.”*
- 10.34. The main concerns relate to the levels of activity and noise created by the relocated playing field. It is recognised that such activities can result in levels of noise and disturbance that could be harmful to the amenity of nearby residential properties.
- 10.35. A number of objections have been received citing concerns in relation to the potential impact on neighbouring amenity including noise and disturbance and overlooking.
- 10.36. It is noted on the plans that the proposed timber play equipment would be located in the south-west corner of the application site, the furthest most point from residential properties. The nearest residential receptor would be located approximately 30 metres from the play equipment.
- 10.37. Furthermore, it is noted that substantial planting is proposed to the north-east and eastern boundaries of the site.
- 10.38. The Designing Out Crime Officer has noted in their response that care needs to be taken when siting children’s play areas to ensure that they are not too close to residential properties to reduce the potential for noise complaints and that the proposed site layout

indicates that suitable buffer distances between the nearest item of play equipment and the nearest dwelling are in line with the guidance provided by Fields in Trust.

- 10.39. The DOCO also notes that POS should be well-overlooked with strong levels of natural surveillance to provide a sense of guardianship that can deter criminal or anti-social behaviour and that the proposed POS would provide greater levels of surveillance than the existing facility.
- 10.40. The applicants have provided a management plan with details of how the POS, equipment and facilities would be maintained and the site managed, which will be conditioned.
- 10.41. It is acknowledged that the proposed playing field may result in an increased level of noise and disturbance to properties within the village, given the existing agricultural use of the land. However, the applicants have given careful consideration to the position of the proposed play equipment which, together with the proposed landscaping, is not considered to result in a level of disturbance that would result in significant adverse material impacts upon neighbouring amenity.
- 10.42. It is also noted that no comments have been received from Environmental Health.
- 10.43. The proposed extension to the domestic curtilage for Mulberry House is not considered to result in material harm to occupiers of neighbouring properties.
- 10.44. Subject to conditions, it is considered that the proposal would not result in materially adverse impacts in respect of residential amenity and as a result, the proposal is considered to comply with the requirements of Policy SP20.

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1. The principle of both elements of the development are considered to be acceptable. The relocation of the playing field is considered to be in better location for the village and more easily and safely located for users. It is considered that both elements can be accommodated without causing material harm to the character of the Conservation Area and National Landscape, or material harm to the occupiers of neighbouring properties.
- 11.2. It is therefore considered that subject to conditions and the Unilateral Undertaking, that the proposal is in compliance with Policies SP11 (Community Facilities and Services), SP12 (Heritage), SP13 (Landscapes), SP16 (Design), SP19 (Presumption in Favour of Sustainable Development) and SP20 (Generic Development Management Issues) of the Ryedale Plan – Local Plan Strategy and the National Planning Policy Framework. Consequently, the scheme is recommended for approval.

## **12.0 RECOMMENDATION**

- 12.1. That planning permission be GRANTED subject to conditions listed below.

### **Recommended conditions:**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Location Plan, drawing number 2024340/A500 dated March 2024, scanned to file 26.03.2024

Masterplan of Proposals, drawing number 2024340/AS101 Revision B dated 01.03.2024, scanned to file 26.03.2024

Roemoor Greenhouse Plans, scanned to file 26.03.2024

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The materials of the development hereby approved shall be in accordance with the details included on the planning application form/plans unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

4. Notwithstanding the submitted details, the play equipment within the new open space/playground shall be of timber construction unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s).

5. Prior to their installation, details in terms of the siting, levels of luminosity, hours/method of operation, height/positioning and type of external lighting shall be submitted to and approved in writing by the Local Planning Authority. No external lighting shall be installed within either application site without the prior written approval of the Local Planning Authority. The agreed external lighting shall be retained for the lifetime of the development. There shall be no floodlighting or other means of illumination associated with the tennis court.

Reason: To ensure that the level of illumination is appropriate and reflective of the nocturnal character of this part of the wider landscape, in accordance with the requirements of Policies SP13, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

6. The site shall be operated and managed in accordance with the Oswaldkirk Village Hall Community Space Management Plan scanned to the application file 15.05.2024.

Reason: In the interests of public safety and amenity and to ensure compliance with Policy SP20 of the Ryedale Plan – Local Plan Strategy.

7. The tennis court hereby approved shall only be used for domestic purposes in association with the dwelling known as Mulberry House.

Reason: The proposal has been considered on the basis of being for domestic purposes only and is therefore considered acceptable in the context of Policy SP20.

8. Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 2015, (or any Order revoking, re-enacting or amending that Order) development of the following classes, other than as authorised by this permission, shall not be undertaken within the extended domestic curtilage of Mulberry House, other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse

Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse

Reason: To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s).

9. The development hereby permitted shall be carried out in accordance with the Masterplan of Proposals (drawing number 2024340/AS101 Revision B dated 01.03.2024). The proposed additional boundary planting comprised in the above scheme shall be carried out in the first planting season following the commencement of development. Any trees or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SP13 and SP20 of the Ryedale Plan - Local Plan Strategy

## INFORMATIVE

1. This planning permission is also subject to a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 as amended.
2. Any tree or hedgerow removal is required to be undertaken without harming nesting birds or destroying their nests. The main nesting and breeding season runs from 1 March to 31 August. If this is unavoidable checks should be undertaken by a suitably qualified ecologist prior to any felling or cutting of trees or shrubs, in order to prevent disturbance to breeding birds which are protected by the Wildlife and Countryside Act 1981 (as amended).

**Target determination date:** 14.05.2024

**Case Officer:** Ellie Hardie, [eleanor.hardie@northyorks.gov.uk](mailto:eleanor.hardie@northyorks.gov.uk)

## North Yorkshire Council

### Community Development Services

#### Thirsk and Malton Area Constituency Committee

20 JUNE 2024

**Change of use of land to a gypsy/traveller site with 4no. family pitches each with 1no static caravan, 1no. touring caravan, 1no. dayroom/amenity block and parking spaces; together with the installation of 1no. bio-disc treatment plant and associated landscaping on land at Cornborough Road, Sheriff Hutton, on behalf of Mr and Mrs Sykes.**

#### Report of the Assistant Director Planning – Community Development Services

##### **1.0 Purpose of the Report and Background**

- 1.1 To determine a planning application for the change of use of land to a four-pitch family traveller site.
- 1.2 The application is referred to committee for determination based on the planning issues raised and following deferral of an application to change the use of the land to a traveller site at the meeting of the committee on the 21 March 2024. The applicant has amended the scheme and further consultation has been undertaken.
- 1.3 It should be noted that the consultation period does not expire until the end of the day of the committee. The application to change the use of this land is long overdue for determination with the applicant as well as members of the local community requiring a decision on the development proposed. The principle of the proposal and a range of issues have been raised in previous consultations and on that basis, it is unlikely that any further significant or material considerations will be raised. Notwithstanding this, Members will be advised at the meeting that the Committee will be asked to provide a decision on a 'minded to' basis, with authority delegated to the planning manager in conjunction with the chair of the committee, to determine the application following the expiry of the consultation period.

##### **2.0 EXECUTIVE SUMMARY**

**RECOMMENDATION:** That planning permission be GRANTED subject to conditions listed below.

- 2.1 The site is not allocated for the use proposed and the site is not covered by any specific landscape, flood risk or other policy constraint. The proposal seeks planning permission for a four-pitch family traveller site. The family are currently occupying the land which the applicant owns.
- 2.2 Amongst other relevant considerations, the proposal has been carefully considered against the relevant criteria of Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) and paragraph 24 of the national Planning Policy for Traveller Sites (2023).
- 2.3 The site is located in open countryside to the west of Sheriff Hutton and is a location where, in principle, new traveller site development should be strictly limited. The

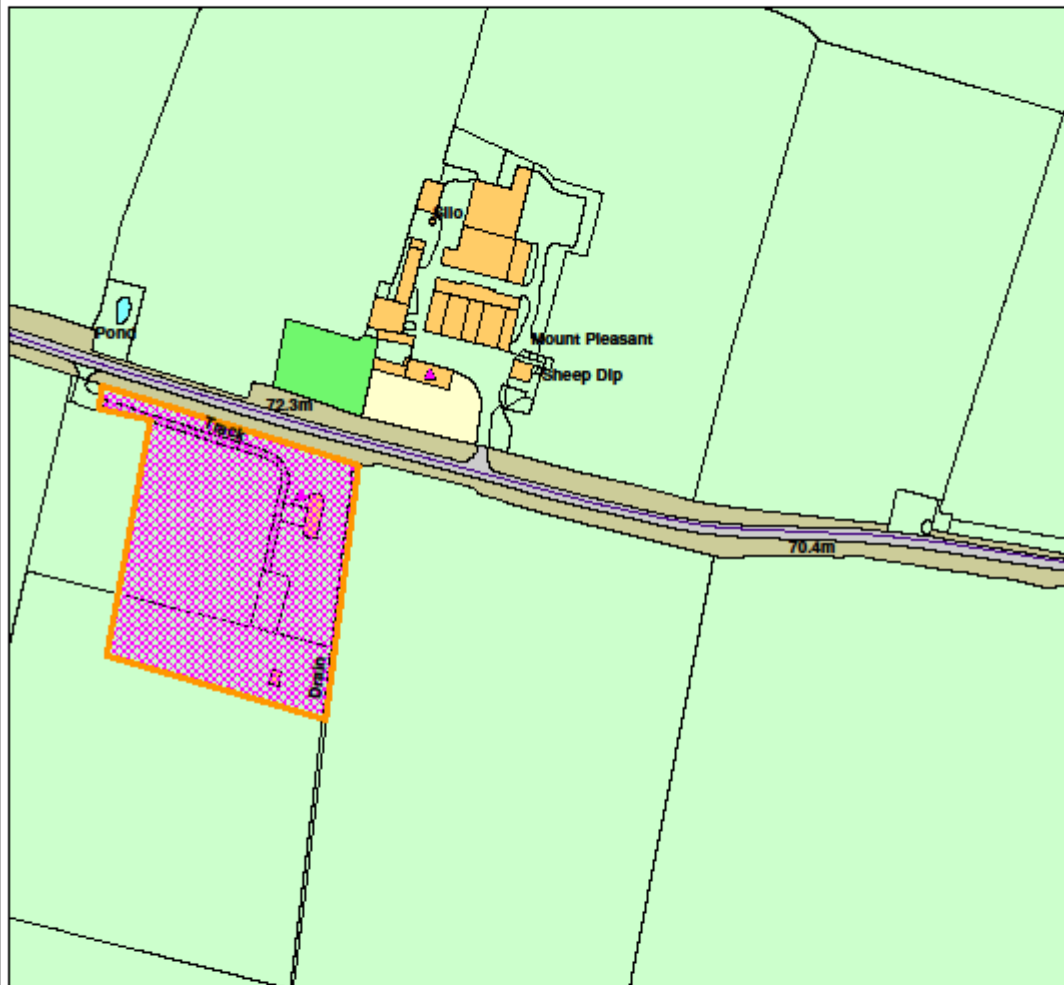
proposal will have a harmful landscape impact, which will be mitigated in part by proposed landscaping.

- 2.4 Notwithstanding its location in the open countryside, the location of the site is considered to provide reasonable access to local services and facilities and the proposed design is considered to meet design and layout requirements which ensure acceptable pitch standards, sufficient car parking and amenity space. The proposal is not disproportionate in scale to the size of the nearest settled communities and it is considered that the proposed use in this location will not result in unacceptable harm to the residential amenity of neighbouring residents or have an adverse impact on surrounding neighbouring land uses.
- 2.5 The identified need for additional pitch provision, limited alternative provision and the personal circumstances of the applicant and his family (including the best interests of children at the site) weigh in favour of the proposal and are considered, on balance to outweigh harm to the character and appearance of the landscape and the location of the site in the open countryside.
- 2.6 The application is for the change of use of the land which is sought on a permanent basis. In the context of the spectrum of the ages of the children at the site, it is considered that a temporary permission would not be appropriate in these circumstances, as they can only be granted for a fixed short-term period. On the basis that the personal circumstances of the applicant and his family have weighed significantly in the consideration of the application, a personal condition restricting occupancy of the site to the applicant and immediate family members is recommended. Such a condition would mean that the permission would not be an in-perpetuity change of use of the land, although it should be noted that future applications could be made to vary the condition as dependents become adults. Any such application would be determined on its merits. It is considered that in the circumstances of this case and the information used to support the application, the use of a personal condition is considered to be necessary and justified. The legitimate aim of balancing the current and specific needs of the family against the adverse impact of the development of the site on the local landscape is considered to justify a proportionate interference with the applicant's human rights in the public interest.
- 2.7 The approach is consistent with the aim of national policy which is to promote more private site traveller provision. It is also consistent with the findings of the recent (2022) Gypsy and Traveller Assessment for this part of North Yorkshire which recognises the need for additional private site provision as well as the current/ short term pitch needs of the Sykes family.



22/00102/FUL

Not Set

**Scale:** 12,500

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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	12/06/2024
MSA Number	Not Set

### 3.0 Preliminary Matters and Deferral Update

- 3.1 Access to the case file on Public Access can be found here: -  
<https://planningregister.ryedale.gov.uk/caonline-applications/simpleSearchResults.do?action=firstPage>
- 3.2 The proposed site plan is at Appendix 1.
- 3.3 The application is also accompanied by another application (ZE23/00437/FUL) which seeks to regularise changes to the external appearance of the existing kennel/agricultural 'style' building at the site and the use of this building. This application is the next item on this agenda.
- 3.4 Relevant planning application history is outlined below:
- 13/00863/FUL: Erection of an agricultural building for the storage of produce and housing of livestock. Approved.
- 13/01461/FUL: Siting of two-bedroom timber cabin for use as a temporary rural workers' dwelling to include formation of access track and hardstanding, and provision of a domestic curtilage (retrospective application). Refused and s.78 appeal dismissed.
- 15/00601/FUL: Retention of timber cabin for use as an office, staff facilities, storage area and incubator area. LPA declined to determine.
- 19/00603/FUL: Change of use of agricultural land and building for commercial dog breeding and kennels with alterations to include formation of up to 10no.kennels within the existing building. Approved.
- 3.5 The application was deferred at the March 2024 meeting of the committee. This was to allow further discussion on the design and permanence of the proposed amenity building and the extent of the proposed pitches into the wider site, to reduce the landscape impact of the scheme.
- 3.6 The applicant has revised the application following the deferral. The main change relates to the removal and replacement of the proposed communal amenity building with smaller individual amenity buildings for each pitch. The location of the pitches within the site remains unchanged, although each pitch has increased in size to each accommodate an individual amenity building. The applicant's agent has submitted a covering letter to accompany the changes. Detailed extracts are included in this report and the letter is available to view in full on the public file.
- 3.7 The revisions to the application, including a revised description, have been subject to consultation.
- 3.8 This report updates the report to the March committee to reflect the scheme as it is now currently proposed and to explain these within the context of discussions with the applicant and his agent. It also summarises the further comments that have been received to date, following re-consultation and provides updated information on other relevant considerations, including current pitch availability.
- 3.9 In the intervening period, the applicant has expressed concern with the personal condition which was recommended in the (March) officer report. In his letter the applicant's agent states:

*“There is a duty under the Human Rights Act 1998 and the Equality Act 2010 to promote Equality of Opportunity and also the Race Relations Act 2000 which prohibits victimisation to eliminate unlawful discrimination. All of these Acts are legally binding to Gypsy and Traveller Law and reflect committee planning decisions.*

*The Sykes family are proven Romany Gypsies by culture and at any time there may be a need to move to another part of the country, should this be the case, like any non-gypsy they would need to sell up and move just like ‘you and I’. To condition that the buildings should be demolished and the site cleared is not proportionate to the legitimate aim pursued by the Government as there is a distinct shortage of pitches nationwide including within South Yorkshire as confirmed by the Council’s own GTAA. It would be more proactive for the site to be conditioned that if it should be sold in its entirety to a family of the Gypsy and Traveller Community to assist in relinquishing the Council’s shortfall of site requirement within the 5-year plan set out in PPTS 2015 ie a more balanced approach. I consider clearing the site is an unfair mechanism by the Council when the Government’s NPPF 2019 policy is to provide more sites for the Gypsy and Traveller Community. It begs the question, is this condition necessary in a democratic society, which will breach Article 8 ‘rights of a gypsy family’. A condition of this nature will penalise the Sykes family when they have gone to vast expense to develop the site to provide a family home for their family who have occupied the site for 3 years to date.*

*In conclusion, it is requested that the Council restrain from placing a condition on any possible approval by implicating constraints on both the site and the family as the LPA has not made any substantive provision for Ethnic Romany Gypsies despite specific reference to equality and human rights legislation.*

*The need for the amenity building is further clarified in government legislation ‘Designing Gypsy and Traveller Sites’ and the more proactive approach would be to avoid naming ‘family members or their dependent children’ to coincide with the removal of structures should be treated on the same basis.*

*As non-romany gypsy families ie like you or I, living in your own home, it could be argued that they will be unfairly disadvantaged and unlawfully discriminated against. The family have the right to achieve their goal of security, provide a secure stable base for their children and a right to be able to live their traditional way of life by continuing to practice nomadism, without restrictive conditions.”*

- 3.10 The issues raised in respect of this matter are addressed in the appraisal and conclusion sections of the report.

#### **4.0 Site and Surroundings**

The site is situated to the west of Sheriff Hutton and south of the Cornborough Road. The application site area covers just under one hectare of land which slopes gently in a north - south direction. Vehicular access to the site is from the Cornborough Road via an existing access in the northwestern corner of the site. An access road within the site runs parallel with the Cornborough Road and leads to an area of hardstanding and a modern steel framed/ metal clad agricultural ‘style’ building. There are currently 7 caravans sited in this area which are occupied by the applicant and members of his family. The area is also currently used for the parking of vehicles and associated domestic paraphernalia, including dog kennels and children’s play equipment. The remainder of the site is currently rough grassland and is used for the siting of chicken huts which support the applicant’s hobby of rearing rare breed poultry. The application site is within the ownership of the applicant.

A further area of land (approximately 2.15ha) is also in the applicant's ownership. This includes a field to the south which currently comprises rough grassland. A public footpath runs parallel with the southern boundary of this land. It also includes a section of the field to the west of the application site. Mature hedging bounds much of the extent of the northern and eastern boundaries of the site and wider land in the applicant's ownership. Post and Rail fencing delineates the southern and western boundaries of the land within the applicant's control.

The application site is located approximately 1.2 km to the west of Sheriff Hutton Village and in the rolling open countryside which sits between the Howardian Hills and the Vale of York. Sheriff Hutton village itself benefits from a range of local services and amenities including a bus service, primary school, public houses, café, village shop and village hall with associated children's play facilities.

## 5.0 Description of Proposal

The application proposes the provision of four Gypsy and Traveller pitches laid in a square arrangement in the northwestern part of the site. Each pitch was originally proposed to include a static caravan, a space for the siting of a touring caravan and two car parking spaces with an area of tarmac hardstanding. In addition, a single brick built communal amenity block was proposed to be located to the south of the four pitches and four visitor parking spaces and a children's play area were proposed to be located adjacent to the amenity block building.

In revising the proposals, the broad location of the four pitches within the site remain unchanged. However, each pitch is now proposed to accommodate one static caravan, one touring caravan, three car parking spaces and an individual amenity building/ dayroom. The inclusion of a day room for each pitch has consequently resulted in pitches that are larger than those originally proposed. Each pitch is now approximately 22m in width and 31m in length and the proposed pitches now cover that part of the application area where the communal amenity building, visitor parking and children's play area were originally proposed.

The four dayroom buildings are proposed to be built of brick with grey tile roofing. Each building measures 6m in width and 6m in depth with a height of 2.4m to the eaves and 4m to the ridge.

Each pitch will be surfaced with gravel and a square grassed area. 4 ft panel fencing and native hedging is proposed to delineate the perimeter of each pitch, with sliding entrance gates to each pitch. A tarmac access track is proposed to run through the middle of the square pitch arrangement to allow vehicular access to each pitch.

The application is supported by a Design and Access statement which includes images of a typical static caravan to illustrate scale and appearance of the nature of the accommodation proposed.

The application site area also includes a strip/ section of grassland across the length of the southern boundary of the site. This area is proposed to be reserved for the re-siting of the chicken huts. A grassed area of land beyond the western edge of the application site boundary is annotated on the site plan as a dog exercising area. This area relates to the use of the existing kennel / metal clad building at the site and is addressed in application ZE23/00437/FUL.

The existing access track is located along the northern boundary of the site and the application seeks retrospective permission for the surfacing (grading and gravelling) of the track and the wider eastern area of the site which surrounds the existing utilitarian/ metal clad building. Retrospective permission is also sought as part of the application for the installation of a bio-disc treatment plant in the south –eastern part of the site.

Existing established native hedging along the northern and eastern boundaries of the site is proposed to be retained. New native hedge planting is proposed along the western and southern site boundaries with areas of new tree planting between the access track and the proposed pitches.

Prior to the recent changes relating to the amenity building/ dayroom provision, there had been some earlier, relatively minor revisions to the scheme and supporting information after the application was received and initially consulted on. Over time these have included: a revised red line plan; changes to the internal spaces within the originally proposed amenity building; inclusion of gravel access and surfacing and former agricultural building within the site area; inclusion of area for relocated chicken huts and an addendum to the Design and Access Statement.

The Design and Access Statement has not been further revised to reflect the latest changes to the amenity/ dayroom provision following the deferral of the determination of the application. However, in his covering letter, the agent has set out why the applicants are of the view that the latest revisions address the concerns raised by the committee:

*“Further to our recent discussions following my clients planning application which was considered and deferred at the Planning committee Meeting on Thursday 21 March 2024 to enable the opportunity to have further discussion with your good self and my client on design and performance of the amenity building and also the extent of the proposed pitches into the wider open are of the site. The amendments will now reduce any visual impact.*

*With this in mind it is important that the site complies with the “Good Practice Guide for Designing Gypsy and Traveller Sites”, copy attached for members.*

*Initially, on the original design submitted to the Council which included a larger type of communal dayroom to be used by the 4 no. Pitches. To help reduce the concerns of visual impact of the site, in particular from the public footpath, the communal dayroom has been replaced by smaller individual dayrooms one to be located on each of the 4 no. Pitches. Along with this the turning area and parking has bene removed reducing vehicular activity within this location of the site.*

*Additional parking and turning for emergency vehicles can be achieved within the hardcored area, adjacent to the kennel building which is densely screened from the roadside boundary. The members are in particular to be directed to chapter 7 (page 41-42 of the Designing Gypsy and Traveller Site Good Practice Guide).*

*In particular it should be noted that the design of the dayrooms are to be legally comply with the current building regulations and social housing standards as can be seen at the Council’s own designated site at Tara Park. To provide a temporary strucutre for its purpose is out of the question for any new Gypsy/ Traveller site, in*

*order to comply with Planning Policy for Traveller Sites (PPTS) 2015 updated December 2023. The revised design provides a safe environment for its intended occupants of the Sykes family and reduced any overall visual or special impact from any vantage points. By appropriate landscaping to the pitch boundaries as shown on the site layout will soften the appearance of the caravans and amenity blocks and help to assimilate the site with its surroundings which can adequately mitigate through the imposition of appropriate planning conditions.*

*It is noted policy states sites can be located in the countryside and I put it to the Council with the revisions there would not be no significant harm, in this case to the character and appearance of the area.*

*It therefore follows there is a certain permanence to the application site by virtue of its nature and legal requirements set out in the government publications Designing Gypsy and Traveller Sites and the PPTS.....*

*As requested, the sites original dayroom has been removed and the site arrangement altered with additional hedge screening to pitches. I trust this will eliminate the concerns of the planning committee and with respect, now approve my client's planning application."*

The applicant has given some consideration to the proposed siting of the pitches within the site, in view of concerns over landscape impact. During a site visit, he explained that the proposed location is the flattest part of the site and is more suitable to build on and to drain. A line of pitches, parallel to the agricultural building would be on a steeper area of land and would be less suitable for him to construct. It is understood that some consideration has been given to the need to reduce amenity/dayroom space by locating some of the amenity functions within the agricultural building. From a general 'liveability' perspective as well as for some cultural reasons, this is not something that has been taken forward. The applicants are keen to ensure that each pitch is served with an amenity/dayroom building, which is a common feature of Gypsy and Traveller pitch design.

The applicant and his extended family are Romany Gypsies. It is proposed that the site will provide accommodation for the applicant and his wife together with members of their immediate family and their dependents which currently includes six children. Prior to moving onto the land, the Design and Access Statement confirms that the applicant had been travelling and working away for some time while Mrs Sykes and some family members had been living at the Council's Tara Park site.

Information supporting the application summarises the reasons why the applicant is seeking planning permission for the development proposed. These include personal circumstances of the family and insufficient existing pitches to meet identified need. The Design and Access Statement also notes that an on-site presence will help the family to establish and manage a dog breeding business. These matters are considered in the appraisal section of the report.

## **6.0 Legal Duties and Responsibilities**

Members will be aware that specific considerations of matters of law are relevant in this case



## Human Rights

The Human Rights Act 1998, incorporates the European Convention on Human Rights into domestic UK law, meaning that the Local Planning Authority must not act in a way that is incompatible with the rights set out therein. The Authority must therefore show that it has properly considered the rights and freedoms of the applicant and his family.

Article 8 provides that *'Everyone has a right to respect for his private and family life, his home and his correspondence'* and continues : *'There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of disorder or crime , for the protection of health or morals or for the protection of the rights and freedoms of others'*.

The Courts have also confirmed that there is a positive obligation by virtue of Article 8 of the Human Rights Act to facilitate the Gypsy way of life.

Notwithstanding this, Article 8 is a qualified right and interference with it can be justified if this is necessary in a democratic society for the protection of the rights and freedoms of others and is proportionate.

Article 1 of the first protocol to the convention states that every person is ' entitled to the peaceful enjoyment of his possessions ( which includes the rights over land). The rights of the state to *'enforce such laws as it deems necessary to control the use of property in accordance with the general interest'* are expressly preserved.

Article 14 states that rights under the convention is to be secured *' without discrimination on any ground such as .... Race....'*

In the exercise of its powers, the Local Planning Authority needs to be mindful of these issues. If planning decisions are made following the correct procedure, in accordance with the development plan and taking all material planning considerations into account and are in the public interest, then there is no conflict with the Human Rights Act.

## Equality

The applicant and his family are Romany Gypsies. Romany Gypsy's are defined as an ethnic group, a protected characteristic under the Equality Act 2010. Section 149 of the Act places a duty on all public bodies in the exercise of their functions 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

In summary, the Act explains that the second aim involves having due regard to the need to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics

- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encourage people with protected characteristics to participate in public life

If the Council fails to have due regard to the matters identified above, it would fail to comply with its statutory duty. In applying development plan policy and taking account of all considerations that are material to this application, members of the committee will need to consider whether applying any of these policies or other considerations would have a disproportionate and negative impact on a racial group.

#### Rights of the Child

Members should also be aware that under the UN Convention on the Rights of the Child and the Children's Act 1989, the best interests of the child shall be a primary consideration in all decisions made by an administrative authority as a matter of law. This principle applies to planning decisions. Where site residents are children, consideration of their convention rights requires a child's best interests to be a primary consideration.

## 7.0 Planning Policy and Guidance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

#### Adopted Development Plan

The relevant adopted Development Plan is the Ryedale Plan -Local Plan Strategy (2013). Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) is specifically relevant to the application and contains criteria to be used to assess sites required to address identified needs. These are as follows:

- *'Reasonable access to local services and community facilities*
- *The size of the site is sufficient to enable good design and layout in order to provide:*
  - *Adequate space for safe parking, turning and servicing*
  - *Pitch sizes that facilitate good quality living accommodation without overcrowding or conversely unnecessary sprawl*
  - *Facilities, service and amenity space of an appropriate standard*
- *The site is appropriate in scale to the nearest settled community and the impact on and from neighbouring land uses is considered acceptable*
- *Safe vehicular access to the public highway can be provided'*

#### Planning Policy Guidance

Relevant guidance which is a material consideration in the determination of the application is as follows:

National Planning Policy Framework (2023)  
 Planning policy for traveller sites (2023)  
 National Planning Practice Guidance  
 Relevant Ministerial Statements

The National Planning Policy Framework (para 60) makes it clear that Local Planning Authorities are required to ensure that the needs of groups with specific housing



requirements are addressed through the planning process. Footnote 28 of the NPPF notes that Planning Policy for Traveller Sites (PPTS) sets out how traveller's needs should be assessed for those covered by the definition in Annex 1 of the document.

PPTS makes it clear that the Governments overarching aim is to ensure *'fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community'*. The PPTS sets out the Governments eight aims for traveller sites. Amongst other things these include an aim to ensure needs assessments are prepared for the purposes of planning; to promote more private traveller site provision and to reduce the number of unauthorised developments.

The PPTS is drafted to reflect the plan-led system. It advises that Local Plans should (based on evidence of need) set pitch targets/requirements and identify and update annually a 5 year supply of deliverable sites against local targets and developable sites covering a 6-10 year period and where possible beyond. It also provides specific guidance in relation to the determination of planning applications for traveller sites.

Paragraph 24 makes it clear that LPA's should consider the following issues amongst other relevant matters, when considering planning applications for traveller sites:

- The existing level of local provision and need for sites
- The availability (or lack) of alternative accommodation for the applicants
- Other personal circumstances of the applicant
- That the locally specific criteria used to guide the allocation of sites in plans should be used to assess applications that may come forward on unallocated sites
- Applications for sites should be determined for sites from any travellers and not just those with a local connection

The policy (paragraph 25) goes on to note that LPA's should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. It also notes that in rural areas, LPA's should ensure that sites respect the scale of and do not dominate the nearest settled community and that they avoid placing an undue pressure on local infrastructure.

Paragraph 26 of the PPTS notes that in considering applications, LPA's should attached weight to the following matters:

- Effective use of previously developed, untidy or derelict land
- Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- Promoting opportunities for heathy lifestyles, such as ensuring adequate landscaping and play areas for children
- Not enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

The PPTS advises LPA's to consider how objections to proposals could be overcome using planning conditions or planning obligations.

The PPTS makes it very clear that the identification of need for pitches is based on those Gypsies and Travellers who meet the definition in Annex 1 of the document. This is as follows: *'Persons of a nomadic habit of life whatever their race or origin,*

*including such persons who on the grounds only of their own or their family's of dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such'.*

Whilst the definition in national policy has always been a person of nomadic lifestyle, in 2015 this was amended to exclude Gypsies and Travellers who had stopped travelling and could not demonstrate that this was temporary. The Court of Appeal found this to be unlawful and discriminatory and recent revisions to the PPTS (December 2023) have addressed this to ensure that the definition for planning purposes covers those who have ceased to travel permanently.

Following the first version of the PPTS in 2015 and subsequent planning appeal decisions and caselaw, two Ministerial Statements were issued. One related to the specific interpretation of the NPPF (as drafted at that time) which related to housing land supply. Another confirmed that intentional unauthorised development is a material planning consideration to be weighed in the consideration of all applications. Whilst the latter has not been incorporated into the revised NPPF, the Ministerial Statement has not been cancelled and as such remains national policy.

#### Presumption in Favour of Sustainable Development

Both the Development Plan and the National Planning Policy Framework include policies which promote a presumption in favour of sustainable development to be applied in the decision making process. The purpose of the presumption is to ensure that sustainable development (interdependent social, economic and environmental objectives) is pursued in a positive way. The national presumption does not change the statutory status of the development plan as the starting point for decision-making.

Paragraph 11 of the National Planning Policy Framework details how the presumption in favour of sustainable development is to be applied. In relation to decision-taking makes it clear that this means:

*“approving development proposals that accord with the development plan without delay or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:*

- *the application of policies in this framework that protect areas or assets of particular importance provides clear reason for refusing the development proposed or,*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole”.*

Policy SP19 of the Local Plan Strategy is consistent with the above national presumption but makes specific reference to the Local Plan and Neighbourhood Plans; working proactively with applicants and clarifies the application of the second bullet of the national presumption. It states:

*“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. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions of the area.*

*Planning applications that accord with the policies in this Local Plan (and where relevant, with policies in Neighbourhood Plans) will be approved without delay unless material considerations indicate otherwise.*

*Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:*

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *Specific policies in that Framework indicate that development should be restricted”*

## **8.0 Consultation Responses**

The following consultation responses have been received and have been summarised below. Full comments are available to view on the Council’s web-site.

Parish Council

Object

- A previous application for the domestic use of this site has previously been refused
- Outside the Village Development Plan and not allocated for development in the Local Plan
- Inappropriate development in the open countryside, highly visible from the south from a great distance
- National policy states that LPA’s should strictly limit new traveller sites in the open countryside
- Conflicts with SP20 which states that development should respect the character of the area without a material adverse impact on present or future occupants of neighbouring land or buildings
- Detrimental impact on the rural area – part of a previous refusal was due to the harm to the local landscape view particularly detracting from the castle ruins
- There are many available places on existing traveller sites within Ryedale and the wider area
- This is a retrospective application
- The site has not been used for the breeding of dogs so should not be classed as a change of use
- Amenity of existing neighbouring properties will be severely affected. Excessive noise is already an issue. The site is only 30m from its nearest neighbour.
- A large area has been put down to hard core with no drainage
- 8 units of accommodation mean more people living on the site and 12 car parking spaces means a significant increase in car usage as no facilities are in walking distance with no roadside footpaths
- The amenity block is not needed. The Parish believe it to be a bungalow
- The Planning application contains a number of inaccuracies

Following a reconsultation, the Parish confirmed that their initial comments still stood and added that:

- The application does not meet national requirements for new traveller sites

- Sufficient capacity exists at Tara Park and that it is not clear if the family have applied to live at Tara Park or if they have lived there

Division member  
No comments received.

#### NYC Highways

No Objection – It is not considered that the proposal will have a significant detrimental impact on the highway network and as such there are no Local Highway Authority objections. A condition is recommended in relation to Access, Turning and Car Parking.

#### NYC Housing

No Objection in principle. The housing team revised earlier comments and confirmed that following the October 2022 GTAA it had no objection in principle to the proposal.

#### Local Lead Flood Authority

Initially requested further drainage details but subsequently confirmed that the application was not a major application and that it is not a statutory requirement for the LLFA to be consulted.

#### Yorkshire Water

Area is not served by the public sewer network and it is for the Environment Agency and Environmental Health to consider proposals

#### NYC Environmental Health

No comments received

#### Tree and Landscape Officer

No objection subject to details of how retained hedges will be protected during construction and landscaping, including full details of species, numbers and sizes.

#### NYC Ecology

Welcome the inclusion of native species hedging. The submission of further details ( eg mix) could be provided by condition. If this was a new application, we would expect to see a Biodiversity Net Gain plan based on the current version of the Biodiversity Metric. However, we note that this application has been in the system for some time and dates to a time when 'in principle' delivery of biodiversity enhancements was acceptable as BNG.

#### Local Representations

Local representations have been received, all of which are objecting to the application. A summary of the comments received is provided below. Full comments are available to view on the website, although it should be noted that some comments have had comments redacted which are considered to be inappropriate.

#### Amenity of Neighbours

- Negative /adverse impact on neighbours and neighbouring land use
- Affects the peaceful enjoyment of our property/ our human rights

#### Landscape Impact

- Detracts from the rural beauty/ peace/ unspoilt character and appearance of the area
- Not in keeping with the area
- Impact accentuated by elevated nature of the site

- The (latest) revised plans do not address concerns that the site will be developed further into the open area/ open countryside. Why can't the area of hardstanding around the barn be used?
- Concerns about the permanent amenity building have not been addressed. The square footage is greater than the original proposed.
- The track was built without planning permission in 2022
- The design guidance referred to specifically makes the point that it should not be used in isolation to decide whether a private application should be given planning permission.

#### Location

- Should be located closer to a larger town with more amenities
- Outside of Development Limits
- Not in keeping with the local environment or community
- Not suitable location – close proximity could cause potential conflict which does not promote co-existence
- Unsuitable use in an unsuitable location
- Site is not allocated for development
- Green-field site
- Inappropriate size and use
- Government policy strongly discourages development of Traveller sites in the Open Countryside
- Sets a precedent for development outside of development limits
- Not a sustainable location. Access to services would be by car
- Question whether the site would have been chosen for this use
- The design guidance notes that sites should not be used in locations that are inappropriate for residential dwellings

#### Infrastructure/Highways

- Local amenities and infrastructure cannot support the development
- Unacceptable impact on road safety
- Would increase traffic at the roundabout which would be dangerous
- Lack of pedestrian access to the site
- Impact on traffic and residents of utility connections
- Lack of details around disposal of waste
- Lack of clean water supply/detail on electricity connections
- No information of oil/gas storage
- Lack of lighting detail
- No renewable energy provision
- A soakaway will not be adequate
- Concern about effluent quality
- No facilities in walking distance with no roadside footpaths
- Puts additional pressure on services - school is at its limits and roads are in need of repair

#### Alternative Provision and Personal Circumstances

- Established sites in Malton, York and Thirsk provide excellent facilities, have capacity and should be considered
- No need for additional pitches

- Unmet need is not proven
- Family were in Tara Park and the assertion that there are no alternatives are not valid
- Fact that the family were not content at Tara Park should not be a consideration
- Any Issues at Tara Park should be addressed/ are for the Council to address
- Council has addressed issues at Tara Park
- Unclear why the family needed to move when there was access to facilities and schools at Tara Park
- For the applicant to cite very special circumstances for children as the prime argument to outweigh harm to the countryside appears calculated and unproven. The children's welfare was catered for previously
- One family has left and there are fewer children in school than quoted (in the March committee report)
- The cockerels should not be a consideration ( in terms of alternative sites) as they arrived after the family
- Provision is being expanded at York and this is an option for the family not just Tara Park
- The family had their needs satisfied at the Official site

#### General

- Concern over the number of people on the site and of it growing over time
- Sheriff Hutton has provided enough accommodation (houses/ caravans) in last five years
- Village needs a break from further development
- Potential traffic/parking problems. Overflow parking will spill onto a busy road
- Conservation Area protection (if applicable)
- No information relating to caravan licensing requirements
- Lack of clarity on who is responsible for running and maintain the site and length of stays
- Risk of over population of the site/ site increasing in size
- Criterion 3 of H6 not met
- A house has previously been refused on the site and the Council must presumably apply the same ruling
- Has more impact than the previously refused application at the site
- Can the number of residents be limited and how would this be enforced?
- Does not maintain the Green Belt/ is inappropriate development in the Green Belt
- Question whether housing would be passed to build in this location
- Increased Noise, light and air pollution
- Will decrease property values
- No positive benefit to the surrounding area
- Should be a retrospective application
- Demonstrates a disregard for proper procedure
- Public footpath to the south will be impassable without regular maintenance of the planted hedgerow
- Site should be used for more appropriate agricultural use
- Detrimental to ecology
- Council should take enforcement action
- Should deal with breaches of planning control before further site development is considered



- Amenity block is to all intents and purposes a bungalow
- The circumstances of the Sykes family are irrelevant
- The Council has a duty to provide for travellers so we should not allow private developments
- Will open the flood gates for more
- The Council has failed in its duty to uphold planning laws and are guilty of a dereliction of duty
- Concern over the welfare of dogs
- Error in the percolation test results
- The applicant is allowed to do carte blanche

## **9.0 Environment Impact Assessment (EIA)**

- 9.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environmental Statement is therefore required.

## **10.0 Main Issues**

- 10.1 The key considerations in the assessment of this application are:
- Principle of development
  - Need and existing/alternative provision
  - Personal Circumstances
  - Unauthorised development
  - Location
  - Design Matters
  - Landscape Impact
  - Amenity of neighbours
  - Other Matters (Access, Ecology, Drainage)

## **11.0 ASSESSMENT**

### Principle of Development

- 10.1. The site is not allocated in the development plan for the use proposed and consequently, the principle of the development of the site for the use is not established by the development plan. Therefore the extent to which the development is acceptable in principle will be established taking account of strategic policies of the development plan and all other material considerations. The policy criteria of SP5 ( Site for Gypsies and Travellers and Travelling Showpeople) are specifically relevant, together with the matters listed in national policy (as summarised in paragraphs 7.7 – 7.9 above).

### Need, Provision of sites and alternative sites

The need for sites/ pitches is informed by a specific Gypsy and Traveller Accommodation Assessment (GTAA). Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) of the Development Plan sets out how the accommodation needs of Gypsies and Travellers were to be met at the time the development plan was prepared and based on a need assessment undertaken in 2008. The policy confirms that the majority of the shortfall in pitch requirements identified at the time would be met through an extension to the Council's existing authorised site - Tara Park at Malton. The policy commits to the provision of a further

site which was to have been identified at the time the site-specific part of the Development Plan – the Sites Document was prepared, to be supported by further up to date needs evidence. It should be noted that at the time the Sites Document was prepared, a significant number of vacant pitches were available at Tara Park and following the extension to the site. Against that context, an additional site was not required, based on an updated needs assessment and this was confirmed as part of the examination into the Sites Document in 2019. The policy criteria in SP5 to guide the identification/ allocation of further sites are consistent with national policy and in this respect, it is considered that the policy remains up to date.

The latest Gypsy and Traveller Accommodation Assessment (GTAA) for the Ryedale Plan area was undertaken in November 2022 by Opinion Research Services, to inform the review of the development plan. The work, based on primary research, identifies the pitch needs for Gypsies and Travellers for the period 2022-2038, to meet the 15 year requirement in the national Planning Policy for Traveller Sites (PPTS). The outcomes supersede previous/ historic assessments and as an up-to-date assessment of need, the GTAA is a significant material consideration in the determination of the application. (The assessment was undertaken at a time when the national definition of a Gypsy and Traveller excluded travellers who had ceased to travel permanently. However, it assessed those that did meet the then definition and those that didn't. For this reason the assessment therefore includes an up to date of the assessment of the needs of those who meet the current national definition.)

The assessment reveals a current / short term need for 16 pitches arising from existing households with a longer-term future need for a further 13 pitches resulting from new / demographic household formation. Taking account of supply at the time the work was undertaken (11 available pitches at the Tara Park public site and the vacation of two further pitches at Tara Park as a result of households moving into bricks and mortar accommodation), the net quantitative pitch need (or shortfall) for the period to 2038 is 16 pitches with a short-term five year requirement of a net additional 3 pitches for the period 2022-2026. An additional supply of pitches to meet this identified net five-year requirement has not been met to date by the allocation of land or the granting of planning permission for further pitch provision.

Net pitch requirements identified in the GTAA reflect a point in time and the assessment identifies requirements that are driven by locally identifiable need. The availability of pitches has fluctuated in recent years, with Tara Park being the main source of supply. At the time that the GTAA was undertaken, there were 11 available pitches at Tara Park, in January 2023 this had reduced to 7 available pitches and in March 2024 there were no available pitches. At the present time, Housing Officers have confirmed that there are two available pitches at the Tara Park site. It is understood that at least four pitches let at Tara Park since the needs assessment was completed, have been let to households that would not have been present at the time that the survey was undertaken. Whilst it is beneficial that this supply has addressed need which has presented itself, this would have the effect of increasing the net pitch shortfall in terms of current/ short term need (assuming no further change in the households interviewed as part of the assessment.)

It is clear therefore that within the area covered by the extant development plan, that there are insufficient pitches for Gypsies and Travellers to meet identified need for the period 2022-2038 and that additional pitches/ site provision is required in this area of North Yorkshire which will need to be addressed through the allocation of further sites in the new North Yorkshire Plan or through the determination of planning applications. Against this context, the need for additional provision to meet current short term identified need is considered to weigh in favour of the proposal in principle. Whilst this is marginally tempered by the fact that whilst the GTAA identifies a need for 3 pitches within the period 2022 –2026 and two deliverable pitches are available at



Tara Park, this assumes that the majority of the level 'current' identified need at the time of the GTAA is satisfied by the available supply at the time.

The GTAA notes that the majority of current need arises from households living on privately owned sites with and without planning permission and that *'as such, in practice the vacant pitches on the public site may not be suitable to meet their current accommodation need'*. The assessment makes it clear that public and private gypsy sites are the equivalent of private ownership and renting for those households who live in bricks and mortar housing. It notes that *'in practice, it is unlikely that these pitches will meet the need arising from households living on private sites'* and that *'the Council should carefully consider how to meet this need'*.

The current availability of pitches at Tara Park is insufficient to meet the pitch requirements of the applicant and his family (the needs of which were included in the GTAA.) Whilst the availability of a limited number of pitches (2) at Tara Park does, in principle weigh against the scale of the current proposal (4 pitches) , it is considered that the weight to be applied to the need in this case, is influenced by the extent to which the current deliverable supply (Tara Park) is suitable and available to the applicant and his family and by the fact that the family's pitch requirements contribute to the overall net shortfall in identified pitch requirements.

The family keep livestock (poultry) and would not be currently eligible to live at Tara Park for that reason. In addition, some members of the family have previously lived at Tara Park and have not found the experience of living at the site suitable and acceptable to them or conducive to their well-being. The supporting information notes that the family have found it intolerable to live at Tara Park and have experienced anti-social behaviour. Whilst it could be argued that the applicant has the option not to keep livestock, Tara Park is unlikely to be a realistic alternative for the family.

The proposal site addresses the needs of the family group. Whilst the GTAA (for data protection reasons) does not identify the specific details of households in need of accommodation, the 4-pitch requirement of this family was included in the assessment. The families' situation is illustrated by the point made by the authors of the GTAA, that public pitch provision may not be suitable to meet all of the identified accommodation needs and that there is a qualitative need for different forms of provision.

Officers are of the view that if planning permission was granted for the site, it would ensure that a proportion of identified need is met. This would include the quantitative numerical five-year net shortfall of 3 pitches (noting that this may not be sufficient to ensure a supply which meets short term needs from a 'qualitative' perspective). As it stands, this will however, reduce the need to identify further sites in this area in the future as part of the new Development Plan. It would also ensure that pitches on the public site are available and best used by those households whose only option financially are public pitches for rent or need which presents itself and which has not been identified through the GTAA .

It is considered that taking all of the factors relating to need (and limited alternative provision/ choices) into account that the need for the additional private additional pitch provision to address the families need weighs in favour of the proposal. This would be consistent with national policy PPTS which does aim to promote more private site provision as a way of meeting identified need.

The applicants have noted that an on-site presence will help them establish and manage a dog breeding business at the site. It is understood that they currently do not run a commercial dog breeding operation although when the site was purchased

planning permission existed for such a use in the former agricultural building at the site. This permission is considered to have lapsed and the building and its proposed use are the subject of the next item on this agenda. Notwithstanding this, it is not considered that an on-site presence is necessary to manage a dog breeding business at the site. Whilst it may be convenient, it is not a factor which in itself, is sufficient to justify the need for the site to be used for Gypsy and Traveller pitch provision.

The provisions of national policy to meet the needs of Gypsies and Travellers are relevant to households which meet the definition of a Gypsy and Traveller in the PPTS. The definition is outlined in paragraph 7.11 above and the PPTS makes it clear that the following matters are relevant in determining whether persons are gypsies and travellers for the purposes of the national, planning definition:

- Whether they have previously led a nomadic way of life
- The reasons for ceasing their nomadic habit of life
- Whether there is an intention of living a nomadic habit of life in the future and if so , how soon and in what circumstances

The recent GTAA notes that the meaning of a nomadic way of life has been tested/ established through caselaw and planning precedent which has established (amongst other things) that : nomadism must have an economic purpose – travel for the purposes of making or seeking a livelihood; that a nomadic way of life can be seasonal; that status can be retained if a person had not travelled for some considerable time providing that their nomadism was held in abeyance and not abandoned. The courts have also confirmed that a household can continue to lead a nomadic way of life from a permanent base.

The GTAA notes that where some household members travel for work on a regular basis and others stay at home to look after children or other dependents, the household unit would be defined as travelling under the planning definition.

Evidence supporting the application in respect of the applicant's nomadic habit of life is limited. The Design and Access Statement note that prior to living at the site Mr Sykes had been travelling and working away for some time, while Mrs Sykes and family members had been living at Tara Park. It notes that that the family has also spent time living on the road around the (former) Ryedale area and that the male family members travel for work (including general building, landscaping and arboricultural businesses) to support their families. The applicant's agent notes that 'in my view, the families clearly have led a nomadic habit of life'.

Officers have no reason or evidence to dispute this point. In addition, it is likely possible that some family/ household members have ceased to travel to care for children and elderly family members. On this basis, the travel for work by male members of the household is significant in confirming the family's nomadic habit of life. In this respect, the supporting material provides no detailed information on the location of or duration of travel for work, which is unfortunate. Notwithstanding this, Officers are aware that the Sykes family households were identified as meeting the planning definition when needs were assessed as part of the recent GTAA. Whilst (for data protection reasons) the detailed individual survey responses are not published with the GTAA, it is clear from the results of the assessment and the need identified on unauthorised sites at the time, that the family were considered to meet the definition using the primary research/ questionnaire by those undertaking the assessment.

Notwithstanding the above, it should also be noted that the NPPF makes it clear that the planning system does need to address the needs of groups with specific housing requirements. In this respect, as Romany Gypsies, it is appropriate that their needs

can be met through culturally appropriate accommodation, a defining feature of which is living in a caravan/ mobile accommodation.

The application reflects the applicants desire to live as an extended family unit. It is understood that this reflects strong cultural traditions of Romany Gypsies whereby extended family is the unit within which resources are shared, work organised, food prepared and support and care is provided. In view of the fact that it is an aim of the PPTS to facilitate the traditional and nomadic way of life, this is a matter which weighs in favour of the proposal.

#### Personal Circumstances

The agent has outlined reasons why the family require a settled base at the current time which is included in a short supporting document entitled 'Very Special Circumstances'. The document has not been scanned to the public file as it contains personal data/ details relating to members of the family. A number of members of the family suffer from a series of chronic health related issues. In addition there are nine children in the family group, with six currently on the site. (It is understood that one household is temporarily living off site to care for close relative elsewhere). Of the six children on the site at present it is understood that four attend the local primary school and two are home schooled.

The agent for the applicant has made it clear that a refusal of planning permission for the family would force the family to return to a life on the road due to what they consider to be unliveable conditions at Tara Park and that this would have a consequential impact on the educational needs of the children who would have to vacate their existing school places.

It is considered that the health related issues experienced by members of the family, whilst serious, are similar to those experienced by many in society. However, it is entirely understandable that living conditions and uncertainty over housing will impact upon health and well-being and that a secure, stable and comfortable settled base will be in the best interests of those family members which suffer from specific health and or age-related conditions. It is understood that the family are registered at a doctors surgery located in the surrounding area and the site is relatively well located to ensure access to local GP support services.

Officers are in no doubt that it is in the best interests of the children to have a settled home base to allow regular school attendance. This is considered to weigh significantly in favour of the application. Given the ages of the children at the site, it is considered that this stability needs to exist for a significant period until they all reach school leaving age. A number of representations have noted that the children were in school when the family lived at Tara Park and as such have already been subject to disruption. It is understood however, that not all of the family, including children at the application site had previously lived at Tara Park.

#### Intentional Unauthorised Development

The applicant and his family have moved onto the site and have occupied it in the knowledge that planning permission does not exist. The applicants have taken professional planning advice and are aware that they have acted in breach of planning control. In view of the ministerial statement issued on the 31 August 2015, this situation is a material consideration which weighs against the granting of planning permission. However, it is understood that the applicant would not have been eligible to stay at Tara Park on the basis that he keeps animals (poultry which is not permitted at the public site). In addition, Mrs Sykes had left Tara Park after a period of residency because the conditions of the site were not acceptable to her. In the

circumstances, therefore are no other choices of alternative sites in the area available to the applicant or his family other than the roadside or land within his ownership (the application site). In addition, whilst the family group has occupied land within their ownership, formal pitches have not been laid out or constructed in advance of the determination of this planning application. It is considered that there are some circumstances in this case that therefore temper the weight to be applied to the fact that there has been intentional unauthorised development.

A number of objectors have argued that planning permission should not be granted on the basis of unauthorised development and that enforcement action should be taken. In this respect, the planning application was submitted to regularise the use of the site and Members are aware that the Council has a duty to determine all planning applications that it receives.

### Location

The site is located approximately 1.2km from the centre of Sheriff Hutton village. Sheriff Hutton is identified as a Service Village in the Development Plan on the basis of the services and facilities present to serve the local community. Service villages, as local service centres are identified as those rural settlements which will accommodate small scale growth to contribute to meeting development requirements.

The proposed development is located in open countryside outside of the village and is proposed to address the needs and personal circumstances of the applicant and his family. Notwithstanding this, it should be noted that facilities at the village, including the school, shop and public transport are safely accessible on foot via the public right of way to the south of the site and accessible by foot, car or bicycle using the Cornborough Road.

Given the distance/proximity to Sheriff Hutton it is considered that the location of the site provides *'reasonable access to local services and community facilities'* as required by Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) of the Ryedale Plan. National Policy (paragraph 24 of the PPTS) makes it clear that the locally specific criteria used to guide the allocation of sites should be used to assess applications that may come forward on unallocated sites. In this respect the location of the site is considered to comply with the requirements of the Development Plan and national policy.

The site is situated outside of Sheriff Hutton and within the Cornborough area. Sheriff Hutton is a relatively large village within this part of North Yorkshire. It is considered that the proposed development/ four pitches (17 inhabitants) would not be of a scale which would dominate the settled community in the village or put undue pressure on local infrastructure or services. Equally, Cornborough is a small, dispersed hamlet and at the scale proposed, the proposed development would not dominate the settled community that comprises the Cornborough area. Policy SP5 of the Ryedale Plan requires that *'the site is appropriate in scale to the nearest settled community'*. In addition, national policy (paragraph 25 of the PPTS) makes it clear that in open countryside locations, LPA's should *'ensure that sites respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure'*. The scale of the proposal is therefore considered to be acceptable against the requirements of Policy SP5 and the relevant requirements of national policy.

### Design

The supporting material provides illustrative images of typical static caravans which are intended to be sited on each of the pitches. The information also indicates that

these can need to be changed on a regular basis. As a typical static caravan design the accommodation would be functional and utilitarian in appearance. On the basis that the detailed design and appearance of the caravans has not been confirmed and that they will be changed over time, it is considered that (if members are minded to grant permission) a condition to control the external colour and finish of the accommodation is necessary.

The proposed amenity buildings are single storey in scale and utilitarian in their appearance. The four single amenity buildings are proposed in response to concerns raised in relation to the landscape impact associated with an originally proposed communal amenity building, both in terms of its size and location and the degree of permanence associated with its proposed construction. The agent has supported the proposals with reference to national guidance on Gypsy and Traveller pitch design. It is understood that this guidance has been subsequently withdrawn by Government and is yet to be replaced, although a number of local authorities have produced their own design guidance to address this matter. Whilst there is no local extant guidance on traveller pitch design, it is accepted that the provision of amenity / dayroom space is a standard requirement/element of Gypsy and Traveller pitch design. Officers are of the view that this is a space requirement that is needed for each pitch and that, from a liveability perspective, it would not be appropriate to expect such accommodation requirements to be provided within the existing 'agricultural' building which is proposed to be used for storage and a dog kennels. Officers are also of the view that this could also be culturally inappropriate for the family.

The proposed plans indicate brick as the proposed external walling material for the proposed amenity buildings. The application is for the permanent use of the site by the family, as opposed to a temporary use. In this respect, it is understandable that these buildings are proposed to be erected using a substantial/permanent method of construction.

In design terms, the caravans and amenity buildings are not considered to be of any significant architectural merit. However, they are proportionate in scale to the site area, individual pitches and the proposed use. The application includes sufficient areas for car/vehicle parking and turning and for sufficient amenity space, including children's play. The size of the site, coupled with the surrounding open land within the applicant's ownership will ensure that in design terms, development will appear to be set within open areas of land the site will not appear overcrowded. The pitches themselves will be contained by perimeter landscaping which will ensure that they are physically and visually contained within the site. To ensure that that the designed layout is adhered to a condition restricting the use of the gravelled hardstanding is proposed. In design terms, the proposed boundary landscaping will not appear inappropriate, unduly oppressive, or out of place in the locality. On this basis, the proposal is acceptable against Policy SP16 (Design) and the specific design criteria of Policy SP5 and paragraph 26 of the PPTS.

#### Landscape

The site is located in undulating countryside between the Howardian Hills and the Vale of York. In terms of the national landscape character profiles, the site just falls within the Vale of York landscape character area, although it is very much a transitional landscape between the higher land of the Howardian Hills to the north and the Vale of York to the south. The sloping nature of the topography, fields defined by hedgerows, dispersed farmsteads and long-distance views to the south are key elements of the prevailing landscape character.

The loss of further sections of the field and land use change associated with the development proposed will alter and detract from the character of the landscape. This



is in conflict with Policy SP13 (Landscapes) which aims to ensure that proposals should '*contribute to the protection and enhancement of distinctive elements of landscape character.....*'. In this respect, this is a factor which does weigh against the development. However, whilst the further loss of the field and the proposed development will be detrimental to the prevailing landscape character, this is mitigated in part by the fact that development proposed is limited in its scale and extent. It should also be noted that landscaping proposals for the site include existing hedgerow retention and additional (native) hedgerow planting which is typical of field boundaries in the landscape.

Additional (native) hedgerow planting around the perimeter of the site and along the southern boundary of the field to the south will also help to mitigate the visual impact of the proposed development. Due to the height and maturity of the existing boundary hedge and fencing, (with the limited exception of glimpsed views through the site access), the proposed pitches will not be immediately visible from a public vantage point to the north (with the limited exception of glimpsed views through the site access). The existing former agricultural building is visible from the road which runs to the north of the site.

The site is visible from the Sheriff Hutton Bridge – Stillington road to the south and the exiting caravans at the site are just visible with the naked eye from this road. However, the visual impact associated with distanced views is largely mitigated by the distance itself and intervening landscape features and will be mitigated by the site landscaping as this matures over time.

The most immediate views of the proposed pitches will be experienced from the public right of way which runs directly adjacent to the field to the south of the application site. Currently, open and uninterrupted views are achieved towards the application site. It is from this public vantage point that the landscape impact of the development and the change in the character and appearance of the site will be most apparent and visible. It is considered that whilst the removal of the originally proposed dayroom helps to reduce the immediate visible mass of that building from the PROW, the inclusion of the four single dayrooms on the site will still contribute to the visible built form of the development. The applicant has planted hedge planting along this boundary and to the southern boundary of the application site. This will help to mitigate the visual impact of the development although the planting does appear to require some management and species have not been confirmed. It will be important that appropriate landscape planting is in place and managed over time to ensure it grows to maturity and is managed appropriately. Therefore if members are minded to approve the application, a condition is recommended to ensure that (notwithstanding existing planting) a landscaping scheme is agreed for the application site and wider land within the applicant's ownership which secures details of the species, numbers and sizes of hedge and tree planting at the site. A condition is also required to secure the protection of retained hedgerows during construction. The Tree and Landscape Officer has confirmed that subject to such conditions, he has no objections to the application.

Concerns have been raised that landscaping along the boundary of land within the applicant's ownership and the Public Right of Way may result in the PROW becoming impassable. Members are reminded that it is an offence to block a public right of way and that any obstruction can be dealt with under separate legislation.

In addition to mitigate the potential for light pollution and the impact of the proposal on nocturnal landscape character, a condition is proposed to ensure that details of all external lighting are agreed. These conditions will ensure that the impact of the development on the character and appearance of the landscape can be mitigated in accordance with Policies SP13 and SP20.

## Highways

The application proposes the use of an existing site access. The Local Highway Authority has confirmed that the proposed development will not have a detrimental impact on the local highway network and that it has no objection. A condition is recommended to ensure access, parking and turning are provided in accordance with the submitted details.

## Amenity of Neighbours/ Impact on Neighbouring Land Use

There are three residential properties in the vicinity of the site. The nearest part of the application site is circa 50m from Mount Pleasant Farm to the north and north of the Cornborough Road. Millers Barn and Mill Hill Farm are located circa 250/ 260 m to the west. At least one occupier of a neighbouring property has objected to the application.

The proposal will result in increased activity associated with the site. However, it is considered that at the proposed scale and taking into account intervening distance, the residential use of the site would not result in a level of activity, noise or disturbance which would result in an unacceptable impact of the amenity of neighbouring residents. The development will be visible from surrounding properties (particularly those to the west) but would not have an overbearing impact on the occupiers of surrounding properties. In this respect, the proposal is considered to comply with Policy SP20 of the Local Plan Strategy.

## Ecology

The Ecologist has confirmed that the site is predominantly agricultural grassland of negligible ecological value and without features that are likely to support protected species. The ecologist has noted that the application does not specifically include a Biodiversity Net Gain Plan based on the current version of the biodiversity metric. However, the ecologist notes that the application dates from a time when in principle biodiversity improvements were acceptable as BNG and has welcomed the inclusion of native species hedging will represent a gain in terms of hedgerow units and has suggested that further details (such as planting mix) could be secured by a condition. Some additional landscaping using native trees and shrubs would increase BNG and this will be secured through a landscaping plan condition.

## Drainage

A bio-disc treatment plant has been installed at the site and is a retrospective element of the application. There is no visual impact associated with the plant. As a private means of sewerage disposal, the installation and operation of the plant is covered by separate legislation (legally binding rules and permitting) regulated by the Environment Agency and through Building Regulations. Notwithstanding this and the submitted layout plans, it is unclear as to whether the plant has been installed in a way which meets the binding rules. For that reason conditions are recommended to ensure that full details of foul drainage are submitted and approved and that prior to the amenity buildings being brought into use, the plant is installed to the satisfaction of an approved Building Control Inspector.

The site is located in Flood Zone 1 and is not at risk of flooding. The LLFA originally requested further information in relation to surface water drainage but subsequently confirmed that the scale of the development did not fall within its statutory function. Surface water runoff from impermeable surfaces will be managed by means of a soakaway. Impermeable surfaces include the proposed amenity building and the hardstanding for the pitches. The land is gently sloping and the applicant owns a

significant area of paddock below the application site. It is considered that the ample land in which to provide sustainable drainage. A percolation test has been provided which demonstrates that infiltration rates satisfy building regulation requirements and that an infiltration method of drainage will be viable for the site. (There is one minor error in one of the test calculations which appears to be a typographical error. The agent has been asked to clarify). Whilst caravans are exempt from Building Regulations, the proposed amenity buildings are not and a soakaway to cater for run off from this building will require Building Regulations approval.

#### Other Issues

Members are reminded that impact / perceived impact on property value is not a material consideration in the determination of the application.

Comments have been made that the proposed development would affect views of the Sheriff Hutton Castle ruins. Whilst the Castle is Grade II\* listed, the proposed development is not within the immediate setting of the heritage asset. In the wider landscape setting, there may be some distanced inter visibility but given the distances involved and other development in the landscape, the proposed development would not result in harm to the significance of the Castle and is acceptable within the context of Policy SP12 of the Local Plan Strategy.

The site is not located within the York Green Belt and as such, national policy relating to Gypsy and Travellers sites within the Green Belt is not relevant to the determination of this application.

### 13.0 PLANNING BALANCE AND CONCLUSION

The site is located in open countryside and is a location where new traveller site development should be strictly limited. The proposal will have a harmful impact on the character and appearance of the landscape although this will be reduced and mitigated in part by proposed landscaping. These factors do weigh against the proposal.

Notwithstanding its location in the open countryside, the location of the site is considered to provide reasonable access to local services and facilities and the proposed design is considered to meet design and layout requirements which ensure acceptable pitch standards, sufficient car parking and amenity space. The proposal is not disproportionate in scale to the size of the nearest settled community and it is considered that the proposed use in this location will not result in unacceptable harm to the residential amenity of neighbouring residents or have an adverse impact on surrounding neighbouring land uses.

The development would make a contribution to identified pitch requirements covering the next 15 years, as well as to short term requirements, to which weight in favour of the scheme is applied in the planning balance. Limited alternative provision currently exists at Tara Park although this is not considered to be a realistic option for the applicant and the wider family group whose only other option would be the roadside or culturally inappropriate housing. The personal circumstances of the applicant and his family have been argued as part of the justification for the proposal and it is considered that these weigh in favour of the proposal. In particular, significant weight is applied to the best interests of the children at the site. In the planning balance, these matters are considered to significantly outweigh the harm to the character and appearance of the landscape and the location of the site in the open countryside.

If members are minded to approve the development, it is considered that (on the basis that the personal circumstances of the applicant and his family have weighed



significantly in the consideration of the application) a personal condition restricting occupancy of the site to the applicant and immediate family members should be applied. Members will be aware that following the March Committee meeting, the applicant has expressed concerns about the proposed personal condition. The pitch needs of this family were included in the current GTAA need assessment and contribute to the assessment of current levels of need. This, together with their personal circumstances (which includes the experience of some members of the family when living at Tara Park, health conditions and the benefits to the children of the family of having a settled base) have weighed significantly in the recommendation. The application has not been proposed as an 'unrestricted' Gypsy and Traveller site and it has not been considered on that basis. The Local Planning Authority must make its decision in relation to the development for which permission is sought. These material planning considerations are, in officers' opinion, considered to be sufficient to outweigh the harm to the landscape which arises from the proposed development.

For this reason, Officers are of the view that the condition is necessary and a limited but justified interference in the applicant's human rights based in the public interest. Occupancy conditions are used within the planning system where these are considered to be necessary and, in this case, they are not considered to have a disproportionate or negative impact in terms of equality of opportunity. It should be noted that the condition does not prevent members of the family from travelling. It is the intention that it provides for a settled base for as long as this is required. In addition, should family members choose to vacate the site, the applicant would also have the option of applying to amend the condition if they consider that this can be justified based on any future identified shortfall in pitch provision. A further condition to restore the site once it is no longer occupied by eligible family members is also recommended.

The approach is consistent with the aim of national policy which is to promote more private site traveller provision. It is also consistent with the findings of the recent (2022) Gypsy and Traveller Assessment for this part of North Yorkshire which recognises the need for additional private site provision.

## **14.0 RECOMMENDATION**

### **14.1 That planning permission be GRANTED subject to conditions listed below.**

- 1 The Gypsy and Traveller site, including pitches, amenity building and associated parking hereby permitted shall be begun within three years of the date of this permission.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Amenity Block Floor Plans and Elevations 71239:1002 Rev A (Date scanned 18/1/24)

Proposed Block Plan 71239:1001 B (Date scanned 3/5/23)

Revised Location Plan (Date Scanned 3/5/23)

And substantially in accordance with: Typical Static Caravan. Floor Plans and Elevation 71239:1003 (Date scanned 23/2/22)

Reason: For the avoidance of doubt and in the interests of proper planning

- 3 The resident occupation of the land hereby permitted shall be carried on by: Oathie Sykes; Irene Sykes; Darkus Sykes; Jasmine Price; Jessie Sykes (Snr); Beth Ann Sykes (Snr); Albert Sykes (Snr) and Debbie Ann Sykes and their resident dependants and for no other persons.

Reason: To ensure that the site is occupied to address identified need and the personal circumstances of the applicant and his family and in accordance with Policy SP5 of the Local Plan Strategy.

- 4 When the land ceases to be occupied or used as a settled base by those named in condition ( 3) the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land and works undertaken to it in connection with residential occupation of the land shall be removed and the land shall be restored to its condition before the development took place in accordance with a site restoration scheme which shall be submitted for approval within 3 months of the date of this decision.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 5 No more than eight caravans (as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed on the site at any time. No more than two caravans shall be stationed on any pitch at any time and no more than one caravan per pitch shall be a static caravan or mobile home. All caravan at the site should be stationed on the pitches hereby approved.

Reason: For the avoidance of doubt and to protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 6 No commercial activities shall take place on the site, including the storage of materials.

Reason: To protect the character and appearance of the locality and residential amenity in accordance with Policies SP13 and SP20 of the Local Plan Strategy

- 7 Only personal commercial vehicles used by occupants of the site to travel to and from work shall be stationed, parked or stored on the site and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting that Order with or without modification) no fences, gates or walls shall be erected on the land other than as approved.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy

- 9 Full details of all external lighting at the site shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The

details shall include the position, height, angle of lighting, illuminance level and hours of operation. All lighting shall be installed and maintained in accordance with the approved details.

Reason: To protect the character of the area in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 10 Prior to the siting of any caravan on the pitches hereby approved, details of the external colour shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the visual amenity of the area in accordance with Policy SP20 of the Local Plan Strategy.

- 11 Prior to the occupation of the development hereby approved a scheme to secure ecological improvements and Biodiversity Net Gain within the site or adjacent land under the applicant's ownership, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented within a three-month period.

Reason: to secure ecological enhancements in accordance with Policy SP14 of the Local Plan Strategy.

- 12 No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with SP20 of the Local Plan Strategy.

- 13 Prior to the occupation of the development hereby approved, plans showing details of a landscaping and planting scheme to cover the application site and land identified within the blue line on the submitted application plan, shall be submitted to and approved in writing by the Local Planning Authority. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees, shrubs and planting, together with protective measures for existing hedgerows. All planting, seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development hereby approved Policy in accordance with Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy

- 14 Notwithstanding the plans hereby approved, prior to the commencement of above ground works associated with the amenity buildings hereby approved, full details of the foul water drainage system to be utilised on site, shall be submitted to the Local Planning Authority for prior written approval. Any

variation from the agreed foul water drainage system shall require the prior written approval of the Local Planning Authority.

Reason: In the interests of appropriate drainage in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.

Informative: The submission shall demonstrate if the drainage approach follows the Environment Agency General Binding Rules (which indicates that a flow from a Package Treatment Plant cannot meet the general binding rules if it discharges to a ditch that does not contain flowing water throughout the year.) If compliance with the general binding rules is not feasible, an Environment Agency Permit is likely to be required. <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

- 15 Notwithstanding the plans hereby approved, prior to the amenity building being brought into use, the agreed foul water drainage system shall be installed and operational, to the satisfaction of an approved Building Control Inspector. Any variation from the agreed foul water drainage system shall require the prior written approval of the Local Planning Authority.

Reason: In the interests of appropriate drainage in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.

- 16 Prior to the installation of gates for each pitch, full details of the gate design, means of opening, materials and colour shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the visual amenity of the area in accordance with Policy SP20 of the Local Plan Strategy.

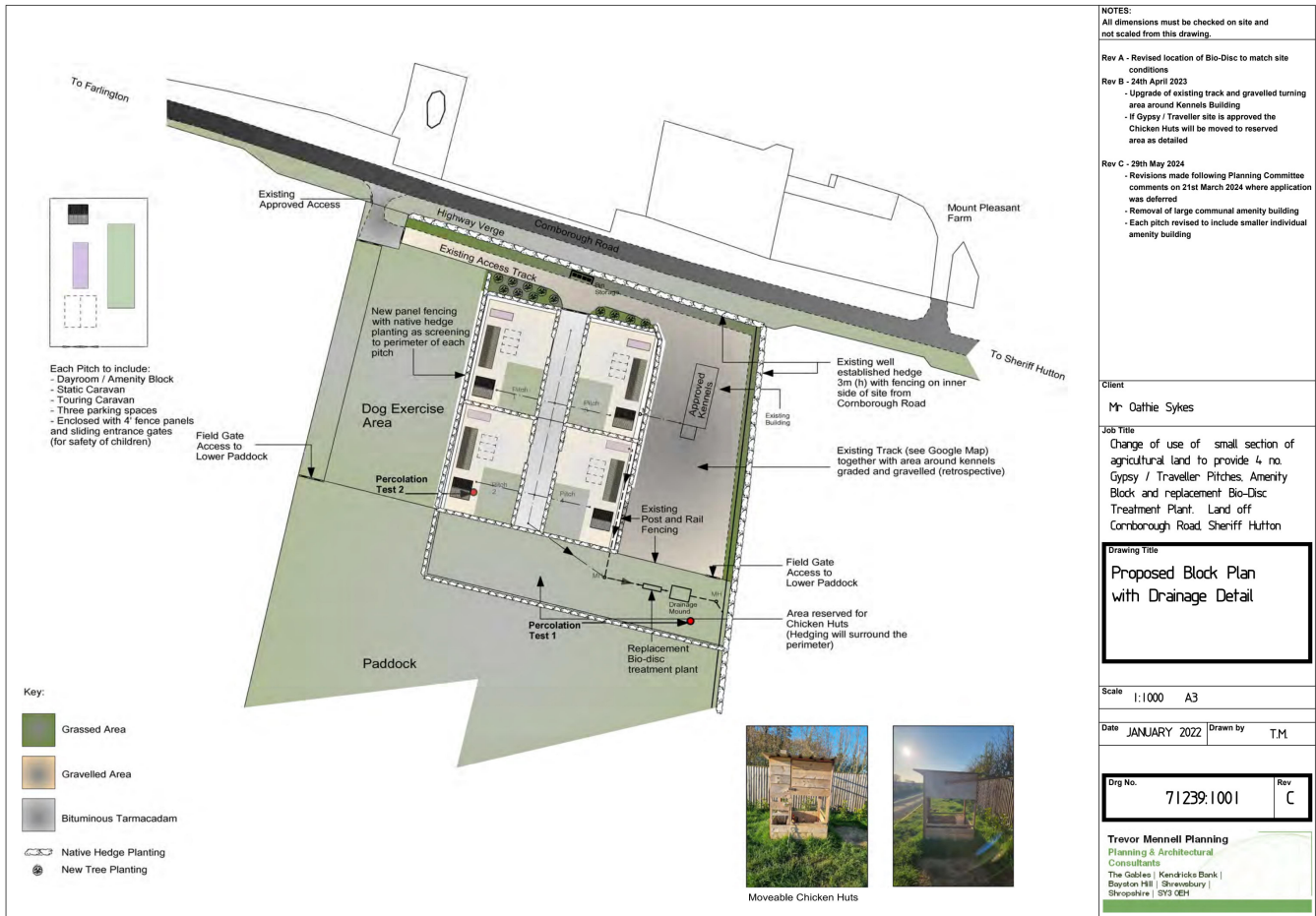
**Informative:**

The applicant is required to apply to the Council's Housing department for a caravan site licence.

Target Determination Date: 00.00.0000

Case Officer: [jillthompson1@northyorks.gov.uk](mailto:jillthompson1@northyorks.gov.uk)

Appendix A – Proposed Site Layout Plan



**NOTES:**  
All dimensions must be checked on site and not scaled from this drawing.

Rev A - Revised location of Bio-Disc to match site conditions

Rev B - 24th April 2023

- Upgrade of existing track and gravelled turning area around Kennels Building
- If Gypsy / Traveller site is approved the Chicken Huts will be moved to reserved area as detailed

Rev C - 29th May 2024

- Revisions made following Planning Committee comments on 21st March 2024 where application was deferred
- Removal of large communal amenity building
- Each pitch revised to include smaller individual amenity building

**Client**  
Mr Oathie Sykes

**Job Title**  
Change of use of small section of agricultural land to provide 4 no. Gypsy / Traveller Pitches, Amenity Block and replacement Bio-Disc Treatment Plant. Land off Comborough Road, Sheriff Hutton

**Drawing Title**  
Proposed Block Plan with Drainage Detail

**Scale** 1:1000 A3

**Date** JANUARY 2022 **Drawn by** T.M

**Drw No.** 71239.1001 **Rev** C

**Trevor Mennell Planning**  
Planning & Architectural Consultants  
The Galilee | Kendrick's Bank |  
Boyston Hill | Shrewsbury |  
Shropshire | SY3 0EH

The drawing set includes the following components:

- Front Elevation:** Shows a brick building with a gabled roof and two windows.
- Rear Elevation:** Shows a brick building with a gabled roof and no windows.
- Side Elevation (top):** Shows a brick building with a gabled roof, two windows, and a height dimension of 4000.
- Side Elevation (bottom):** Shows a brick building with a gabled roof, a door, and two windows, with a height dimension of 2400.
- Floor Plan:** Shows a rectangular layout with a Kitchen/Diner, Bathroom, and utility areas (WM, WD, svp). Overall dimensions are 6000 by 6000.

**NOTES:**  
All dimensions must be checked on site and not scaled from this drawing.

**Client:**  
Mr Oathie Sykes

**Job Title:**  
Change of use of small section of agricultural land to provide 4 no. Gypsy / Traveler Pitches with replacement bio-disc treatment plant. Land off Comborough Road, Sheriff Hutton

**Drawing Title:**  
Single Day Room  
Floor Plans and  
Elevations

**Scale:** 1:50 A3

**Date:** MAY 2024 **Drawn by:** T.M.

**Dwg No.:** 71239.1004 **Rev:** -



## North Yorkshire Council

### Community Development Services

#### Thirsk and Malton Area Constituency Committee

14 JUNE 2024

**ZE23/00437/FUL -CHANGE OF USE OF FORMER AGRICULTURAL BUILDING FOR USE AS A (SMALL BREEDS) DOG BREEDING KENNEL AND DOMESTIC STORAGE TOGETHER WITH AN EXTENSION TO THE BUILDING TO PROVIDE TOILETS AND EXTERNAL ALTERATIONS INCLUDING THE INSTALLATION OF INSULATED ACOUSTIC SHEETING TO THE EXTERIOR OF THE BUILDING (PART RETROSPECTIVE) AND THE CHANGE OF USE OF AGRICULTURAL LAND TO DOG EXERCISE AREA.**

#### Report of the Assistant Director Planning – Community Development Services

##### **1.0 Purpose of the Report**

- 1.1 To determine a planning application for the above on land at Cornborough Road, Sheriff Hutton.
- 1.2 The application accompanies another application (planning application ref 22/00102/FUL) in the same location which raises a range of planning issues. It is considered that both applications should be considered by the Committee in view of the cumulative issues raised.

##### **2.0 EXECUTIVE SUMMARY**

RECOMMENDATION: Subject to planning application ref 22/00102/FUL being approved, planning permission be granted, subject to the conditions listed below.

- 2.1 The proposal is for a mixed use of an existing building, to operate in conjunction with the proposed use of the wider site for Gypsy and Traveller pitch provision. In principle, the acceptability of the proposed mixed use, which includes domestic storage, is contingent on application 22/00102/FUL, (the preceding item on this agenda being approved). In the event that the use of the wider site as a Gypsy and Traveller site is found to be acceptable, the proposed domestic storage use of part of the building would help to ensure that domestic paraphernalia is securely stored out of sight. Planning permission has been granted historically for the use of the building as a dog breeding kennels and associated land as a dog exercise area. As such, the planning history has established that this is, in principle, a suitable use for the building and that conditions can be imposed to mitigate the potential impacts resulting from this use.

## Location Plan - Land at Cornborough Road, Sheriff Hutton



This Plan includes the following Licensed Data: OS MasterMap Colour POT  
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 Survey 010001673

0m 20m 50m 75m 100m 125m 150m 175m 200m

Scale: 1:2500, paper size: A4

Sykes - 71239

Location Plan



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Prepared by: Trevor Kennell, 12-01-2022



### 3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:

<https://planningregister.ryedale.gov.uk/caonline-applications/simpleSearchResults.do?action=firstPage>

3.2 The application was originally submitted as a retrospective application to regularise changes to appearance of the existing building following planning enforcement investigations and, to seek permission for an extension to the building to provide toilet facilities. To address uncertainty over whether a permission for the use of the building as a dog kennel had been implemented historically, the description of the development proposed has been amended. The application area has also been amended to include an area of land for use as a dog exercise area. These are material changes to the application as originally submitted and as such the changes to the application have been subject to consultation.

3.3 Relevant planning history:

13/00863/FUL: Erection of an agricultural building for the storage of produce and housing of livestock. (Approved)

13/01461/FUL: Siting of two bedroom timber cabin for use as a temporary rural workers dwelling to include formation of access track and hardstanding, and provision of a domestic curtilage (retrospective application). (Refused and s.78 appeal dismissed).

15/00601/FUL: Retention of timber cabin for use as an office, staff facilities, storage area and incubator area. (LPA declined to determine).

19/00603/FUL: Change of use of agricultural land and building for commercial dog breeding and kennels with alterations to include formation of up to 10no.kennels within the existing building. (Approved).

22/00102/FUL: Change of use of land to a gypsy/traveller site with 4no family pitches each with 1no static caravan, 1no touring caravan pitch and parking spaces, erection 1no. amenity building and installation of 1no bio-disc treatment plant with associated parking and landscaping. (Pending consideration at the time this report is drafted. The application is prior to this item on the agenda).

### 4.0 Site and Surroundings

4.1 The site is located in open countryside approximately 700m to the west of Sheriff Hutton.

4.2 The site covers approximately 0.6 ha. It comprises the building set in an area of gravelled 'hardstanding', a gravel access track and an area of grassland/ field to the west. A family of travellers currently occupy the site and there are currently 7 caravans present within the application area together with some children's play equipment and two small outdoor single dog kennels.

4.3 The building is an existing steel portal frame which is set on a concrete base and low brick faced, block masonry wall. Externally the walls are comprised of green acoustic sheet cladding and the roof is metal sheeting. A large metal roller shutter door and single entrance door are located in the western elevation. The building is approximately 18.4m in length and 6.2m in width. From the lowest ground level it

measures approximately 6.6m to ridge height. The land on which the building is situated gently falls away in a north to south direction resulting in a change of level over the length of the building of approximately 1m north to south. At the northern end of the building the eaves height is 4.1 m above ground level and the ridge height 5.4 m above ground level.

- 4.4 The building is sited in the same position as a building which was granted planning permission for agricultural use in 2013. In 2020, permission was granted for the use of the building, together with alterations, for commercial dog breeding and kennels.

## **5.0 Description of Proposal**

- 5.1 The application seeks permission for the use of the existing building as a dog breeding kennels, together with some domestic storage space which is proposed to be incidental to the proposed use of the wider site for Gypsy and Traveller accommodation (to which application reference 22/00102/FUL) relates.
- 5.2 The proposed internal layout of the building includes 6 kennels and approximately 27 square metres of storage floor space. The application also proposes a small extension to the southern gable of the building to provide site toilet facilities. The proposed extension measures 4m in length, 3.8 m in depth and 3m in height (to the ridge).
- 5.3 The application includes a large area for the exercising of dogs, which forms part of an existing field to the west of the building and to the south of the site access. The access road and land around the building are surfaced with gravel which, together with external changes to the appearance of the building, are retrospective elements of the application.
- 5.4 The supporting Design and Access Statement confirms that it is the applicant's intention to breed small pedigree dog breeds, recognised by the kennel club and suitable for rehoming. A maximum of six adult dogs are proposed to be present on site at any one time. It is understood that it is the applicant's intention that this would, be operated as a commercial operation (as opposed to occasional breeding associated with domestic activity.)
- 5.5 The application was originally made to regularise external changes to the building and the provision of the gravel hardstanding, together with the proposed toilet extension. The description of the development proposed was expanded to cover the change of use of the building to a dog breeding kennels when it became apparent that the earlier permission for that use had not been implemented and had lapsed by a limited number of months. The revised description also included the use of part of the building for domestic storage. The intention is that this use would be incidental to the use of the wider site if application (ref: 22/00102/FUL) is approved.

## **6.0 Planning Policy and Guidance**

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:  
The Ryedale Plan (Local Plan Strategy)

### Guidance - Material Considerations

6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2023
- National Planning Practice Guidance

## **7.0 Consultation Responses**

7.1. The following consultation responses have been received and have been summarised below.

Parish Council

7.2. Object

- Not a retrospective application. The previous kennel permission has expired and it does not adhere to that permission. The site is not used for dog breeding. Dogs are kept in kennels outside
- Application states no parking but a large number of vehicles could be parked
- Uncertainty over how surface water is drained. The stoned area is increasing run off to the fields below
- When the kennels were given permission it was on the proviso that there should be no residential use
- No details given for times of use including use of the dog walking area
- No details of how the dogs will be contained
- The site is clearly visible from the public footpath
- Roller door has no soundproofing and cannot be sound proofed
- Concern about lack of light and the conditions in which dogs will be kept
- Question why four toilets are needed
- The site should not have a domestic use
- Thousands of dogs are in need of rehoming since the first application. There is no requirement to breed more dogs
- Constant noise issues with dogs barking at the site. NYC has been made aware and no action has been taken
- Is an effort to legitimise the illegal use of the site for domestic storage

Environmental Health

7.3. Recommend conditions ( Noise and Lighting) and an informative ( Animal licencing)

Highways

7.4 Recommend a condition (to secure turning and manoeuvring).

### Local Representations

7.5 Letters of objection have been received by eight individuals following consultation and re-consultation on changes to the site area and an amended description. A summary of the comments is provided below, however, please see the website for full comments.

- No details of security fencing
- Position of use adjacent to a public right of way is inappropriate

- In Nov 2023 there were 12 caravans at the site without permission
- The Council should take steps to address the residential use of the site
- Is a change of use from agriculture to a business that is not in keeping with the locality
- Progressive gradualism for the creation of a mini industrial estate
- RDC and NYC have failed to look into and take notice of noise complaints regarding the site
- Currently dogs bark for hours on end and noise associated with the unauthorised domestic use of the site is causing daily problems
- We cannot use our outdoor space because of noise and plans to diversify our business have been put on hold
- There should be no domestic use of the site
- The noise assessment is invalid
- I welcomed the idea of a pet breeding business at the site but the current owners have no intention of developing it for business purposes
- Object to the installation of flood lights and impact in terms of light pollution, neighbours and the character of the countryside
- Permission for a change of use has not been granted
- Should be viewed as a retrospective application
- Demonstrates a disregard for proper procedure
- The D&A details a requirement for the family to live on site to manage the business. The original permission was conditional on no-one living on site.
- Severe landscape impact and impact on Castle ruins
- Pressure on local infrastructure and services
- The already unauthorised development at the site has had an impact on the local environment

## **8.0 Environment Impact Assessment (EIA)**

8.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environmental Statement is therefore required.

## **9.0 Main Issues**

9.1. The key considerations in the assessment of this application are:

- Principle of development
- Design and Landscape impact
- Impact on local amenity
- Highway Impact
- Drainage
- Other matters

## **10.0 ASSESSMENT**

Principle of Development

10.2 The application proposes a mixed use of the building which includes domestic storage and dog breeding.

- 10.3 A building at the site and in this open countryside location was originally justified for agricultural purposes. Planning permission was granted in 2020 to change the use of the building to a non- agricultural use as a dog breeding kennels. Policy SP6 (Delivery and distribution of employment land and premises) supports the use of land and conversion of buildings in the open countryside for appropriate rural economic activity in line with the provisions of Policy SP9 (The land-based and rural economy). Although dog breeding is not exclusively a rural activity, the use of the building and an area of land for the exercising of dogs associated with dog breeding, is considered to be an appropriate use within the rural area and is land-based as proposed. In principle therefore, it is considered that the use of the building and part of the site for dog breeding is acceptable in principle against the provisions of policies SP1, SP6 and SP9. It is considered that the earlier permission for a dog breeding establishment at the site, has established that in principle, the use is acceptable in this open countryside location.
- 10.4 It is considered that the proposed use for domestic storage would not be acceptable in principle at the site on its own or as a mixed use with the dog breeding. In this respect, a personal domestic storage use would only be considered to be acceptable in principle, if permission existed for the wider residential use of the site. Therefore, it is considered that as it stands the use of the building for domestic storage (incidental to the proposed use of the wider site for four pitches of traveller accommodation) is contingent in principle, on the decision which is made in respect of planning application: ref 22/00102/FUL.

#### Design and Landscape Impact

- 10.5 Policy SP16 (Design) requires that development should respect the context provided by its surroundings, including in terms of siting, scale and detailed design. Ensuring that development respects the character of the locality and wider landscape is also reiterated in Policy SP20 (Generic Development Management Issues). Policy SP20 also requires that extensions or alterations to existing buildings will be appropriate and sympathetic to the character and appearance of the existing building in terms of scale, form and use of materials.
- 10.6 The building is a modern steel framed building. It is utilitarian in its appearance, mass and scale. The applicant has applied green metal sheeting to all exterior walls and these external changes are a retrospective element of the application. The building is readily visible from the public right of way, approximately 130 m to the south of the building and from properties to the west. It is partially visible above established boundary hedging, from the farm to the north of the site and from the road as the site is approached.
- 10.7 The scale and form of the building reflect those of the agricultural building permitted in 2013. In terms of its scale, form and appearance the building is considered to be consistent with the other buildings and in this respect, its presence and appearance is not out of character with the surrounding agricultural/rural landscape. The proposed lean to extension to provide toilet facilities is subservient in scale and form to the existing building and the external materials are proposed to match those of the existing building and are considered to be acceptable in design terms.

#### Impact on Local Amenity

- 10.8 The proposed dog kennel use has the potential to impact on the residential amenity of neighbouring occupiers. The closest residential receptor is the farmhouse at Mount Pleasant Farm which is approximately 60m to the north of the application building. Mill Hill Farm and Millers Barn are over 300 m to the west.

- 10.9 The proposed use will involve visitors/ customers to view, select and collect puppies. The applicant does not currently breed dogs on a commercial scale and the supporting information does not indicate how breeding cycles will be undertaken. However, the scale of the operation would be for a maximum of six litters of puppies at any one time. It is considered that this would not result in a level of vehicular activity to and from the site that would be noticeably different to the levels of traffic along Cornborough Road, to which local residents are currently exposed. In this respect, activity associated with visiting customers would not result in unacceptable harm to the residential amenity of the occupiers of neighbouring properties.
- 10.10 The proposed use has the potential to generate noise as a result of barking dogs and noise impact has been raised in objections to the proposal from the Parish Council and from local residents.
- 10.11 The current application is not supported by a noise assessment. However, this issue was fully considered when permission was granted for the use of the dog breeding in 2019 and a noise assessment did inform the consideration of the previous application. It provided an indication of background noise levels and established that with the inclusion of a number of improvements ( to the building at that time) including, overcladding, insulation, opening sizes and positions and mechanical ventilation, the use would not result in increased ambient noise. It also concluded that exercising dogs are unlikely to be a source of noise.
- 10.12 Therefore, although the current application is not supported by a noise assessment, officers, including the Council's Environmental Health Officers, are mindful of the noise assessment undertaken for the earlier scheme and the recommended mitigation measures and conclusions deemed to be necessary to achieve satisfactory noise levels. Officers are of the view that there have been no significant land use changes in the immediate vicinity of the site which would significantly change ambient background noise levels. (It is noted that objectors have raised concerns over noise associated with the unauthorised use of the wider site and barking dogs. The Council's Community Team and Environmental Health team have confirmed that they have not received any formal complaints specifically relating to noise from the site.)
- 10.13 As it currently stands, the exterior walls of the building have been clad in an insulated cladding and it is understood that insulated sheeting has been installed as part of the roof structure. The supporting material indicates that it is the applicant's intention to install a mechanical ventilation system which will be used to ensure appropriate temperatures and air flow without the need for doors to remain open, although precise details have not been provided. A large roller shutter door has been installed in the western elevation of the building, adjacent to a single pedestrian entrance door. The acoustic properties of both of these doors is not known but clearly when open, these doors will allow noise from the interior of the building to escape.
- 10.14 The Council's Environmental Health Officers have considered the proposal and the building as it is currently built and have made the following comments and recommendations:

*'The noise assessment submitted to support the previous approval 19/00603/FUL concluded that if the recommended acoustic improvements (set out in drawing refs 478-03, 478-04 & 478-05 dated April 2019) were implemented then the additional noise produced by the dogs will not result in increased ambient noise levels.*

*There is no information submitted with the ZE23/00437/FUL application which details whether the acoustic improvements that have been undertaken are what was detailed in the approval 19/00603/FUL and what the noise report was modelled on. If the acoustic improvements that have been undertaken differ, then the applicant must*



*demonstrate that the acoustic improvements that have been undertaken adequately meet the level of modelled noise reduction for use as breeding kennels.*

*Based on this, we would recommend the following conditions:*

- Prior to first use of the building for the keeping of dogs for commercial purposes, the acoustic insulation improvements shall be tested to demonstrate that they achieve the modelled noise reduction specified in Noise report ref. (R001163 v.3) of approval 19/00603/FUL.*

*Reason: To ensure that noise from the buildings does not cause a nuisance to nearby residents.*

- All doors to the premises shall be kept closed at all times except for the purpose of entry to or exit from the premises.*

*Reason: To ensure that noise from the buildings does not cause a nuisance to nearby residents.*

- Prior to first use of the building for the keeping of dogs for commercial purposes, details of the proposed ventilation system for the building shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before such use and thereafter shall be maintained throughout the lifetime of the development.*

*Reason: To ensure that noise from the buildings does not cause a nuisance to nearby residents.*

*Informative: Please note that the proposed dog breeding activity may require a licence the applicant will need to contact animal licensing who will advise on the requirements of the layout and physical conditions of the kennels. This will impact on the number of kennels the building will be able to accommodate and require conditions to be met for the welfare of the dogs'.*

10.15 Following discussion with the Environmental Health Officer, it is considered that a more precise condition should be applied to specify the noise level limit to be achieved. This would be no more than the background level for daytime at 40db and 37db at night time.

10.16 The application proposes the installation of security lighting (LED flood lights with motion sensor and timer) on all exterior corners of the building. Security lighting has the potential to impact upon the amenity of neighbours, as well as the nocturnal character of the site in the landscape. Whilst the proposal is to angle the lights downwards and to fit them 4 m from ground level, four lights on each corner of the building is considered to be excessive, particularly given that the only entrances to the building are on the western elevation. For this reason, and notwithstanding the submitted details, a condition to secure lighting details is proposed.

#### Highway Impact

10.17 The application does not involve any changes to the existing access from Cornborough Road, which meets the required design specification, including visibility in both directions. The proposed dog breeding use is a relatively small scale operation with limited customer trips associated with viewing, visiting or collection of puppies. The Local Highway Authority has confirmed that it remains of the view the proposals would not create an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. The LHA has noted that due to the changes from application ref 19/00603/FUL and association with the as yet to be approved travellers site, a condition to secure turning and manoeuvring for users of the domestic storage building is recommended.

### Drainage and Waste

- 10.18 The site is in Flood Zone 1 and is not at risk of flooding. It is understood that surface water run-off from the existing building drains to a soakaway to the rear of the building. Surface water run-off from the proposed toilet block extension is proposed to drain via a soakaway. Percolation testing has demonstrated that drainage via ground infiltration is viable at the site and that infiltration rates to satisfy Building Regulation requirements can be achieved.
- 10.19 Foul waste water from the proposed extension to house toilets will be directed to a package treatment plant which has been installed at the site. Retrospective permission for this package treatment plant is sought as part of application ref 22/00102/FUL which is not determined at the time of writing this report. Therefore, conditions are proposed to ensure that means and details of foul waste water disposal are agreed prior to the erection of the toilet block extension and that prior to the toilets being brought into use, the plant is installed to the satisfaction of an approved Building Control Inspector. The agent has confirmed that it is no longer the applicant's intention to install a cess pit to deal with waste water from the kennel building. This follows discussion with the Council's Environmental Health Officer who has advised that in the absence of any specific justification, any requirement to dispose of foul waste water from the kennel building should be disposed of via the package treatment plant.
- 10.20 The supporting information indicates that solid waste arising from the kennels will be stored in appropriate bins prior to collection by an appropriate contractor. Notwithstanding this it is considered prudent to impose a condition to require the submission of details for the procedures for kennel cleaning and associated waste disposal.

### Other Matters

- 10.21 Representations have raised animal welfare concerns. It should be noted that the applicant will need to comply with licensing requirements under Animal Welfare Regulations and any other statutory provisions. If any of these requirements require further external changes to the building then this would need to be addressed through an amendment to any permission granted.
- 10.22 Some representations have duplicated concerns/ objections in response to this application and application reference 22/00102/FUL. In considering application 22/00102/FUL, Officers have made it clear that the proposed dog breeding use does not in itself generate a requirement for someone to live on-site.

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 The proposed mixed use of the building is aligned to the applicant's proposal to use the wider site as a Gypsy and Traveller site. In this respect, the extent to which the proposed domestic storage use of the building is acceptable in principle, is dependent on whether planning permission is granted for the residential/ Gypsy and Traveller site use for the wider site. If planning permission is granted for that use, the use of the building for incidental domestic storage would help to ensure that domestic paraphernalia can be securely stored within one existing building. It would also help to reduce visual impact associated with domestic paraphernalia and pressure for additional buildings at the site which would help to ensure compliance with the requirements of Policy SP20.



- 11.2 The proposed dog kennel use does not conflict in principle with Policies SP1, SP6 and SP9 of the development plan and would represent a small business within the rural area. In the absence of objections from the Environmental Health Officer and in view of the planning history of the building, it is considered that it would be unreasonable to refuse the application on the basis of the proposed dog breeding use. It is considered that appropriate measures, secured by condition will ensure that the use can be undertaken without causing unacceptable harm to the residential amenity of the occupiers of dwellings in the locality or the environment. In this respect, the proposed development is considered to be acceptable against the provisions of Policies SP17 and SP20.
- 11.3 The external appearance of the building and the proposed extension is acceptable in design terms and in the context of the local landscape and is considered to accord with Policies SP16 and SP20.
- 11.4 Subject to application ref 22/00102/FUL being approved, it is considered that there are factors which weigh in favour of the development on balance.

## 12.0 RECOMMENDATION

- 12.1 That, subject to planning application (reference) 22/00102/FUL being approved, planning permission be GRANTED subject to conditions listed below.

Recommended conditions:

1 The uses and extension hereby permitted shall be begun within three years of the date of this permission.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Revised site location plan: Scanned 22/1/2024
- Revised Proposed Floor Plan ref: 71328:1002 Rev B
- Elevations Plan ref: 713281001

Reason: For the avoidance of doubt and in the interests of proper planning

3 No part of the development must be brought into use until the parking, manoeuvring and turning areas for all users have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason for Condition

To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with Policy SP20 of the Local Plan Strategy.

4 Prior to the use of the building for dog breeding, full details of the ventilation system for the building shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the dog

breeding use is commenced and thereafter shall be maintained throughout the lifetime of the development.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

5 Prior to first use of the building for the keeping of dogs for commercial purposes, the acoustic properties of the building shall be tested to demonstrate that the predicted noise levels at the nearest noise sensitive receptors specified in Noise report ref. (R001163 v.3) of approval 19/00603/FUL. The levels achieved shall be no more than the current background (L90) for daytime (40dB) and night-time (37dB).

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

6 All doors to the premises shall be kept closed at all times except for the purpose of entry to or exit from the premises.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

7 There shall be no external alteration to the building or addition of any openings, windows or doors except in accordance with the details shown on the elevation Plan hereby approved.

Reason: To ensure an appropriate appearance and to protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

8 The hours of use of the dog exercise area to the west of the building as shown on the block plan shall be limited to 07:00 and 21:00 hours.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

9 The building shall only be used solely for kennels for the breeding of small breed dogs ( as defined by the Kennel Club) with a maximum of 6 adult dogs at any one time.

Reason: For the avoidance of doubt and to protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

10 Notwithstanding the submitted details, full details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The details shall include the position, height, angle of lighting, illuminance level and period of operation. Lighting details shall be designed to be the minimum needed for security, installed to minimise glare and light spillage and shall not illuminate beyond the site boundary. All lighting shall be installed and maintained in accordance with approved details.

Reason: To protect nocturnal landscape character and the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

11 Notwithstanding the submitted details, prior to the dog kennel use hereby approved being brought into use, a waste management plan shall be submitted to and approved in writing by the Local Planning Authority. This shall detail the

measures to be taken to minimise environmental issues through the correct collection and storage of animal waste. It shall detail the methods of animal bedding and kennel cleaning. Thereafter, the site shall be operated in accordance with the approved details.

Reason: In order to protect the environment and the amenity of nearby residents and to satisfy policy SP20 of the Local Plan Strategy.

12 The building shall not be let or sold off separately from the property currently known as 'The Kennels', Cornborough Road

Reason: In order to protect the residential amenity of site residents and to satisfy the requirements of Policy SP20 of the Local Plan Strategy.

13 The domestic storage use of the building shall cease when the wider site/property currently known as 'The Kennels', Cornborough Road, ceases to be occupied by those named in condition 03 of planning approval 22/00102/FUL or any other person named in any subsequent approved variation of that condition.

Reason: To protect the character of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy

14 Prior to the toilets being brought into use, the foul water drainage system shall be installed and operational to the satisfaction of an approved Building Control Inspector. Any variation from the agreed foul water drainage system shall require the prior written approval of the Local Planning Authority.

Reason: In the interests of appropriate drainage in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.

15 Full details of any means of enclosure for the dog exercise area shall be submitted to and approved in writing prior to installation and before the land is brought into use. Thereafter, the means of enclosure shall be maintained in accordance with the approved details.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting that Order with or without modification) no other fences, gates or walls shall be erected on the land without the prior approval of the Local Planning Authority.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy

*Informative: Please note that the proposed dog breeding activity may require a licence the applicant will need to contact animal licensing who will advise on the requirements of the layout and physical conditions of the kennels. This will impact on the number of kennels the building will be able to accommodate and require conditions to be met for the welfare of the dogs.*

**Target determination date:** 23/06/2023

**Case Officer:** [jillthompson1@northyorks.gov.uk](mailto:jillthompson1@northyorks.gov.uk)

Appendix A – Proposed Elevation Plan

