

**North Yorkshire Council**

**Community Development Services**

**Thirsk and Malton Area Constituency Committee**

**15 AUGUST 2024**

**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, 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 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 Members will recall that the consideration of the application was also deferred at the June meeting in order to ensure that the Parish Council was given sufficient time in which to respond to the latest amendments.

**2.0 EXECUTIVE SUMMARY**

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

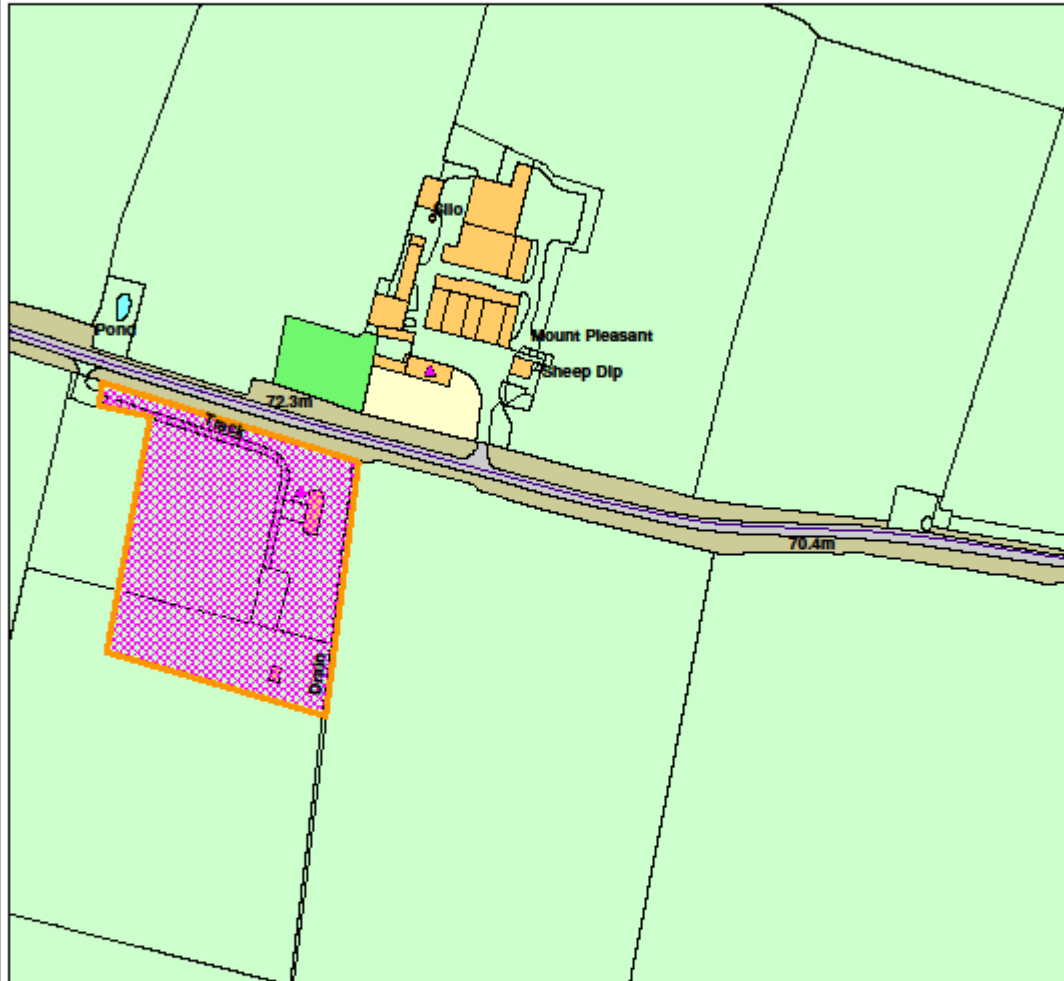
- 2.1 The site is not allocated for the use proposed and the site is not covered by any specific landscape, flood risk or other policy constraint. The proposal seeks planning permission for a four-pitch family traveller site. The family are currently occupying the land which the applicant owns.
- 2.2 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:** 1:2,500

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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. A s.78 appeal was dismissed and a planning enforcement appeal determined).
- 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 Councils 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 Governments 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**

- 4.1 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.

- 4.2 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.
- 4.3 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**

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 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.
- 5.6 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 metal clad portal frame building at the site and is addressed in application ZE23/00437/FUL.

- 5.7 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.
- 5.8 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.
- 5.9 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.
- 5.10 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 structure 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."*

- 5.11 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.
- 5.12 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.
- 5.13 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**

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



## Human Rights

- 6.2 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.
- 6.3 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'*.
- 6.4 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.
- 6.5 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.
- 6.6 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.
- 6.7 Article 14 states that rights under the convention is to be secured *' without discrimination on any ground such as .... Race....'*
- 6.8 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

- 6.9 The applicant and his family are Romany Gypsies. Romany Gypsies 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
- 6.10 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

- 6.11 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

- 7.1 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

- 7.2 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

- 7.3 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

- 7.4 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.

- 7.5 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.
- 7.6 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.
- 7.7 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
- 7.8 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.
- 7.9 Paragraph 26 of the PPTS notes that in considering applications, LPA's should attach 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 healthy 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
- 7.10 The PPTS advises LPA's to consider how objections to proposals could be overcome using planning conditions or planning obligations.
- 7.11 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'.*

- 7.12 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.
- 7.13 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

- 7.14 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.
- 7.15 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”.*

- 7.16 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**

8.1 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

8.2 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

8.3 Following the most recent amendments to the scheme, the Parish Council has provided further comments which are summarised below.

- Previous objections still stand
- The officer report says no loss of amenity but NYC has failed to investigate numerous noise complaints regarding this site
- Most of the information is out of date, including that many of the special needs children have now left the site. Question the number of children on the site
- No requirement for a separate amenity block when static caravans are equipped with kitchens and bathrooms
- Encroachment into the countryside
- Bio-disk should be shown as retrospective
- Against the removal of the occupancy restriction
- The site is not needed there is existing availability on other official sites
- Have the conditions at Tara Park been investigated/ addressed?
- Condition to have the site cleared if the family move on must be adhered to

Division member

8.5 No comments received.

NYC Highways

8.6 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

8.7 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

8.8 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

8.9 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

8.10 No comments received

Tree and Landscape Officer

8.11 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

8.12 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

- 8.13 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

8.14 Following the most recent amendments to the scheme and a covering letter from the agent, further representations have been received. These all object to the scheme and a summary of the comments made is as follows:

Clear that the applicant wants this as a permanent site and not just for his own family

- The communal amenity block was 123m<sup>2</sup>. The separate blocks have a combined area of 144m<sup>2</sup>. A 17% increase.
- The amenity blocks lend themselves to permanent occupancy
- The amenity blocks do not have to be permanent brick built structures
- The Officer report is biased and discriminatory against the 76 local residents who objected to the initial application
- Should be rejected and enforcement action taken
- If minded to approve this should be strictly time limited to 5 years to allow children to complete primary school education
- Object to the extra accommodation which can easily be turned into bedsit accommodation
- Other toilets are proposed (in the other application) to why do the communal rooms require bathrooms?
- Object to any removal of restrictions limiting the use of this site to this family
- Concern that the applicant does not want a condition to clear the site as this would restrict what they can do in the future

- There has already been a failed application by the family for a similar site in Lancashire
- Noise complaints to the Council have not been investigated
- Planning breaches have not been acted upon
- Fails to take account of the suggestions of the committee to move the site to the existing hard core area
- Due process has been ignored
- The applicant continues to undertake unapproved land use eg the number of caravans has increased
- Amenity of neighbours is blighted
- Site is being industrialised
- Does not respect rural norms or the amenity of neighbours
- Should be resoundingly rejected
- No support for this at any level
- Council can't ignore the strength of feeling and the detrimental effect on the local community in Cornborough
- 12 caravans at the site at last count
- We are all entitled to Human Rights and Equality
- Insufficient time to consider further information
- Can't believe that you are considering an application for four families when you know that there are more than double that at the site already

## **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

- 11.1 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 7.2 – 7.12 above).

#### Need, Provision of sites and alternative sites

- 11.2 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.
- 11.3 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.)
- 11.4 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.
- 11.5 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, with one pitch vacant but without legal possession. It has also been confirmed at the time of writing, that 3 families are in the process of applying for these pitches. 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.)

- 11.6 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.
- 11.7 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'*.
- 11.8 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.
- 11.9 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.
- 11.10 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.
- 11.11 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 .

- 11.12 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.
- 11.13 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.
- 11.14 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
- 11.15 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.
- 11.16 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.
- 11.17 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'.
- 11.18 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.

- 11.19 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.
- 11.20 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

- 11.21 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.
- 11.22 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.
- 11.23 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.
- 11.24 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.

- 11.25 Comments have been made alleging that children with special educational needs are not currently living at the site. Members should be aware that statutory responsibilities relating to the rights of the child apply to all children and not just those with specific needs.

#### Intentional Unauthorised Development

- 11.26 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.
- 11.27 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

- 11.28 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.
- 11.29 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.
- 11.30 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.

11.31 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

11.32 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.

11.33 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.

11.34 Objectors have questioned the need for amenity/ day room buildings, noting that most caravans include toilet/ wash and cooking facilities. It is understood that the separation of cooking, washing and sleeping accommodation is part of Romany Gypsy culture. In part this is likely to account for why day room/amenity buildings are an important feature of pitch design.

11.35 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.



11.36 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 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

- 11.37 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.
- 11.38 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.
- 11.39 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.
- 11.40 The site is visible from the Sheriff Hutton Bridge – Stillington road to the south and the existing 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.
- 11.41 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.

- 11.42 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.
- 11.43 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

- 11.44 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

- 11.45 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.
- 11.46 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.
- 11.47 Some objectors have raised concerns that noise complaints have not been investigated by the Council. The Council has received planning enforcement complaints regarding the unauthorised development at the site. However, there are no record of formal noise nuisance complaints having been made to the Council. Environmental Health Officers, former Community Team Officers and the local

policing team members have no record of complaints of noise or disturbance from the site.

#### Ecology

- 11.48 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

- 11.49 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.
- 11.50 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 was asked to clarify and a revised document has been provided). Whilst caravans are exempt from Building Regulations, the proposed amenity buildings are not and a soakaway to cater for run off from these buildings will require Building Regulations approval.

#### Other Issues

- 11.51 Members are reminded that impact / perceived impact on property value is not a material consideration in the determination of the application.
- 11.52 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.

- 11.53 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.
- 11.54 One objector has suggested that a temporary permission (circa 5 years) would enable the family to remain at the site whilst the children complete their primary school education. This would be the case and a temporary permission could also cover a significant period of the time required to identify any new Gypsy and Traveller sites which are needed as part of the North Yorkshire Local Plan. Notwithstanding this, members are reminded that the application is for pitch provision to provide a permanent settled base for the family and the personal circumstances argued in support of the application are not limited to the presence of young children at the site.
- 11.55 An objector has raised concerns that the officer report is biased and discriminatory to objectors. The report considers the application and all of the issues that it raises against the policies of the development plan and other material considerations. The recommendation follows the consideration of all of these matters in the planning balance and is an officer recommendation. Concerns have also been raised that Officers have discussed the application with the applicant and his agent. The application is the applicant's application and it is not unusual for discussions to take place with the case officer.

## **12.0 PLANNING BALANCE AND CONCLUSION**

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 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. 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.

- 12.5 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.
- 12.6 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.

### 13.0 RECOMMENDATION

#### 13.1 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:  
  
Single Day room, floor plans and elevations 71239:1004 (Date scanned 30/5/24 )  
Proposed Block Plan 71239:1001 C (Date scanned 30/5/24)  
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 or large touring caravan. All caravans at the site shall 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/ day room 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.

**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