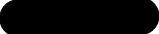


Your Ref: 2020/1126/COU

Our Ref: SV/MCR/

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Planning Department
Selby District Council,
Civic Centre,
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BY EMAIL & POST

28th January 2021

Dear Mr Bell

CHANGE OF USE OF LAND TO USE AS A SIX PITCH RESIDENTIAL CARAVAN SITE FOR SIX GYPSY/TRAVELLER FAMILIES, EACH WITH TWO CARAVANS AND AN ANCILLARY AMENITY BUILDING, TOGETHER WITH THE LAYING OF HARDSTANDING AND CONSTRUCTION OF NEW ACCESS

I write on behalf of my client, Hillam Parish Council ("HPC"), to submit representations to the above planning application.

In the first instance, you should be aware that I consider the detailed and supporting information accompanying the planning application to be inadequate for you to arrive at a robust recommendation, and indeed to properly determine the proposals. From my review of the application package it is unclear exactly what the applicant is seeking to develop on the site. There appears to be a mismatch between the content of the application form (Question 5: The 'Description of Development' states the site is to be used for six gypsy/traveller families) and the Design and Access Statement (Page 1: states that the site will be used for eight gypsy traveller families). Both documents are of course, part of the planning application, and this conflict needs to be resolved with the applicant urgently. In the meantime, I have assumed that the description of the proposal in the planning application form is accurate.

Notwithstanding and having assessed the available information, the proposed development is contrary to a number of important planning policies and guidance within the Development Plan, and government policy. I believe that this conflict with policy has not been outweighed by material considerations and that planning permission should therefore

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be refused. My rationale and reasoning, along with detailed consideration of the issues, is set out for your convenience below under several sub-headings.

Proposal

This application seeks approval for the material change of use of land for the stationing of residential caravans. The planning application form states that the proposal is for a residential caravan site for six gypsy/traveller families, each with two caravans and an ancillary amenity building together with the laying of hard standing, landscaping and the construction of a new access.

The Design and Access statement submitted as part of the planning application states that the site will be internally divided into four pitches along either side of a central access road. These pitches will be divided with the use of post and rail fencing, with the frontage to Hillam Lane being defined with landscaping and fencing comprised of concrete posts and wooden panels.

The application package includes a foul drainage assessment form which states that it is proposed to use a Package Treatment Plant arrangement that will, in turn, discharge to a drainage field or soak away. The assessment form also states that the drainage field /soak away is to be located 10 metres from any water course /land drain, and at least 50 metres from any point of abstraction for drinking water supply, but does not specify exactly where this discharge will be located.

The layout plan submitted with the planning application shows six pitches (three either side of the access Road) and a paddock area to the North. Within the application package are floor plans and elevations for the amenity buildings. These buildings are approximately 4 metres by 3 metres. The single ridge design has a total height of 3.5 metres. From the layout plan it appears that each of the six plots includes the development of one of these amenity buildings.

The layout plan also shows an area of porous tarmac is to be provided at the junction with Hillam Lane, and that the remainder of the hard standing areas of the site are to be laid with permeable stone. The site boundaries and internal layout are to be set out with a mixture of new hedgerow planting, tree planting and a mixture of post and rail and screen fencing.

The certificate submitted with the application confirms that the applicant, Mr Francis Quilligan, is the owner of the site. The application form also states that the application site is not part of an agricultural holding.

For good order, the applicant should be required to clarify the exact nature of what is being proposed including the number and layout of pitches, the number of families and the total number of inhabitants. Without this information, all consultee responses are limited to the principle of a residential caravan site, rather than any assessment of the likely impact of the

quantum of residents and activity on the site (such as vehicle movements generated, foul sewage, noise and activity).

Planning Policy

The development plan for the purposes of determining this application is the 'saved' policies of the Selby District Local Plan and the adopted policies of the Selby Core Strategy Local Plan.

The application site is identified in the Selby District Local Plan Policies Map as falling within the Open Countryside and Green Belt.

The emerging PLANSelby, Local Plan is not at an advanced stage of preparation. The Preferred Options version of the plan is due for release early in 2021, and a draft of this document has been presented to the Executive of the District Council, whom approved it for publication on the 29th January 2021. Whilst, the policies are unlikely to have been fully examined prior to the determination of this application proposal, they provide critical information about the Council's proposed strategy for meeting the needs of travellers in the District.

Also of relevance, in relation to the emerging plan, is that the Council have completed an extensive 'Call for Sites' exercise. The results of this exercise are available on the Council's website. The application site has not been promoted through the plan preparation process, nor has the applicant made any attempt to promote any alternative site within the District as part of this process.

As part of the preparation of the emerging plan the Council have also undertaken a Gypsy Traveller Accommodation Assessment ("GTAA") which provides pertinent data with regard existing facilities and forecasts for the need for new facilities.

In addition, Ministry of Housing, Communities and Local Government ("MHCLG") issued Planning Policy for Traveller Sites ("PPTS") in March 2012. This was updated in August 2015 and represents specific guidance with regard the development of traveller sites throughout England. The document should be read in conjunction with the NPPF.

The development plan and National Planning Policy Framework ("NPPF") provides that planning decisions should apply a presumption in favour of sustainable development when determining planning applications, and states that applications for proposals that accord with an up-to-date development plan should be approved without delay. The NPPF goes on to provide that the development plan is the starting point for decision-making, adding that where a planning application conflicts with an up-to-date development plan it should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Issues

The primary issue in relation to the determination of this proposal against adopted policy is the sites location within the Open Countryside and Green Belt, and consideration of the application against policy SP11 of the adopted Core Strategy. In addition, the proposal raises questions of prematurity, visual impact, highway safety, residential amenity and flooding that require consideration against the relevant policies of the Local Plan.

I consider each of these issues in turn below.

Site Location in the Open Countryside

The site is located outside of development limits in the open countryside.

Policy SP2 of the Core Strategy directs all new development to the Market Towns and Designated Service Villages (“DSVs”), restricting development in secondary villages and the open countryside. Whilst policy SP2 states that limited amounts of development *may* be absorbed *inside* the Development Limits of Secondary Villages, such development must also be demonstrated to enhance or maintain the vitality of rural communities *and* conform to the provisions of policy SP4 and policy SP10 of the Core Strategy. Last in the sequence of development preference is the open countryside.

Criterion c) of policy SP2 provides that development in the open countryside will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes. In addition, the policy allows for well-designed new buildings of an appropriate scale, which would contribute toward and improve the local economy and where they will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.

As described above, the application site is located on land that is outside of the defined Development Limits of the District. These settlement boundaries were established through a thorough and detailed consideration of the then emerging development plan, and the opportunity to amend these boundaries is currently underway within the current emerging development plan.

There is no existing building on the site to be reused, replaced, or extended. Consequently, the proposal can only be considered against the latter portion of the policy which provides for ‘well-designed new buildings of appropriate scale’. The proposal must also be demonstrated to contribute to the local economy as well as maintain the vitality of the local community.

From the limited information available, the design of the site will appear as a large, contemporary developed area in the open countryside. The vehicles and caravans that already occupy the site are visible from a substantial distance and, whilst some planting and fencing is proposed, there is no indication that this will significantly alter the visibility of these features. Similarly, there is no evidence that the design of the proposal is either 'well designed' or 'appropriate' in this rural location.

For the purposes of this policy the 'appropriateness' of the application proposals is mainly a visual assessment of the scheme and its appearance in the context of the surrounding area. There are several key viewpoints within the surrounding area that will need to be assessed as part of the consideration of the application. For ease of reference, I have set these viewpoints out on the attached plan.

In summary, viewpoint 1 provides a clear view of the application site from a layby on the A162, to the west. Whilst there are large infrastructure features (Powerlines and Eggborough Power Station) also visible, these are features that have a historic relationship with energy generation and transmission uses in the area, and the role that the area plays in the national supply of electricity. It is notable that there are very few domestic features within this view.

In relation to viewpoint 2, again this is a long-distance view of the site with limited intervening vegetation and topography between the application site and the viewpoint.

Viewpoint 3 is taken from the public right of way between Betteras Hill Road and Hillam Lane (Route Code: 35.37/3/1). This is an important route for local walkers and connects into a wider network of paths and rights of way in the surrounding area. The site is clearly visible and has no clear relationship with any other feature in the landscape.

Viewpoints 4 and 5 are both closer to the application site and provide short distance views of the site from the Hillam Lane. This is representative of the views of the site for the road users and demonstrates the likely ineffectiveness of the landscaping proposed to screen the visual impacts of the site. Hillam Lane is at a slightly elevated position in relation to the site and provides road users with a clear view into, around and over the application site.

In conclusion on this issue, when viewed from the above viewpoints, the proposed structures and vehicles on the site will be easily visible in the local and wider area. Whilst the proposals to 'screen' the site are basic and offer only rudimentary cover, there is little comfort that even a more extensive landscaping and mitigation scheme has the potential to adequately address the visual impact of the proposal. Consequently, I conclude that the proposal is inappropriate in the open countryside and will appear as an alien and incongruous feature in the local area. As such, the proposals cannot reasonably be considered to be 'well designed' for the purposes of this policy.

Having reviewed the application package, it is clear that the applicant has made no meaningful attempt to provide any case or evidence with regard either to the contribution that

it may be able to make to the vitality of the rural community, or its compliance with policies SP4 and SP10.

Having reviewed these policies myself, SP4 relates to the management of residential uses *in* settlements and is not of relevance. Policy SP10 relates to the rural exception sites, and whilst the proposal is not specifically for 'residential' development, the approach to the assessment of 'exceptions' is of use.

Policy SP10 makes it clear that such exceptions will only be acceptable; 'within' or 'on the edge of' Designated Service Villages and Secondary Villages where they are small scale and represent 'affordable housing'. The scheme currently before the Council is in the open countryside and proposes open market accommodation, rather than any form of development which is discounted. The three criteria within the policy must also be met.

The proposal fails the first criterion due to its location outside and remote from the defined development limits of an identified settlement.

The second criterion relates to the proposal's ability to meet a local need, identified by a survey. In this regard the applicant appears to consider the scheme will meet the needs identified in the 2018 Gypsy and Traveller Accommodation Assessment ("GTAA"). The detail of this assessment is considered later in this letter; however, I consider that the proposal fails to meet the requirements of this criterion.

The last criterion requires that the proposal be sympathetic to the form and character and landscape of the village, as well as according with normal development control criteria. I have already considered the appearance of the proposal under policy SP2 of the Core Strategy Local Plan, where I conclude that the proposal is inappropriate in the open countryside and will appear as an alien and incongruous feature in the local area. There is no indication that the scheme would be appropriate or sympathetic to the form and character of neighbouring settlements and therefore the requirements of this criterion and policy SP10 have not been met.

In summary, given the location of the site and the very limited information submitted in support of the application, the proposal is clearly contrary to Policy SP2A(c) of the Core Strategy. The applicant has not provided a case with regard to material considerations that may be considered to outweigh the adopted development plan and therefore there is no ability to outweigh the clear conflict with the adopted development plan policy.

Green Belt

The application site is located within the adopted Green Belt. Core Strategy policy SP3: Green Belt, and the NPPF provide that planning permission will not be granted for inappropriate development in these locations unless the applicant has demonstrated that Very Special Circumstances exist to justify why permission should be granted. NPPF confirms

that these Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, *and* any other harm resulting from the proposal, is clearly outweighed by these considerations.

In balancing the consideration of Very Special Circumstances against these harms paragraph 144 of NPPF provides that 'substantial weight' needs to be attached to *any* harm to the Green Belt. The applicant at page 2 of the Design and Access Statement accepts that the proposal constitutes inappropriate development in the Green Belt, that it will reduce openness and encroach into the countryside. There is therefore no need to consider the application against the exceptions set out within paragraph 145 and 146 of NPPF.

The applicant's case in relation to Very Special Circumstances is set out on page 2 of the Design and Access Statement under the title 'Policy Considerations'. The applicant's case firstly cites the assessment of need carried out on behalf of the Council in 2018 which identified a requirement for the provision of up to 44 permanent pitches in the period 2018-33. The applicant's agent states that there have been no new pitches granted permanent planning permission in Selby since those granted on appeal at New Road, Drax and Main Street, Towton.

The applicant's document goes on to confirm that policy SP11 of the Core Strategy provides that the Council will ensure an adequate supply of traveller sites and that a 5-year supply of deliverable sites and broad locations for growth will be provided in the Site Allocations Local Plan.

In reviewing the availability of existing traveller sites in Selby the applicant's agent states that existing sites are full, and indeed at the time of the GTTA (May 2018) that there were 40 households living on temporary, tolerated, or unauthorised sites.

In summary, the applicant considers that there is an identified, unmet need; a lack of alternative sites and an absence of a five-year supply of deliverable land for new sites, and that these are all matters which should carry substantial weight in favour of the proposed development. They appear to consider that these represent material considerations to which substantial weight should be attached and are circumstances which could be considered 'very special'.

The applicant goes on to reference the 2014 appeal decision for the 10 acres caravan site nearby, and the Council's acknowledgement that local opposition may make it difficult to obtain planning permission for a gypsy/traveller site. The applicant then goes on to cite the area of the district identified as Green Belt and the fact that much of the district lies within flood areas, as additional difficulties in identifying a suitable site.

In relation to sustainability, the letter concludes this matter with a cursory assessment of the sustainability of Monk Fryston as a general location for development. This assessment appears to be entirely reliant upon its designation as a Designated Service Village ("DSV").

This concludes that the application site is, therefore, situated within a reasonably sustainable location .

In summary, the applicant's case on Green Belt confirms the inappropriateness of the proposal and provides a case for Very Special Circumstances on the basis of the following matters:

- There is an unmet need for gypsy/traveller accommodation within Selby,
- The council have acknowledged it may be difficult to secure planning permission due to local opposition,
- There are few available alternatives in the District due to Green Belt and flooding constraints,
- The nearby DSV makes the location sustainable for such development.

For good order, I confirm that following my assessment to the proposal I agree that the application represents 'inappropriate development' for the purposes of considering the application against planning policy in relation to Green Belt. I note the applicant's case with regard Very Special Circumstances, and I consider each of the issues identified by the applicant in turn below.

Firstly, in relation to need PPTS states that unmet need (such as a lack of a 5-year supply) is unlikely, alone, to outweigh harm to the Green Belt so as to establish very special circumstances. This is an important principle when the applicant's case in support of the proposal relies so heavily on this issue.

However, having reviewed the Council's latest assessment of need for gypsy/traveller sites within the district, the study was prepared to ensure a robust evidence base to assess the housing needs of the travelling community for the period 2018 -33. The Study was commissioned to ensure that the needs and requirements of this community were fully understood and met in the drafting of the emerging Local Plan. The intention of the Council is clearly to ensure that the requirements of policy SP11 of the Core Strategy are fully met.

The need for gypsy and traveller accommodation identified within the GTAA for the 15 year period between 2018-33. Whilst the applicant states that the GTAA identifies a requirement for the District Council to have currently identified a total of 44 pitches, this appears to be a misinterpretation of the conclusions. For this period the document identifies a need for an additional 8 pitches within the district. The GTAA provides that 5 of these pitches are required in the period 2018-23, with the remaining 3 required in the period 2028-33. The applicant has overstated the level of unmet need within the district.

Since the publication of the GTAA there have been several important developments in relation to the supply of suitable accommodation. Firstly, the existing traveller site at Great North Road, Newthorpe has received a temporary consent to 12th June 2025 (SDC Ref: 2019/0030/COU) to extend the current facility to accommodate a further 12 pitches. The

permission is subject to several conditions requiring the submission and approval of detailed matters. These conditions are the subject of a current application (SDC ref: 2020/1149/DCO) to discharge these requirements which is currently awaiting determination. There is no indication that this facility is undeliverable or will otherwise fail to contribute to meeting needs identified in the GTAA.

Whilst the permission is temporary in nature the officers report to Committee 29th April 2020 at paragraph 6.4 makes it clear that the limited nature of the permission was justified whilst the Council sought to consider and establish their preferred approach to meeting the needs of Gypsies and Travellers in a comprehensive and 'plan led' manner. In short, the permission was only temporary because the Council wanted to consider all options before supporting the permanent development of this site to meet needs.

With the above in mind, the likely delivery of this temporary facility needs to be appreciated in light of the Council's very recent identification of the site in the emerging Preferred Option Local Plan, as an allocated site for Gypsy/Traveller accommodation. It is clear that the Council have now completed their considerations of the most appropriate and sustainable method by which to meet identified needs and have arrived at a site allocation and criteria based policy. Page 218 of the emerging Preferred Options Consultation document identifies the Newthorpe site as suitable for removal from the Green Belt and the provision of 12 pitches, each containing 2 caravans and an amenity building. The effect is that the temporary provision on the site would become supported as a permanent facility by the Council.

In addition to the temporary permission and proposed allocation at Great North Road, Newthorpe, a further source of provision has been granted permission at Broach Lane, Kellington (SDC Ref: 2018/1299/FUL). This permission was granted conditional planning consent on 29th May 2020, and proposes the provision of 8 pitches and the erection of associated amenity blocks. This provision was not included within the available supply considered within the GTAA, and therefore needs to be assessed as contributing to meeting the need identified in that report.

In summary therefore, it is not only clear that the applicant has overstated the need for further gypsy/traveller facilities, but that identified need in the GTAA has been permanently met through the development of the Broach Lane, Kellington site. This is likely to be substantially exceeded if the Councils strategy of allocating the site at Great North Road, Newthorpe is adopted into the emerging PLANSelby. Whilst this is not formally adopted the existing development on the site would be unchanged from its current appearance and given the satisfactory operation of this existing facility I consider it to be likely that the allocation will be formally adopted in its current form.

In relation to the Council's comments during the 10 acres appeal, it is reasonable for either party during the course of an appeal to acknowledge the difficulties in securing planning permission for forms of development that may raise local objections. This does not however

materially change the policy issues with which to determine either that proposal, the proposal currently before the council, or indeed any other proposal in the district. It is an established planning principle that the number of objections to any planning application is only material insofar as the content of those objections and the planning issues raised. On my reading of paragraph 28 of the 10 acres appeal decision, the Council is acknowledging the likely opposition of local residents to such proposals but is not claiming that the weight of opposition is a material planning issue. I consider that this is the correct approach.

The applicant makes the point that there are few available alternative sites within the district due to Green Belt constraints and flooding issues that are found in the surrounding area. Whilst these constraints will necessarily limit the availability of sites for gypsy/traveller accommodation, these are not specific to this type of proposal and affect all forms of development across the district. There is no evidence presented within the applicant's submission to suggest that they have undertaken any form of consideration of alternative sites and locations.

The applicant's apparent reliance on the site search undertaken by the residents on the 10 acres caravan site in the Selby area is insufficient and out of date and does not provide a robust basis upon which to promote such a circumstance.

As such the claim that there is no alternative site within the district cannot be substantiated, and therefore should be attributed no weight in the consideration of this application proposal.

Lastly, the applicant claims that the proximity of the application site to Monk Fryston/Hillam provides sufficient ease of access to services and facilities within those settlements to enable the application site to be considered sustainable. Whilst it is accurate that these settlements have been identified within the adopted Core Strategy as Designated Service Villages that are capable of accommodating additional limited growth, the policy that sets out the growth strategy for the district makes it clear that these limited amounts of residential development will be expected to occur *within* development limits. Policy SP2(A (b)) provides the following:

"The location of future development within Selby district will be based on the following principles:

The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints.....

The following designated service villages have some scope for additional residential and small scale employment growth to support rural sustainability and in the case of Barlby/Osgodby, Brayton and Thorpe To complement growth in Selby ...

Monk Fryston/Hillam ¹²”

[*my emphasis*]

In this regard policy SP2 makes it clear that firstly, any new development within these settlements is not automatically to be deemed ‘sustainable’ but that the principle of limited development in these locations is intended to ensure that a sustainable overall spatial development strategy for the district is pursued. In this regard, any development within these locations is dependent upon the anticipated role, the level of local housing need and the particular environmental, flood risk and infrastructure constraints that are present.

Secondly, it is clear from the policy that development will be expected to occur *within* the Designated Service Villages established settlement boundaries. Whilst the applicant may seek to make a case that the proposal site is in proximity to services and facilities found within these settlements, it is inaccurate to claim that policy SP2 supports or seeks to establish development in the areas of open countryside that surround these settlements.

Lastly, that the settlement of Monk Fryston/Hillam is constrained by Green Belt and that any alterations to the boundary to which this policy applies will be undertaken as part of a future development plan review. This is an important point which has been touched on earlier in this section of my letter and I will examine in detail in the next section.

In conclusion, having regard to all of the above considerations I am firmly of the view that the circumstances cited by the applicant in support of the proposal are insufficient to be considered either ‘very special’ or to attract sufficient weight to ‘*clearly outweigh*’ the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal’. It is worthy of note that the conflicts with planning policy noted elsewhere within this letter represent ‘other harms’ for the purposes of this Green Belt balancing exercise.

As such, very special circumstances for the purposes of policy SP3 and paragraph 144 of NPPF, have not been demonstrated and planning permission should therefore be refused.

Prematurity to an emerging Development Plan

Having regard to the above issues it is clear that the Selby District Core Strategy Local Plan anticipated a number of issues that would be addressed during the preparation of a further development plan document. Whilst this further document was originally anticipated to be the Site Allocations Local Plan, the preparation of this document has now been abandoned in favour of a comprehensive Local Plan.

¹ villages with close links and shared facilities

² these settlements are to varying degrees constrained by green belt. It will be for any green belt review, undertaken in accordance with policy CPXX (SP3), to determine whether land may be removed from the green belt for development purposes.

The emerging Local Plan provides detailed consideration of both need to adjust Green Belt boundaries in specific locations, the preferred location for the development of gypsy/traveller facilities for the plan period, and a criteria based policy to provide a robust framework for the consideration of proposals that come forward on unallocated sites. The application does not fall within the Preferred Option allocated site, remains within the retained Green Belt boundary and fails to meet the requirements of the criteria based policy (HG13 - gypsy and traveller sites) set out within the emerging Local Plan.

Given the relatively small quantum of need for gypsy and traveller provision the application proposal would provide more than double the anticipated requirements for such facilities (set up within the GTAA) for the entire 20 year plan period (2020 to 2040). As such the application proposals have the potential to substantially undermine the emerging strategy set out within the Preferred Options Local Plan.

Whilst NPPF makes it clear at paragraph 50 that refusal of planning permission on grounds of prematurity will seldom be justified when a draft plan is yet to be submitted for examination, in this case the proposal provides for not only a doubling of the required provision of such accommodation but also undermines a proposed change to the Green Belt boundary in Newthorpe. Consequently, I consider that the proposal has the potential to prejudice the outcome of the emerging Local Plan policies.

In this regard whilst the guidance within the NPPF is clear that prematurity to an emerging development plan will seldom be justified at this stage, the application proposal has the potential to fundamentally undermine the council's emerging strategy in relation to gypsy and traveller accommodation. In this circumstance, I consider that a refusal on this ground is justified.

Amenity

The levels of amenity anticipated to be available to the proposed residents of the site are relevant to the determination of the planning application. The application site is in a relatively remote location from sources of noise and disturbance that are not generated on the site. Consequently, the visual outlook from the proposed caravans will be acceptable and no significant overshadowing will take place. In relation to light pollution however traffic moving along Hillam Lane is likely to create disturbance from both dipped and full beam headlights during the night shining into windows and doors. This will be particularly prevalent from the headlights of vehicles using Hillam Road, as they approach the site from the west.

I note the application proposal for landscape screening to the boundary of the application site however this is unlikely to form a significant boundary to noise and light for a number of years, and there are no interim measures to protect residents in the meantime.

Having visited the site on two occasions now it is clear that it does not currently drain sufficiently to enable reasonable use of the site for either pedestrians or vehicles. Whilst the application proposals include the provision of permeable tarmac and gravel hard standing areas There is no indication as to how these features will be drained satisfactorily (including the provision of traps and filtration systems for hydrocarbons and other potential pollution pollutants). In this regard the proposal also conflicts with policy SP18 of the Core Strategy which requires :

The high quality and local distinctiveness of the natural and man made environment will be sustained by:

7. Ensuring that new development protects soil, air and water quality from all types of pollution

Whilst the existing residents of this site are understood to be the applicants, and they are presumably happy to see the site be developed as proposed, planning policies require that the issue of amenity is considered objectively and assessed on behalf of existing *and* future occupiers. In this regard the effects on residents need to be considered, regardless of the applicant's apparent willingness to accept the inevitable impact upon their amenity, the planning decision needs to be made with an objective eye.

In this regard Hillam Lane passes within close proximity to the front of the application site. This proximity will expose current and future residents to noise and vibration through the normal comings and goings of vehicles, pedestrians and servicing associated with this route between Hillam and the A162.

These noise, vibration and light impacts will result in an unacceptable impact upon the amenity of the current and future residents of the site. Consequently, the proposal conflicts with policy ENV1 of the adopted Selby Local Plan.

Highway Safety

The application proposals are not accompanied by any formal assessments of the ability to access and egress the site in a safe manner. The speed limit on the section of Hillam Lane to which the new junction is proposed to be formed is 60 mph (national speed limit). The application site is located with its only point of access joining Hillam Lane on a bend. Hillam Lane in proximity to the site has been the subject of two reported vehicle crashes in the last five years. One of these crashes (occurring on 17 March 2016) is noted as a Serious Incident Causing one casualty³, and it is understood that the casualty later died as a consequence of their injuries.

³ Source: crashmap.co.uk

With this in mind I am concerned that the increasing vehicle movements and creation of a new junction that is proposed to be used by large vehicles towing potentially long caravans and trailers, alongside vehicles such as refuse collection, delivery lorries and vehicles associated with the various businesses which are proposed to operate from the site, will conflict with other road users in this location.

Whilst the applicant proposes visibility splays on one of the drawings accompanying the application, it is unclear how these have been arrived at, and to what specification they are designed to.

In my opinion such a proposal would require the development of acceleration and deceleration facilities to assist large and slow-moving vehicles in joining traffic already making its way along Hillam Lane. An assessment of the effective operation of the proposed junction arrangement is also required in order to demonstrate that vehicles are able to use the carriage way and complete manoeuvres without undue risk to the public.

Without such information I consider the application proposals are in conflict with guidance contained at paragraph 109 of NPPF and policies of the Core Strategy Local Plan that require all development to achieve a high level of design and sustainability.

Ecology

The development of the proposal requires the permanent removal of the grasses and vegetation that previously occupied the site. Having reviewed the application documentation, there is no assessment of the ecological impact of the proposal. This is notwithstanding the fact that these habitats have been identified as important by DEFRA as supporting a rare species of bird, Corn Bunting.

I am sure that officers will be familiar with the correct approach to be taken in investigating the potential for species protected under the Wildlife and Countryside Act. It is critical that, when considering the development proposal, the planning authority is in possession of relevant surveys and information prior to making any decision. Of course, the survey work should only be requested where there is a reasonable likelihood that such protected species are in existence. In this regard it is well documented that neighbouring sites within the surrounding environs can provide abundant opportunities for these birds.

In order to establish whether a potential development site is likely to be of significance to these birds, it is necessary to check for activity. This is generally undertaken by experienced surveyors using approved methodologies and equipment. The absence of this information makes the situation with regard this application directly analogous with the "Cornwall case" (Regina vs. Cornwall County Council ex parte Jill Hardy; [Sept 2000]) where, to quote from the judge's summing up of the case:

“Preliminary surveys in the light shafts for roosting bats were undertaken but none were found. The ecological survey stated, however, that it was possible that the open shaft in arsenic works would support bats but more detailed underground surveys were required”.

In this judgement it was held that the local authority cannot grant planning permission until the surveys, which would provide the data for a detailed evaluation of the bat interest and the significance of any impact, have been completed.

Until this information is provided, I consider the determining authority is unable to reach a decision with regard the proposals. It follows therefore that until full information is available with regard the proposal’s potential impact on protected species, any grant of planning permission, including a decision conditional upon the completion of further survey work, would be unlawful and open to challenge.

The proposal is therefore contrary to the national policy set out within the NPPF and the provisions of Wildlife and Countryside Act.

Agricultural land classification

Having reviewed the Agricultural Land Classification Maps provided by Natural England the application site falls within an area noted as ‘very good’ land quality.

Policy SP18 of the Selby Core Strategy Local Plan requires that the high quality and local distinctiveness of the natural and manmade environment will be sustained through (criterion 9) steering development to areas of least environmental and agricultural quality. The purpose of this policy is to ensure that finite assets such as the availability of ‘excellent’ and ‘very good’ quality agricultural land are maintained and protected into the future.

Of the five different classifications of agricultural land the application site falls within the second highest category. Therefore it's permanent development for use as a gypsy/traveller site would conflict with the aim of criterion 9 of policy SP18 of the Core Strategy Local Plan.

Other Matters

I am aware that the applicant has made a number of points in the parallel legal proceedings that are currently ongoing between the landowner and the Council, in relation to the ill health of the occupants of the site. Whilst no such claim has been made in the planning application documents; it is pertinent to highlight for guidance in this regard within the NPPF. Paragraph 91 reads:

“Planning policies and decisions should aim to achieve healthy, inclusive and safe places which;

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other.

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.”

Whilst no such point is made in support of the application it is worthy of note that all proposals should look for opportunities to achieve the three aims set out above. In considering the application proposals the council must obviously have in mind the Potential for the occupiers of the site to establish an isolated and inward-looking community, the fear of crime in relation to the quality of life of the occupiers of the proposal as well as existing residents, and the ability of the proposal to support a healthy lifestyle.

If health is later relied on by the applicant, as either a material consideration or a Very Special Circumstance, I reserve my position in relation to these matters and will potentially seek to make further representations in relation to any case promoted by or on behalf of the applicant.

Conclusion

Having undertaken the above detailed consideration of the proposal against adopted development plan policies that are relevant to the determination of the application, it is clear that the proposal conflicts with key elements of the development plan. The applicant has not identified any material considerations which indicate that any decision other than in accord with the development plan is warranted. Consequently, the Council should refuse planning permission for the proposal in its current form.

Notwithstanding the above, there are clearly features of the proposal which have not been assessed in a full and objective fashion. The lack of these assessments leads me to consider that the application package is incomplete.


Plainly the onus lies with the applicant to demonstrate, through the provision of evidence and information, that the proposal and its effects are assessed fully and the information passed to the Council to ensure that the application is appropriate and justified. The reason for this is to ensure that the level of detrimental impact as a result of the proposed works being approved is reasonable, warranted and, on balance, necessary.

It is axiomatic that any decision to approve planning permission would therefore be based on incomplete information, unsafe and potentially capable of challenge.

I trust that the above is clear however please do not hesitate to contact me if you require any further information or wish me to clarify any of the above issues. I would be grateful if

you could inform me if any further information is submitted in support of the proposal and of the Council's determination of this proposal in due course.

Yours sincerely /

A large, irregular black redaction mark covering the signature area.

CUNNANE TOWN PLANNING LLP

A thick, horizontal black redaction bar covering contact information.

Encl.

View Point Locations

