

RYEDALE DISTRICT COUNCIL

PLANNING COMMITTEE – 1st August 2017

Report of the Head of Planning

Land Off Welham Road Norton Malton North Yorkshire - Reference 17/00001/UD

Purpose of the Report

To advise Members of an alleged breach of planning control and recommend an appropriate course of action.

1. SITE LOCATION

- 1.1 The site is agricultural land that occupies approximately 0.80 hectares of a larger field, to the west side of the Welham Road opposite Whitewall Quarry. The site lies approximately 250 meters outside of the development limit of Malton and Norton and is within the Wolds Area of High Landscape Quality.

2. ALLEGED BREACH OF PLANNING CONTROL

- 2.1 The breach of planning control:

- Without planning permission, the material change of use of the land from agricultural land to a domestic use with the siting of caravans for residential use.
- The erection of a wooden out building.

3. WHEN ALLEGED BREACH FIRST OCCURRED

- 3.1 January 2017.

4. HISTORY AND EVIDENCE OF BREACH

- 4.1 04/00765/AGNOT - Erection of agricultural building for storage to include animal feedstuffs Not granted as planning permission was required.
- 4.2 The Local Planning Authority was first made aware of this development in January 2017. At that time three caravans had been brought on to the site and they were being permanently occupied.
- 4.3 Ryedale District Council (RDC) Officers visited the site in March 2017 and confirmed to the occupiers that a material change of use had occurred and that planning permission was required. The occupiers stated that they wished to make an application to regularise the change of use. They were advised that it would be, without prejudice, unlikely that the Council would support any such application.
- 4.4 RDC officers confirmed this in a letter to the owners of the land on 24 April 2017 requesting that the use be ceased and that the caravans be removed. Notwithstanding this

advice the caravans and structures remain on the land and there has been no application submitted in an attempt to regularise the development.

5. APPRAISAL AND POLICY CONTEXT

- 5.1 There are three caravans on the site, however these are all occupied by one family including six children all under the age of 18. The family have been assessed by Council officers, the children are home schooled and there are no safe guarding issues. The occupiers describe themselves as 'New Age Travellers'. The caravans are located on an area of agricultural land. The boundary to Welham Road is well screened with a mixture of mature native hedgerows and trees. Occupying a position directly adjacent to the western boundary the site is well screened from Welham Road, however it is clearly visible from all other aspects. There are two other agricultural style buildings on site that appear to have been on site since at least 2007 and which are exempt from action.

- 5.2 The relevant planning policy considerations are:

National Planning Policy

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning Policy For Traveller Sites, Communities and Local Government

Ryedale Plan - Local Plan Strategy

Policy SP1 - General Location of Development and Settlement Hierarchy

Policy SP2 - Delivery and Distribution of New Housing

Policy SP4 - Type and Mix of New Housing

Policy SP5 - Sites for Gypsies and Travellers and Travelling Showpeople

Policy SP9 - The Land-Based and Rural Economy

Policy SP13 - Landscapes

Policy SP16 - Design

Policy SP19 - Presumption in Favour of Sustainable Development

Policy SP20 - Generic Development Management Issue

- 5.3 Policies SP1 and SP2 of the Ryedale Plan - Local Plan Strategy states that new housing should normally be directed to the existing settlements within the district.
- 5.4 While it is considered that the principle of residential development and new buildings contrary to national and local planning policies would normally constitute inappropriate development within the open country side, National Planning Policy and Guidance and Policy SP5 (sites for Gypsies and Travellers and Travelling Show people) of the Ryedale Plan - Local Plan Strategy must also be considered.
- 5.5 Policy SP5 safeguards Ryedale's existing Gypsy and Traveller site at Tara Park near Malton. The Ryedale Gypsy and Traveller and Travelling Showpersons Accommodation Assessment 2016. Section 6 - Gypsy and Traveller pitch requirements at 6.18 states 'There is a total need over the next five years (2016/17 to 2020/21) for 15 pitches in Ryedale compared with a supply of 23 authorised pitches (including turnover). The result is an overall capacity of 8 pitches. This means there is sufficient supply from the existing Local Authority site to accommodate existing households and emerging households over the next 5 years'. On this basis it is concluded that very special circumstances do not arise from an unmet need to hold back from taking formal enforcement action.

- 5.6 Policy SP13 of the Ryedale Plan - Local Plan Strategy seeks to protect the distinctive elements of landscape character. It states that the quality and value of Ryedale's landscapes will be protected and enhanced by encouraging new development ... which reinforces the distinctive elements of the landscape character...including the Yorkshire Wolds, the Wolds is valued for its natural beauty and scenic quality and this area there are particular sensitivities given the topography, often resulting in long distance skyline views. The Wolds also has significant historic landscape value and its loss or degradation makes it particularly sensitive to change. The site sits on the fringe of the Yorkshire Wolds and the development of the site with the introduction of the caravans and associated paraphernalia has a significant adverse visual impact on the area of high landscape quality. the proposal is therefore considered to be contrary to Policy SP13 of the adopted development plan.
- 5.7 Policy SP16 of the Ryedale Plan - Local Plan Strategy requires proposed development to integrate well with their surroundings. It is Officers opinion that such a prominent alien feature in an otherwise open rural landscape fails to integrate with the site surroundings in addition the associated domestic paraphernalia adversely effects the rural character of the wider open countryside. The adverse impact on landscape character also contravenes Policy SP20 -character- which also requires new development to respect the character and context of the immediate locality.
- 5.8 The NPPF should be read in conjunction with the Government's planning policy for traveller sites. Local planning authorities taking decisions on traveller sites should also have regard to the policies in the NPPF so far as relevant.

6. HUMAN RIGHTS AND EQUALITIES

- The Human Rights Act 1998 means that it is now, subject to certain circumstances, directly unlawful for a public authority to act in a way which is incompatible with a Convention right. In particular Article 8 (respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of property) apply to planning decisions.
- When a planning decision is made there is further provision that the Authority must take into account the public interest. In the vast majority of cases existing planning law has for many years demanded a balancing exercise between private rights and public interest and therefore the Local Planning Authority's decision making will continue to take into account this balance.

The Human Rights Act is not referred to above because no exceptional circumstances have been raised which require a more careful and sensitive consideration of Human Rights issues.

- In making its decision the Council must also have regard to its public sector equality duty (PSED) under s.149 of the Equalities Act. The duty is to have due regard to the need (in discharging its 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. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- The PSED must be considered as a relevant factor when considering its decision but does not impose a duty to achieve the outcomes in s.149. The level of consideration required (i.e. due regard) will vary with the decision including such factors as:
 - The importance of the decision and the severity of the impact on the Council's ability to meet its PSED
 - The likelihood of discriminatory effect or that it could eliminate existing discrimination.
 - The Council should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic and this impact may be unintentional. In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.
 - Further, the PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Council is also entitled to take into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.
- This recommendation does not raise any equalities issues.

7 WHY IS IT CONSIDERED EXPEDIENT TO SERVE A NOTICE?

- 7.1 The breach of planning control is contrary to the NPPF, CLG's Planning Policy for Traveller Sites (2015) and Policies SP1, SP13, SP16 and SP 20 of the adopted Ryedale Plan - Local Plan Strategy in that the caravans and shed constitute inappropriate development resulting in an unacceptable impact on the openness of the countryside within the Wolds Area of High landscape Value.

8 STEPS NECESSARY TO REMEDY THE BREACH

8.1 This report seeks authorisation to serve a formal enforcement notice to remedy the breach of planning control. In order to achieve compliance the necessary steps include:

1. Cease the use of the land for residential purposes.
2. Remove from the land the three caravans and the timber shed.
3. Restoration of the land to its former condition, through the removal of the additional car parking area and any domestic paraphernalia.

9 SUGGESTED PERIOD FOR COMPLIANCE

9.1 The suggested period for compliance is 6 (six) months in respect of an Enforcement Notice

Recommendation

The Council Solicitor be authorised in consultation with the Head of Planning to issue an enforcement notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring:

1. Cease the use of the land off Welham Road Norton Malton North Yorkshire at Croft Farm for residential purposes
2. Remove from the land the three caravans and the timber shed
3. Restoration of the land to its former condition, through the removal of the additional car parking area