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## Report of the Chief Planning Officer

### PLANS PANEL NORTH & EAST

Date: 5 September 2013

**Subject: APPLICATION 12/03805/CLP - Certificate of proposed lawful use of the land outlined in red on the submitted site plan for the siting of caravans for permanent residential occupation at Moor Lodge Caravan Site, 103 Blackmoor Lane, Scarcroft, Leeds, LS17 9DZ.**

#### APPLICANT

Mr R Brown

#### DATE VALID

1 October 2012

#### TARGET DATE

26 November 2012

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#### Electoral Wards Affected:

Harewood

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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#### RECOMMENDATION:

**GRANT A CERTIFICATE OF PROPOSED LAWFUL DEVELOPMENT**

#### Schedule 1

- 1) Use of Moor Lodge caravan Site, 103 Blackmoor Lane, Leeds, LS17 9DZ shown edged red on the plan date stamped 1 October 2012 for the siting of caravans for permanent residential occupation for no more than 76 caravans. The Caravan Sites and Control of Development Act 1960 defines "caravan" to mean any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent. "Caravan site" has the meaning assigned to it by subsection (4) of section one of the Caravan Sites and Control of Development Act 1960 and in this Part of this Act the expression "caravan site" means land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

## **Schedule 2**

- 2) Moor Lodge caravan site, 103 Blackmoor Lane shown edged red on the plan date stamped 1 October 2012.

Leeds City Council certify that on 5 September 2013 the use described in the First Schedule hereto in respect of the site specified in the Second Schedule hereto and shown edged red on the attached plan is considered to be lawful.

### **1.0 INTRODUCTION:**

- 1.1 This application is reported to panel in light of the sensitivity of this Green Belt site and the implications that the granting of a certificate has. Councillor Rachael Procter has also raised concerns over the effect that the permanent residential occupancy would have on the Green Belt.
- 1.2 Members are advised that planning merits are irrelevant in the assessment of this application for a Certificate of Proposed Lawful Development for use of the site as a residential caravan site and should form no part of the consideration of this application. This certificate simply seeks to establish whether the proposed use is lawful (and by implication does not require planning permission). A certificate granted for a *proposed* use or operation will describe the precise use or operation on a site in the terms considered permissible without the need to make a planning application for it. CLP's are not planning permissions and the planning merits of the use, operation or activity in the application are not relevant to their determination. This is a legal determination which the key test is that whether on the balance of probabilities the proposed use is lawful based on the evidence that exists. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant law (e.g. building regulations, Countryside Act 1981).
- 1.3 The granting of the certificate would allow the existing site to be used for residential purposes within the Green Belt, in light of this it was considered prudent to seek a legal opinion from Counsel. The key issue for the purposes of the certificate application is whether the 1962 permission issued by Wetherby Rural District Council for the use of the land as a "caravan site" authorised use including permanent habitation.
- 1.4 Members should note that there were no occupancy restrictions on the 1962 planning permission and there were no such restrictions proposed in the application (which might have been incorporated in the permission). The definition of "caravan site" in the 1960 Caravan Act likewise does not imply any such restriction. A single condition was attached to the 1962 planning permission for a screen of trees.
- 1.5 Members will note that the recommendation is that a certificate is granted. This is on the basis that the evidence submitted and the opinion of Counsel based on this evidence. Members will also note the wording of the certificate has been deliberately worded so as to restrict the number of caravans and prevent permanent residential structures being erected.
- 1.6 Members are advised that if they are mindful to refuse the application a right of appeal exists.

## **2.0 PROPOSAL:**

2.1 The application is for a Certificate of Proposed Lawful development for use of the Moor Lodge Caravan Site, 103 Blackmoor Lane, Scarcroft, Leeds, LS17 9DZ for use as a residential caravan site. Subsection (1) of section 192 of the Town and Country Planning Act provides for applications to determine whether any proposed use or operations would be lawful for planning purposes.

## **3.0 SITE AND SURROUNDINGS:**

3.1 The application site comprises an area of land that is used as a caravan site and a camping area, all of which is located between Moor Allerton and Scarcroft golf courses, and is located within designated Green Belt.

3.2 Beyond the eastern boundaries are areas of mature woodland, forming part of the landscape of the adjacent Golf course.

3.3 The surrounding area is rural in character, comprising open farmland and areas of woodland.

3.4 The site license allows for 76 caravans to be stationed on the site at any one time and no permanent caravans of such caravans shall take place. Porches may protrude 1.0m into the required 5.0m spacing between caravans. One car may be parked between adjoining caravans provided that the door to the caravan is not obstructed.

3.5 Currently the holiday park is treated as such by its users in that stays extends to weekends or periods of months. There are no users that stay on a permanent basis and Council Tax records show that no-one is charged.

## **4.0 RELEVANT PLANNING HISTORY:**

4.1 11/02749/FU - Use of land to form enlarged caravan park (no increase in the number of pitches for caravans) – Refused 2 September 2011 on the basis that the Local Planning Authority considered that the proposed development would constitute inappropriate development within the Green Belt.

4.2 10/03366/FU – Use of land to form enlarged caravan park – Withdrawn 11 November 2010.

4.3 31/325/99/FU - Change of use of agricultural building to caravan repair and maintenance workshop & caravan site maintenance equipment store - Approved 21 March 2000

4.3 WE/189/F – Caravan Site at Moor Lodge, Blackmoor Lane – Approved on the 21 September 1962 subject to a screen of trees to be planted.

## **5.0 PUBLIC/LOCAL RESPONSE:**

5.1 One neighbour notification letter was issued to the residents of 78 Blackmoor Lane.

5.2 Three letters of objection have been received raising the below points of concern:

- The use of the caravan site would equate to an additional housing estate within the area.
- There is the potential for an increase in the sites density and unit sizes, which would have an adverse effect upon the existing local community.

- The additional households would strain the local services.
- The area is not a sustainable location (no regular bus service or shops).
- Approval of the application would lead to applications from other similar sites within the area.
- The caravan site is already in breach of its licence.
- The 1962 consent granted permission for the use of the site as a Caravan Park. Caravan sites and residential sites are significantly different in their nature, there is no indication that in 1962 the Planning Authorities even contemplated residential use. To now grant a consent for residential use would constitute a significant and unacceptable change in use.
- The current use as a holiday park has little vehicular or pedestrian impact on the local area, as holidaymakers are not contributing to school time or commuter time traffic in the area. Permanent residents would however have requirements to take children to school and to commute to areas of employment around the region. This would add significantly to the traffic using Blackmoor Lane.
- The access to the site is situated on a very short straight stretch of Blackmoor Lane between two blind bends. Even at 30 MPH it is often necessary for traffic on Blackmoor Lane to take braking action when encountering traffic leaving the caravan park.

## **6.0 CONSULTATIONS RESPONSES:**

### **6.1 Legal Officers**

Please see the appraisal section of this report.

## **7.0 PLANNING POLICIES:**

7.1 There are no planning policies that are relevant to the application as the application is assessed on the balance of probability from the evidence submitted.

## **8.0 MAIN ISSUES**

- Evidence

## **9.0 APPRAISAL**

9.1 The onus of proof is firmly on the Applicant and the produced evidence for the application takes the form of the 1962 Decision Notice granting planning permission for a caravan site at Moor Lodge, Blackmoor Lane (Reference WE/189/F) and the outlined site boundary. Application WE/189/F was for use of the land at Moor Lodge, Blackmoor Lane, Bardsey as a caravan site, with the existing use being sited as a caravan site. Planning permission was granted by Wetherby Rural District Council with a single condition requiring an adequate screen of trees to be provided and /or maintained. These details have been cross referenced with the microfiche records and have been found to correspond.

9.2 This permission does not contain any planning conditions that stipulates any restrictions in the length of time that users can reside on the land or the type of

caravans that can be sited (i.e. static or otherwise).

9.3 The red line boundary submitted as part of this application shows the caravan park extending in line with the site as outlined in the 1962 application (WE/189/F).

9.4 Legal Officers have advised that the definition of 'caravan' and 'caravan site' is set out in the Caravan Sites and Control of Development Act 1960:

“caravan” means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

(a) any railway rolling stock which is for the time being on rails forming part of a railway system,

or

(b) any tent;

“caravan site” has the meaning assigned to it by subsection (4) of section one of this Act; Subsection (4): In this Part of this Act the expression “caravan site” means land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

9.5 In addition to seeking advice from Legal Officers a view was sought from Counsel. Counsel was provided with planning history for the site dating from 1949 when planning permission was first sought and granted for the continued use of the land as a “site for camping”. Planning permission was granted again in 1954 for a further period of 12 months and again for the same period in 1955 and 1958. Furthermore the 1955 permission was applied for holiday bungalows.

9.6 The 1962 application, however suggests that the use of the site had changed in the intervening period as it states the current use as “caravan site”. The proposed use is described in identical terms and therefore accords with the description on the decision notice and does not indicate any restrictions in terms of occupancy.

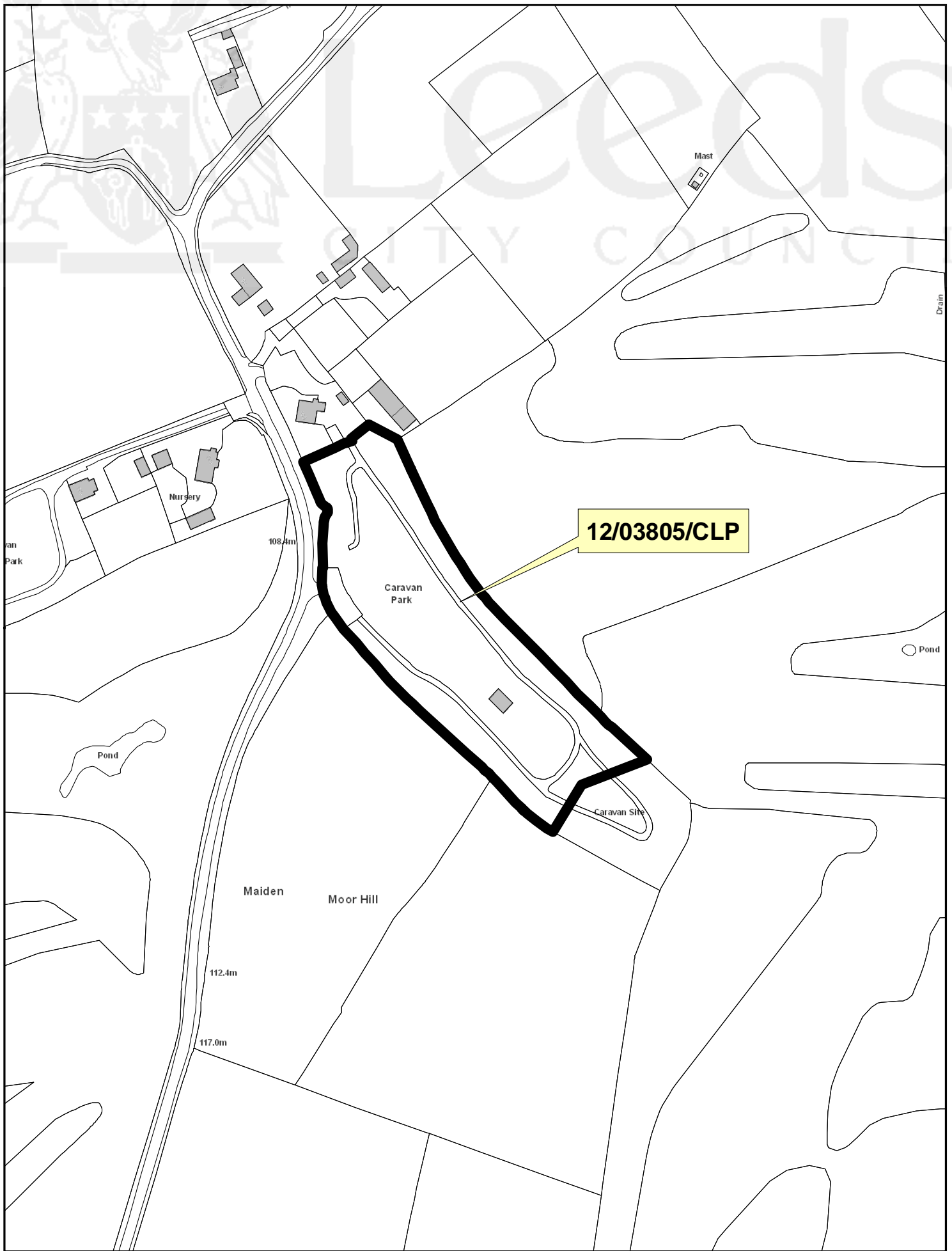
9.7 Counsel fully considered the evidence submitted and the additional planning history from 1949 provided by the LPA and it is his view that in light of the evidence the proposed use is within the scope of the 1962 consent and would have been lawful if it had been instituted at the date of the application and therefore a certificate should be granted.

## **10.0 CONCLUSION**

10.1 In light of the above and that the key issue for the purpose of the certificate application is whether the 1962 planning permission for the use of the land as a “caravan site” authorised use including permanent habitation. No occupancy restrictions exist and the decision notice only required a screen of trees with no conditions referring to occupancy. Therefore the 1962 permission authorises the use of the land as a caravan site for either holiday or permanent occupation. The legal view therefore is that the proposed use of the land as shown outlined in red on the submitted plan date stamped 1 October 2012 is lawful and the certificate should be issued.

### **Background Papers:**

WE/189/F (The 1962 planning permission).



# NORTH AND EAST PLANS PANEL

