



---

**Report of the Chief Planning Officer**

**NORTH AND EAST PLANS PANEL**

**Date: 30<sup>th</sup> July 2015**

**Subject: Planning Application 15/02667/FU – Removal of conditions 1 and 2 of approval 101867 (appeal decision to ENF/11/00755/UCU3) to allow permanent use AT The Stables, Ninevah Lane, Allerton Bywater**

**APPLICANT**

Mr P T Doran

**DATE VALID**

11<sup>th</sup> May 2015

**TARGET DATE**

31<sup>st</sup> July 2015

---

**Electoral Wards Affected:**

**Kippax and Methley**

Yes Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

---

**RECOMMENDATION: GRANT permission subject to the following conditions:**

**Conditions:**

1. Temporary personal permission for 3 years
2. Land to be restored to its original condition following cessation of the use or at the end of 3 years
3. Restriction to 3 caravans (of which no more than 2 shall be static)
4. No more than one commercial vehicle not exceeding 3.5 tonnes in weight shall be kept on the land

**1.0 INTRODUCTION:**

- 1.1 This full planning application is presented to Plans Panel as the recommendation is contrary to a previous Plans Panel resolution. The application is also a departure from the development plan.
- 1.2 Enforcement action (ENF/11/00755/UCU3) was taken in 2011 regarding the use of land for the stationing of caravans for human habitation, laying out of hardstandings and construction of buildings and a septic tank. The applicant submitted a planning

application (11/04310/FU) proposing retrospective use of land for the siting of mobile homes with associated works and retention of a chicken shed, 2 single stables and a dog pen.

1.3 Application 11/04310/FU was considered at the East Plans Panel meeting of 23rd February 2012. The application was recommended for refusal and Members resolved to agree to the recommendation. A decision was subsequently issued stating the following reasons for refusal:

1. The site lies within an area defined as Green Belt and the Local Planning Authority considers that the proposed mobile homes for residential occupation and associated infrastructure constitutes inappropriate development in the Green Belt in light of the guidance in Planning Policy Guidance Note 2 (PPG2), the draft NPPF and Policy N33 of the Unitary Development Plan and would undermine the purpose and function of the Green Belt. The applicant has also failed to demonstrate very special circumstances which could justify inappropriate development in the Green Belt. It therefore, is considered that the proposal is contrary to Policies N33 and H16 of the adopted Leeds Unitary Development Plan (Review 2006) and the guidance contained within PPG2.
2. The Local Planning Authority considers that the proposed mobile homes for residential occupation and associated infrastructure would, due to their size, siting and combined visual effect, have a harmful impact on the openness of this Green Belt location, whilst also having a harmful impact on the visual amenity and rural character of this edge of village locality due to the design and facing materials used. It is therefore, considered that the proposal is contrary to the national planning policy guidance in PPG2 and Policies GP5, H16 and N13 of the adopted Leeds Unitary Development Plan (Review 2006).
3. The Local Planning Authority considers that the use of the land for the purposes of stationing caravans for human habitation intensifies the use of an access route that is unsuitable by reason of its narrow width, a tight bend with poor visibility and poor surfacing of the track between the bend and the site. The proposals are therefore considered to be contrary to Policies T2 and GP5 of the adopted Leeds Unitary Development Plan (Review 2006), national advice in PPG13 and 'Manual for Streets' and the Council's advice contained within the 'Street Design Guide'.
4. The Local Planning Authority considers that in the absence of sufficient information, including percolation tests, the applicant has failed to adequately demonstrate that foul drainage can be satisfactorily provided at this site. Consequently the applicant has not shown that ground conditions are suitable at this location for a soakaway from the septic tank and therefore there are potential pollution risks. It is therefore considered that the proposals are contrary to Policies GP5 and H16 of the Leeds Unitary Development Plan (Review 2006), as well as guidance contained within PPS23 - Planning and Pollution Control.

1.4 The applicant appealed against the enforcement notice. Following a hearing on 20<sup>th</sup> March 2012, the Planning Inspectorate issued an appeal decision on 24<sup>th</sup> May 2012, allowing the appeal subject to a number of conditions. Amongst those conditions, condition 1 granted a temporary personal permission for 3 years and condition 2 required the land to be restored to its original condition following cessation of the use or at the end of 3 years. Clearly, the 3 year period following the appeal decision has now lapsed, hence the applicant has submitted this application to seek the removal of those two conditions.

## **2.0 PROPOSAL:**

- 2.1 The application proposes the removal of conditions 1 and 2 of approval 101867 (appeal decision to ENF/11/00755/UCU3) to allow permanent use. As described above, the removal of these conditions will enable the continued use of the site.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site is relatively level and is accessed via an unmade road leading to Ninevah Lane, to the south. Ninevah Lane itself is hard surfaced and leads eastwards towards Leeds Road. The site itself is surrounded by 2 metre high timber fencing and a double gate of a similar height exists in the south east corner of the site. The site is located in an edge of village location, to the west of Allerton Bywater. Whilst the village itself has an urban character, the area to the west has a more rural character.
- 3.2 The site was historically used as a smallholding and aerial photographs confirm this point and show a number of small agricultural structures on site. It is understood that historically there is likely to have been a dwelling on site, although this has long since been demolished. The site re-vegetated over the passage of time and has otherwise been used for agricultural purposes. The site has been occupied with the current layout of caravans, stables, a chicken shed and dog pen for the last 4 years.
- 3.3 The area to the north of the site is predominantly residential. A number of dormer bungalows of mid C20th appearance are located on the south side of King Edward Avenue and the rear gardens of these properties benefit from views over the site, due to their slightly elevated position. Between these properties and the application site, a bridleway runs east to west along the line of a former railway line. The bridleway is at a lower level than the residential gardens and also the application site and is bounded by some low level vegetation. The area to the east of the site comprises an open field, currently used for grazing horses. The field is at a slightly lower level than the application site and the unmade section of road. To the east of this field lies further residential development in the vicinity of Leeds Road. The area to the south of the site comprises open land, with a small number of dwellings and the Ponderosa Kennels located along Ninevah Lane. Beyond this lies further open farmland and the River Aire. To the west of the site, beyond a narrow tree belt, lies an area of agricultural land and a small number of lakes – oxbow lakes associated with the River Aire, as well as lakes formed as part of the wetlands on the former St Aidan's Colliery site. Beyond the tree belt, a footpath exists which runs from north to south and connects into the bridleway described above.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 11/04310/FU - Retrospective use of land for siting of mobile homes with associated works and retention of chicken shed, 2 single stables and a dog pen – Refused February 2012.
- 4.1 11/00755/UCU3 – Enforcement case - Use of land for the stationing of caravans for human habitation, laying out of hardstandings and construction of buildings and septic tank. Allowed on appeal (101867) in May 2012.
- 4.2 10/01265/USOC3 – Enforcement case (unrelated to current use) – Siting of caravans and engineering works. One old touring caravan on land, not occupied. Complainant

confirmed it had been on site for many years. Other works were permitted development or not development.

4.3 10/03982/FU - Detached stable block – Land north of The Bungalow, Ninevah Lane – Approved November 2010.

4.4 06/06384/FU - Erection of one block of 6 stables to vacant land – The Caravan, Ninevah Lane – Approved December 2006.

## **6.0 HISTORY OF NEGOTIATIONS:**

6.1 During the course of the application, officers have liaised with the agent for the planning application regarding the emerging Site Allocations Plan. The Site Allocations Plan is relevant in two ways. First, some existing longstanding Gypsy and Traveller sites, including the application site, have been proposed to be safeguarded as permanent sites to meet a private Gypsy and Traveller need for 28 pitches across the District rather than identify new sites. Second, the site lies adjacent to a parcel of land identified as a preferred housing site. The agent has indicated that a further 3 year temporary permission would be acceptable to them. There is potential for the applicant to move on the basis of the progression of the neighbouring housing allocation. Should this occur the Council will consider the implications of this on the safeguarding of the site.

6.2 Officers have briefed Ward Members on the nature of the current planning application, though no formal comments have been submitted.

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 5 site notices have been displayed, posted 29<sup>th</sup> May 2015. The application has also been advertised in a local newspaper, published 18<sup>th</sup> May 2015.

7.2 No letters of representation have been received.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

Highways: - In view of the Inspectors decision in 2012 on the enforcement appeal, it is considered that a highway objection to this application would be difficult to justify.

Environment Agency: - No objections.

### **8.2 Non-statutory:**

Flood Risk Management Team: - No objections. The site is in Flood Zone 1 and is not susceptible to flooding.

Environmental Protection Team: - No objections, conditions are recommended to deal with construction hours and a Statement of Construction Practice.

Contaminated Land: - No objections subject to the imposition of conditions to ensure the site is suitable for use.

## 9.0 PLANNING POLICIES:

9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy (2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013). The Site Allocations Plan is emerging and is due to be deposited for Publication at the end of the Summer 2015.

### Adopted Core Strategy:

9.2 The Core Strategy is the development plan for the whole of the Leeds district. The Core Strategy (CS) was Adopted in November 2014. The following CS policies are relevant:

Policy H7	Accommodation for Gypsies, Travellers and Travelling Show People.
Policy EN5	Managing flood risk
Policy ID2	Planning obligations and developer contributions

### Leeds Unitary Development Plan (UDP) Review:

9.3 The application site is identified within the UDP as Green Belt.

Policies of relevance are:

Policy GP5	General planning considerations
Policy N32	Designated Green Belt
Policy N33	Limited categories of development for which planning permission will be granted.

### Supplementary Planning Guidance / Documents:

9.4 SPG22 Sustainable Urban Drainage (adopted)  
SPD Street Design Guide (adopted)

### National Planning Guidance:

9.5 National Planning Policy Framework: Paragraph 50 states that to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and

## 10.0 MAIN ISSUES

1. Effect of the removal of conditions 1 and 2
2. Other matters

## 11.0 APPRAISAL

### Effect of the removal of conditions 1 and 2

- 11.1 The site is located within the Green Belt and therefore the proposal for this type of accommodation is a departure from the development plan. However, a significant amount of consideration was given to this issue at the appeal hearing with the Inspector concluding that whilst there was material harm to the Green Belt, the high level of need for this type of accommodation and lack of provision was a material consideration of great weight. In his conclusions, the Inspector concluded that, on balance, the harm to the Green Belt could be mitigated against by a planting scheme and conditions imposed to secure this, as well as imposing a temporary consent for 3 years. The Inspector also considered that the personal accommodation needs of the appellant and his family, together with his own health needs, were matters of significant weight. Government guidance and ministerial statements confirm that, like settled housing, Gypsy and Travellers sites are inappropriate development in the Green belt unless justified through the Development Plan making process. This was recognised by the Inspector who asked the Council to consider the site through the Site Allocations Plan (SAP). The SAP remains at an early stage and whilst the site is identified for safeguarding it cannot be granted permanent permission until the Site Allocations Plan is adopted and has been through Examination.
- 11.2 Since the appeal, the 3 year temporary period has now passed. The supporting statement submitted with the application states that there remains a substantial need for more sites in the district. It is further asserted that the application site meets the criteria set out in Core Strategy policy H7. In particular, the site adjoins a predominantly residential area and is not affected by contamination or flooding.
- 11.3 Since the appeal, it is noted that a 3 year permission was granted on appeal in August 2012 at Springfield Villas, Gildersome. The Site Allocations Plan seeks to meet the need for Council-run pitches on four sites (two of which are in the Green Belt). There are no identified new private pitches in the SAP as the only submissions are considered to be unsuitable. The SAP proposes that existing private pitches (including the application site) be safeguarded. A temporary permission in advance of the Adoption of the SAP is in line with the Inspector's previous decision.
- 11.4 Whilst the applicant has sought the removal of conditions 1 and 2 in the first instance, it is noted that they are amenable to accepting varied conditions for a further temporary period.
- 11.5 At the Executive Board meeting of 11th February 2015, Members agreed that work should commence on preparing the Site Allocations Plan Publication Draft. This site forms part of a preferred site for a housing allocation. In order to ensure that the future delivery of housing is not compromised, it is considered that issuing a further temporary consent for a period of 3 years is appropriate in this instance. This will provide sufficient time for the development plan process to take its course and allow the timely delivery of future housing, as well as ensuring that the applicant has sufficient time to make alternative living arrangements.
- 11.6 Overall, the effect of varying conditions 1 and 2 will merely allow the current use to continue for a further 3 year period.

## Other matters

11.7 The consultation response from Contaminated Land states no objection, subject to the imposition of conditions requiring intrusive investigation and remediation works to take place. This issue was explored at the previous appeal, where the Inspector agreed with the agent that there was nothing to suggest that the land was likely to be contaminated. The Inspector concluded that such conditions would be a costly and onerous and was therefore not persuaded that they were reasonable or necessary. Given this background and given that nothing has changed since the appeal, it is considered unnecessary to impose such conditions now.

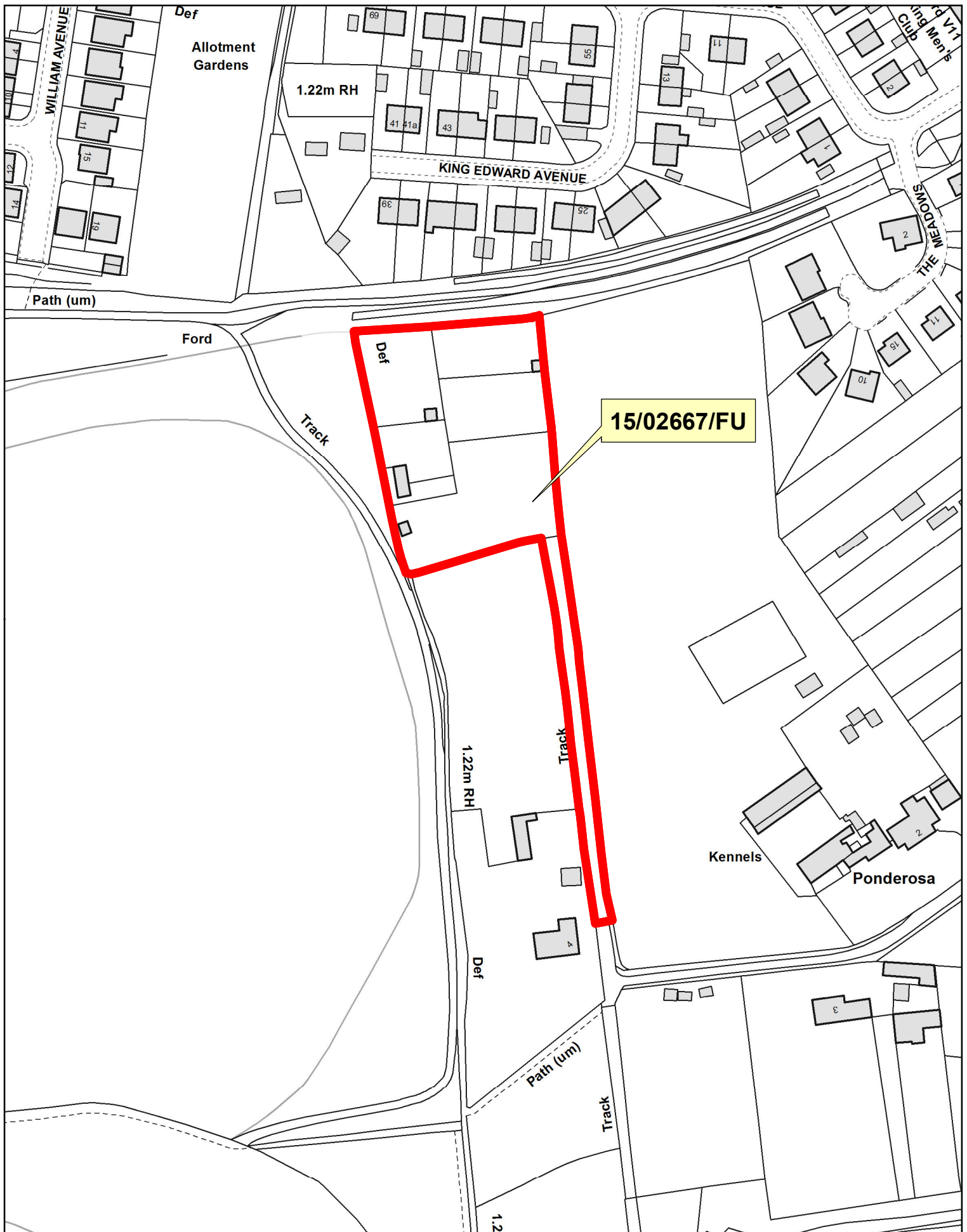
## 12.0 **CONCLUSION**

12.1 The proposed variation to conditions 1 and 2 is considered to be acceptable, subject to the time limit being extended for a further period of 3 years, limited to the applicant and his family and restricting the structures permitted on the site. It is therefore recommended that Members approve the application.

### **Background Papers:**

Application and history files.

Certificate of Ownership – Signed as applicant



# NORTH AND EAST PLANS PANEL

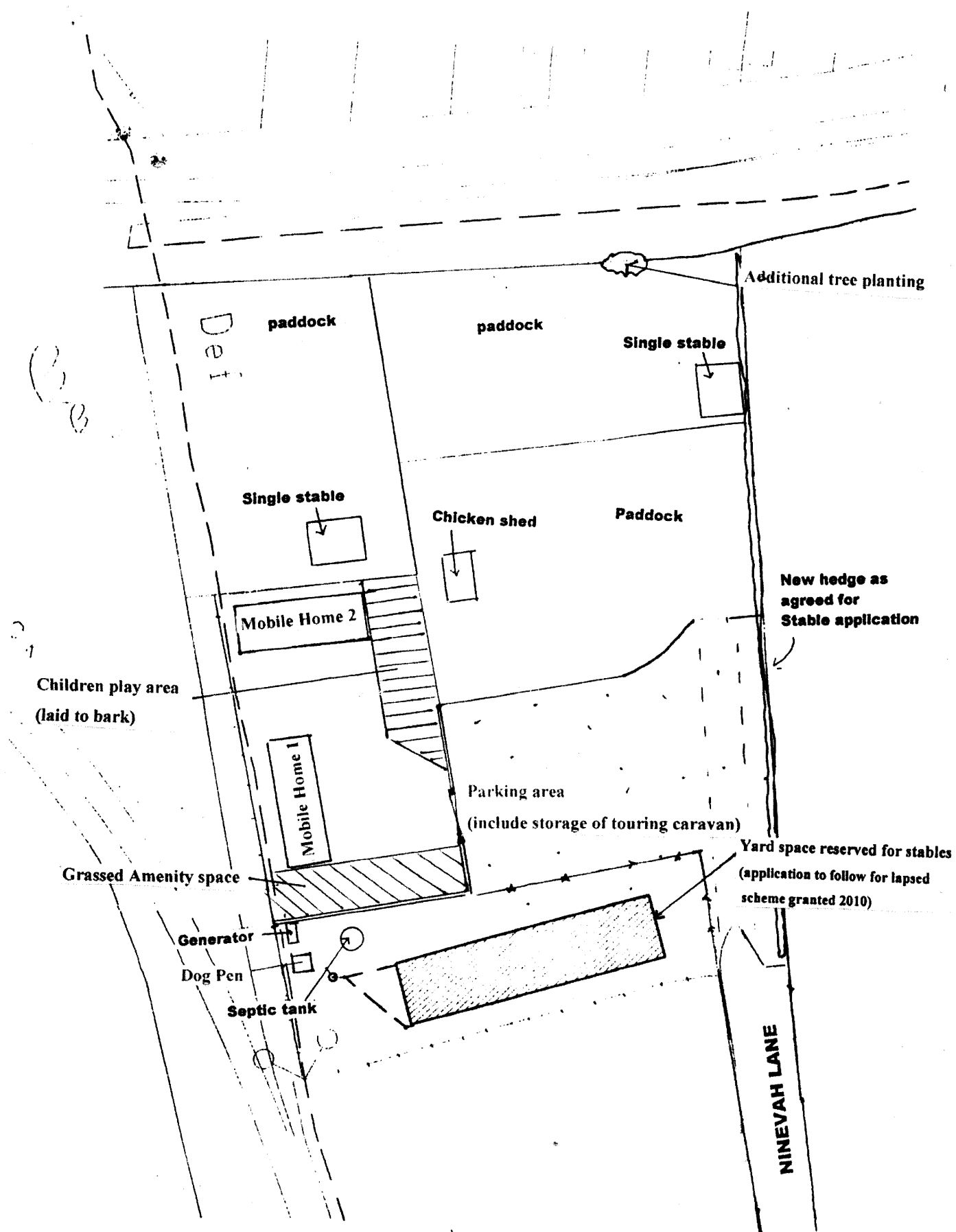
© Crown copyright and database rights 2014 Ordnance Survey 100019567

PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500







**The Stables, Ninevah Lane, Allerton Bywater, Leeds**      **Mr P Thomas Doran**  
**PROPOSED SITE LAYOUT PLAN-Stationing of caravans with associated development**  
 Scale 1:500 A4