



Report of the Chief Planning Officer

NORTH & EAST PLANS PANEL

Date: 1st February 2024

Subject: 22/04416/FU - Retrospective planning application for use of land for residential purposes including the siting of one static caravan and one touring caravan on land at Sandgate Stables, Sandgate Terrace, Kippax.

APPLICANT
Mr Smith

DATE VALID
06.07.2022

TARGET DATE
Extension to be agreed

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 conditions set out below (with amendments or additions to the same as deemed appropriate):

1. Temporary permission 3 years
2. Personal to Mr Adam Smith, spouse and dependents of Sandgate Stables, Sandgate Terrace
3. Development to be built/laid out in accordance with approved plans
4. Access road to widened at entrance, hard-surfaced with no gates/obstructions for a depth of 15m from Sandgate Terrace (including removal of existing gate within one month)
5. Cycle Store to be provided within one month
6. Area identified for allotments to be only used for this purpose
7. Returning the land to its original state following cessation of the permitted use

BACKGROUND:

1. This application is returned to the North and East Plans Panel following a deferral at the meeting held on 27th July 2023 (Minutes attached at Appendix 2). The officer

recommendation to grant a temporary planning permission was not accepted at the time as Plans Panel Members wanted further information relating to the following matters before taking a final decision:

- Advice from the Leeds Gypsy and Traveller Exchange (Leeds GATE), the school and ward members.
 - More information in relation to refusal and any consequences.
 - More information on unmet need.
 - The potential to return some of the land back to allotment.
 - Information in relation to the land allowed per horse for grazing.
 - And take legal advice on the scope and context of what weight could be applied to the history of the family and why they left Cottingley Springs and if this is material to the planning application.
2. The previous officer report is attached below as Appendix 1 and this report therefore focusses on what has happened since the July meeting and including an assessment of the revised plan that has been received as well as additional information from Leeds GATE, The Primary School and Legal officers.

UPDATE SINCE 27th JULY PLANS PANEL MEETING:

Unmet Need:

3. Upon adoption of the Site Allocations Plan (SAP) Gypsy and Traveller (G&T) Policies in July 2019 the Council had a 5 year supply of G&T pitches, and a supply of pitches for years 6 to 10 of the plan. From adoption of the SAP in July 2019, the Council has not approved any new permanent private or public G&T pitches and therefore the Council currently has a G&T 5 year supply position of 2.3 years. This is a result of a lack of planning approval for private sites and funding issues delaying the delivery of public sites. As there is also a long waiting list for existing pitches, there is currently a lack of available and suitable pitches for G&T families within Leeds.
4. The Council has not met the requirements with Policy HGR2 of the SAP and is therefore seeking to conduct a G&T policy and site review within Leeds Local Plan 2040. As the plan adoption process can take several years, the Council is taking a positive approach to G&T applications within the Green Belt where there is planning merit. This approach is to grant temporary permission such as with application reference 22/01551/FU. This approach is necessary due to the long waiting list for existing pitches, as there is currently a lack of available and suitable pitches for G&T families within Leeds.

Legal Position:

5. The previous report outlines that there are personal circumstances and a background account that have impacted the applicant's decision to move to the current site. These circumstances can be taken into account, but it is ultimately for the decision-maker to determine what weight is given to them and how it is weighed against the other material considerations of the application. There is the background account to consider, as to how the family are in the position they are in, but the weighting to give to that should be considered in light of the fact that it is a 'back story' at most. It is not the application that is before Members to determine per se.
6. Therefore, less than substantial weight should be attributed to the background choices made, and more substantial weight should be applied to what is in the best interests of the children. In addition to this, there are other issues that would fall in favour of the

application and arguably should be given more weight than the background account, for example:

- There is an identified shortfall of alternative available plots and Gypsy and Traveller sites, which has been given substantial weight by Inspectors in the past (e.g. Hollinghurst).
- The family have the freehold of the land purchased and so would be using it in some form.
- There are some existing breaches of planning control at the site which would be remedied by way of this planning permission were it to be granted.
- There are conditions proposed here that would remedy against some of the other concerns so as to mitigate otherwise adverse impacts: e.g. it will be a personal permission for this family only; 3 years time-limit.
- Restoration condition so the land returns to its original state following cessation of the temporary use.

Leeds GATE

7. The Service Manager for the charity Leeds GATE has been able to provide the following detailed comments in response to the request for further information around the impact the application would have on the children's education and development.
8. *"As we know education is a primary factor in a child's development and well-being. For a child to thrive in education, other aspects of their lives need to have as much stability as possible. As I mentioned before life roadside for families has become more and more difficult over the years and even more so now the policing act is in place.*
9. *If the family were to go back living roadside, it is not guaranteed they would be able keep circulating Leeds to find space to pull up thus making it difficult to plan the journey to school each morning. The disruption of not knowing where you will wake up in the morning can have serious impact on a child's daily routine, and during school term a positive routine for any child is a factor towards a child learning to the best of their abilities.*
10. *Many children from the Gypsy and Traveller have had poor educational opportunities and experiences, with 60% of Gypsy and Traveller people have no formal qualifications (OHID, 2022).*
11. *From mine and GATE's experience, the majority of the families with children we work with (that are in school), are either living on council sites, private yards or in houses (bricks and mortar). This highlights the impact of having a settled address and having children in school.*
12. *Also find some further information and work our CEO Ellie Rogers has been able to provide.*
13. *There is a long established and evidenced shortage of accommodation for Gypsies and Travellers across the UK, meaning over 3000 families have no lawful place to stop (Accommodation – Friends, Families and Travellers (gypsy-traveller.org)). In Leeds we have committed (via our local development planning process and informed by a robust accommodation needs assessment involving our organisation) to provide 62 pitches between 2014- 2028, they are broken down as follows:*
14. **Council Pitches** – 26 (unmet demand) + 21 (household growth on existing supply) + 13 (household growth on unmet need) – 35 supply turnover) = **25 pitches**

15. **Private Pitches** – 26 (unmet demand) + 4 (household growth on existing supply) + 13 (household growth on unmet need) – 15 (supply turnover) = **28 pitches**
16. **Negotiated Stopping** – 6 (unmet demand) + 3 (household growth on unmet demand) = **9 pitches**
17. *To date, and despite much effort as a system, we have only provided 8 local authority pitches at Kidacre Street on a temporary basis. We haven't provided any of the 28 private pitches and we are not providing any Negotiated Stopping pitches at present.*
18. *The land has been identified for the public provision but there are no funds to move ahead with this provision. This means that our existing local authority council run sites (at Cottingley Springs and Kidacre Street) are overcrowded and have long and competitive waiting lists. In addition to this they are chronically under funded and the highways are unadopted meaning repairs to both personal and communal spaces are limited. They do not provide any disability access or any spaces for children to safely play.*
19. *In 2023 we worked with students at the University of Sheffield to map planning applications and their outcomes (for Gypsies and Travellers) across West Yorkshire, using publicly available data from planning portals in the region. We found that 9 applications had been made in Leeds since 2006 and 1 had been successful on a temporary basis, this was the application made by the local authority for Kidacre Street public site. This means no private applications were successful between 2006 and 2023.*
20. *It is also important to note the socio-historical context for Gypsies and Travellers. Traditionally, many families lived semi-nomadic life styles, travelling for the summer months for work (agriculture and trade) and spending winter on land they leased or owned. A number of coalescing factors have meant huge changes for Gypsies and Travellers over the last 50 years. Probably the most significant being the creation of the local authority site via the 1968 Caravan Sites Act, then subsequent legislation that limits the ability to be nomadic. Since the creation of the first "400 halting sites", the provision of local authority sites has never kept up with the need of the community. In the public imagination it is common for Gypsies and Travellers to be thought of as choosing a life of encampment and eviction. But like other communities, it is many Gypsies and Travellers preference to live in accommodation they own and not to be in "social housing" or to be in a cycle of eviction and encampment, however, the ability to navigate the planning system successfully seriously impacts people's ability to do so.*
21. *In my professional capacity I have noticed three commonly occurring themes when working with families who wish to provide their own accommodation. Firstly, that many of these families (whilst having the means to provide for themselves and often having purchased land) remain homeless (with nowhere to legally place their caravan), subject to encampment and eviction and incurring local authorities subsequent costs of eviction. They therefore also experience the negative impacts of homelessness such as a lack of access to common amenities (toilets and washing facilities), a lack of access to education, a lack of access to healthcare and social exclusion. If we look at the extremely poor outcomes for Gypsy and Traveller families in all of these areas, (Tackling inequalities faced by Gypsy, Roma and Traveller communities – Women and Equalities Committee (parliament.uk)) we can see how planning decisions and the wider picture of accommodation have a direct and important impact on these.*

22. *Secondly, families I have supported have been in planning processes (including appeals) for extremely long periods of time - often five to ten years and upward and have spent very large sums of money on applications and the support of planning professionals to try and provide for themselves. This would seem to be a further inequality that is dependent on the ethnicity of the person who is making the planning application.*
23. *Thirdly, the reasons given for refusal largely focus on two main areas, the local communities discomfort at having Gypsies and Travellers as neighbours and a concern for the suitability of the site. To deal with the first one - it would, hopefully, now be unimaginable for us to see comments in relation to a persons ethnicity in any other planning process yet it is widely accepted here as legitimate concern. We can see that historically similar concerns regarding house prices and crime have been levelled at other ethnic minorities.*
24. *With regard to the suitability of sites, I appreciate the need for sites to meet safety standards. However, it would seem to me that considering the levels of homelessness in the community and that we haven't been able to approve any sites, we need to be pro-active in working with families to increase suitability and not using it as a reason to refuse applications."*

The Primary School:

25. The Headteacher of The Primary School has provided the following comments on the impact of the application on the children's education.
26. *"I can confirm that both pupils are still attending The [Redacted] Primary School - in the time they have been with the school, both pupils have learned to read, write and after 2 years of carefully planned support they are able to fully access the curriculum at their appropriate age year group.*
27. *The progress made potentially would be lost if they had to leave our school to live 'Roadside'. I am not sure of the accessibility of school where Roadside living is possible and how we would be able to transfer the relevant learning plans on to as I imagine roadside living is temporary in its nature. The stability the pupils have had since joining our school has allowed for them to make progress in their learning but this progress is not yet fully secure and would likely be lost if they went to temporary living and received less regular teaching."*

Revised Site Plan:

28. The applicant has provided a plan which details there are two ponies each with an area for grazing (540m² and 500m²). The British Horse Society (BHS) recommends a ratio of one horse per 0.4-0.6 hectares on permanent grazing (1-1.5 acres per horse). However, this recommendation can only ever be a guide as there are many factors affecting this, such as: size and type of horse. Even the score/weight of a horse is of relevance.
29. The applicant notes that the BHS guidance does not stipulate the size of horses for the area they have to graze but that the area is below that of what a fully grown horse requires. In this instance ponies are involved and are adequately fed and watered. They are also exercised off site regularly.
30. In addition to clarifying the situation for the horses and responding to comments made at the previous meeting, the applicant has shown an area of the site to be maintained

for private allotment use. This area is circa 84m² and would be provided next to the glazing area.

APPRAISAL OF THE REVISED AND ADDITIONAL INFORMATION:

31. The information provided by Policy and Legal officers, Leeds GATE, the school Headteacher and the revised plan from the applicant have addressed the points which were raised by Panel Members in July.
32. The main point querying what the impact on the children's education would be is clearly stated by both Leeds GATE and the Headteacher. Should the family be required to leave the site with no alternative other than to live roadside would be harmful their education and stability.
33. Leeds GATE and the accompanying information about unmet need clearly set out the Council's lack of provision for G&T sites, with long waiting lists for existing pitches and a lack of new provision via planning applications in recent. They note that there is currently a lack of available and suitable pitches for G&T families within Leeds.
34. The applicant has also provided an updated plan which clarifies what land is dedicated for the ponies to graze on and is also willing to provide space for some allotment use. Given the size of the ponies (they are not large horses) and that they are taken out regularly for exercise it is considered the space provided would be sufficient from a planning perspective (i.e. not in conflict with planning policy).
35. Taking into account the above, the officers consider that the original recommendation to approve the application with a 3 year temporary personal permission, would be a reasonable and balanced approach in line with the LPA's Public Sector Equality Duty and current positive planning policy approach to G&T sites.

APPENDIX 1 – Previous Panel Report



Originator: Lydia Lloyd-Henry

Tel: 0113 378 5470

Report of the Chief Planning Officer

NORTH & EAST PLANS PANEL

Date: 27.07.2023

Subject: 22/04416/FU - Retrospective planning application for use of land for residential purposes including the siting of one static caravan and one touring caravan on land at Sandgate Stables, Sandgate Terrace, Kippax

APPLICANT
Mr Smith

DATE VALID
06.07.2022

TARGET DATE
28.07.2023

Electoral Wards Affected:

Kippax and Methley

Ward Members have been consulted.

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the conditions set out below (with amendments or additions to the same as deemed appropriate):

- 1 Temporary permission 3 years
- 2 Personal to Mr Adam Smith, spouse and dependents of Sandgate Stables, Sandgate Terrace
- 3 Development to be built in accordance with approved plans
- 4 Access road to widened at entrance, hard-surfaced with no gates/obstructions for a depth of 15m from Sandgate Terrace (including removal of existing gate within one month)
- 5 Cycle Store to be provided within one month
- 6 Returning the land to its original state following cessation of the permitted use

INTRODUCTION:

1. The application is brought to Plans Panel at the request of Ward Councillors Lewis and Harland and former Councillor Midgley. This referral to this Plans Panel for determination is on the basis that the development proposed is regarded as an inappropriate use of greenspace land; that a similar proposal on a neighbouring site has been dismissed at appeal and that decision is relevant to this application; that it will harm the character of the area; that it will result in the loss of allotments for which there is a clear local demand; and the adverse impact on residential amenity.
2. As the matters raised by the Ward Councillors are based on material planning considerations that give rise to concerns affecting more than neighbouring properties, the request meets the criteria outlined in the Officer Scheme of Delegation and it is appropriate to report the application to Panel for determination.
3. The application proposal seeks planning permission for the use of the site for residential purposes and including the retrospective siting of one touring caravan and one static caravan.

SITE AND SURROUNDINGS:

4. The development site comprises a rectangular area of land at the edge of an area of private allotments to the south east of Sandgate Terrace, Kippax. A central access road (from Sandgate Terrace) runs through the site and leads to a hard-surfaced compound where the static caravan and touring caravan (the subject of this planning application) are positioned. A single storey timber outbuilding is also present in the north west corner of the compound.
5. The remaining allotments surrounding the application site are subject to different levels of activity with many containing sheds, storage areas and other paraphernalia expected with such allotment use. Overall, the allotments cover an area spanning Gibson Lane to the west, Sandgate Lane to the east, Sandgate Terrace to the south and the rear boundaries of properties on Sandgate Drive to the north.
6. The allotments and the application site are set on a gradual fall northwards, with Sandgate Terrace being located on a high point at the brow of the hill. The allotments are located on the eastern side of Kippax and whilst otherwise in a suburban setting, the land to the east of Sandgate Lane comprises open agricultural fields.
7. The closest residential properties to the site are located on the south side of Sandgate Terrace, arranged in 4 two-storey terraces of 6 dwellings each, faced with red brick and tiled roofs and are of early C20th appearance. To the south east, Lime Tree Crescent comprises a number of two-storey semi-detached dwellings. The dwellings along Gibson Lane and Sandgate Drive, to the west and north, are of later C20th construction and are of detached and demi-detached forms. Kippax Ash Tree Primary School and Kippax Community Centre are located to the west of Gibson Lane and have accesses in close proximity to the junction of Gibson Lane and Sandgate Terrace.

PROPOSAL:

8. The application proposes a residential use of the site and includes retrospective works relating to the siting of one static caravan and one touring caravan within the allotment. The touring caravan is 7.2m in length and 2.3m in width. The static caravan is 11m in length and 3.7 in width and contains two bedrooms (double and a twin). The

submitted site plan also shows a cycle store, bin store, three parking spaces and access gates set back from Sandgate Terrace by 15m.

9. The proposal is intended to provide living accommodation for the applicant and his immediate family that includes 4 children, 2 of which are primary school aged and 2 that are secondary school aged.

RELEVANT PLANNING HISTORY:

Relevant Planning Applications

10. The following planning history relates to a previous planning application for a similar form of development on another former allotment along Sandgate Terrace which is next door but one to the application site. That application was submitted by a different applicant (Mr Nicholson) to the applicant for the planning application before Plans Panel.
11. 19/00238/FU - Use of land as one Gypsy/Traveller pitch comprising one touring caravan, one mobile home, one day room and associated works including new hardstanding and vehicular access – Refused - 26.09.2019. Appeal dismissed 28.01.2022. In dismissing the appeal the Inspector set out the following conclusions on the key planning issues:

Local Green Space

- The appeal site is located within designated green space under policy GE1 of the Kippax Neighbourhood Plan 2019. The policy managing this space should be consistent with those for Green Belts. Planning Policy for Traveller Sites (PPTS) states sites in the Green Belt are inappropriate development except in Very Special Circumstances (VSC). “The development would therefore only be acceptable in principle if it can be justified through the identification of very special circumstances”.
- The loss of green space would be in conflict with policy G6, as none of the following criteria are met; there is an adequate supply of accessible green space/open space in the analysis area, open space/green space would be replaced or that the development improves the existing green space/open space.

Need for Gypsy and Traveller Sites

- The Council is unable to demonstrate a 5 year land supply of deliverable sites, as required within PPTS. The Council accept there is unmet need for new pitches within the borough and in neighbouring boroughs. The area is constrained by the high proportion of Green Belt land in the borough, however this does not attract weight in the planning balance. The concern surrounding the Policing Bill does not attract weight as the measure is not yet enshrined in law (this has now become law since the appeal decision).

Personal Circumstances

- Mr Nicholson currently lives at a site in Castleford with his wife and two young children. Their mother and father, brother and sister also live on the site in separate caravans. Four caravans are on the site in total with two stored for touring. The number of caravans on site is above what the planning permission conditions permit (3) which further indicates unmet need. Significant but less than substantial weight is attached as the appellant has a stable living situation, and an unsuccessful planning

permission would not result in disproportionate interference with human rights.

Local Green Space

- The building is not considered appropriate in the Green Belt as they do not meet the requirements set out within the National Planning Policy Framework. The building is not agricultural or an appropriate facility for the allotments and no very special circumstances are cited.

Character and Appearance

- The building does not result in harm to the character or appearance of the area and does not result in harm to amenity.

Enforcement History

12. 22/00632/UCU2 - Unauthorised change of use of land for the stationing of a mobile home and touring caravans – This relates to the site subject of this planning application. Investigation on hold pending the outcome of this application.
13. 20/00857/UWF - Without planning permission the erection of a steel frame building with metal corrugated walls and roof on the land – This relates to the site subject of this planning application. Notice Served – 24.03.2021 – Appeal dismissed – The appeal was considered at the same time as the appeal on planning application 19/00238/FU (see paragraphs 10 and 11 above). In respect of this enforcement appeal the Inspector concluded that the building was not related to agriculture or an allotment use (in that it was used in connection with equestrian activity) and held that it constituted inappropriate development and that there were no very special circumstances to justify its retention. The Inspector did not consider that the building caused harm to the character and appearance of the area.
14. 18/00849/UCU2 – The following enforcement matter relates to neighbouring land being the same site subject to planning application 19/00238/FU as summarised at paragraphs 10 and 11 above. The Local Planning Authority was concerned that the site was being prepared for the stationing of caravan and /or mobile home for residential use. Services for water and electricity were installed and hardstanding was laid out across a substantial area of the site. The council sought an injunction in the court to prevent such a development from taking place. An Interim Injunction Order was granted at the Court hearing in May 2022 with following undertakings given to the Court by the defendant:
 - “1. The Respondent will not (whether by himself or by instructing, encouraging or permitting any other person) at Land at Sandgate Terrace, Kippax, Leeds, LS25 7BQ (‘the Site’) without the necessary planning permission.
 - 1.1 Cause or permit any further works involving or connected with ground clearance on the land shown edged red on the plan attached to this order (‘the Site’);
 - 1.2 Cause or permit any further works involving or connected with the laying of any hard surface at the Site; or
 - 1.3 Cause or permit or erect the stationing of any caravans, mobile homes, chalets or other residential accommodation or associated structures at the Site.
 2. Will within 2 months remove the white hardstanding brought onto the Site”

The Council became concerned that the Injunction had not been complied with in that further material had been imported onto the site and that the white hardstanding had not been removed. At a further Court hearing in January 2023 the Judge instructed that further intrusive investigations be undertaken to ascertain whether the white

hardstanding had been removed from the site. Those works were undertaken by an independent surveyor and at a further Court hearing in June 2023 it was held that the defendant had not breached the terms of the Injunction.

HISTORY OF NEGOTIATIONS:

15. During consideration of the application, officers have sought further information from the applicant in respect of their personal circumstances and site requirements. This includes the need to leave the Cottingley site, that prior to moving to the application site the family was living roadside and that local links have been established through the youngest two children attending the nearby primary school and registering with a local GP. In addition, further supporting plans have been provided to respond to issues that have been raised by consultees.

CONSULTATION RESPONSES:

16. Highways: No objection to revised information that address access concerns, subject to conditions.
17. Contaminated Land: No objection as although a sensitive end use a hardstanding has been provided and a passive void is provided.
18. Flood Risk Management: No objection as the site is situated within Flood Zone 1.
19. Public Rights of Way: No objection as access is via Sandgate Terrace so the bridleway is unaffected. .
20. Environmental Transport Studies: No objection.
21. Planning Policy: Considered inappropriate development in the greenbelt and harmful if a permanent permission was granted, however VSC of impact on young children should be given significant material weight. A 3 year temporary permission would allow other sites to come forward.
22. Gypsy Traveller Liaison Officer: Funding is currently being investigated to deliver pitches on sites consulted on through the Council's Adopted Site Allocations Plan Policy HG-3. The Council currently has 2 sites for Traveller provision. These are Cottingley Springs 41 pitches and Kidacre Park 8 pitches, both are currently at full capacity.
23. Leeds Gate: Have assisted the family with applying for access to a GP, education and other personal matters. Previous to the family being at the current site, they were pitched roadside where they did not feel safe. On average 2 plots become available at Council sites each year so waiting lists are high and many families can be waiting for years.

PUBLIC/LOCAL RESPONSE:

24. The planning application was publicised by the posting of a Site Notice on 05.08.2022 with the period for publicity expiring on 26.08.2022. The comments received in respect of this application are summarised in the following paragraphs.

25. Ward Member panel request and objections:

- An application and appeals at an adjacent site have previously been refused.
- The use of the land should remain as allotments and greenspace and unauthorised development should be refused as the appeals have stated.
- Inappropriate use of greenspace contrary to UDP and LCS policy N1A
- Contrary to Kippax Neighbourhood Plan policy GE1
- Contrary to NPPF paras 101/2 designation of greenspace for communities
- National PPTS states sites in the greenbelt are inappropriate unless there are VSC
- Impact on the character of the area, through loss of greenspace
- Clear demand for allotments that isn't being met with the current supply
- Waiting list for allotments in Kippax
- Impact on residential amenity with a lack of information on how the site will be serviced for refused collection, wastewater removal, utilities

26. Kippax Parish Council objection:

- The land is classified as Local Green Space in the Kippax Neighbourhood Plan
- Caravans are sited on a concrete foundation slab which is part of an enforcement notice
- Allotments are well used in the area and there is a waiting list
- Caravans will impact the character of the streetscene
- Noise from livestock is disruptive
- Allotments are beneficial to the wellbeing of the residents as greenspace

27. 140 neighbour objections were received and are summarised as follows:

- Should not be for residential or business use
- Hard economic times people rely on growing their own food/produce
- Allotments are high in demand
- Does not benefit the village and its future prospects
- If approval is given more allotments will be lost
- What about drainage and sewerage
- Objected to previously by residents
- Application refused before
- Movement of vehicles will be unsafe for children as there is a primary school nearby
- The allotments are well utilised and well maintained with few if any vacant plots
- Allotments provide health and learning benefits for the community
- Health England study on benefits of gardening
- No power supplies
- Creating noise in the evening with horses and carts
- Since Covid allotments are more important than ever
- Beneficial for those who do not have gardens
- There is a waiting list for allotments
- LCC provide areas for the travelling community
- Charity allotment plot 'The Growing Zone' nearby for education
- All findings of previous appeal are relevant to this application
- Application is identical to 2 appeals refused in 2022
- The site was originally 4 allotments
- The land should be returned to its original state
- Not for keeping livestock
- Physical and mental wellbeing impact for community
- Previous objections should be taken into consideration
- Noise pollution

- Goes against the neighbourhood plan
- Green space should be protected for environmental reasons
- LCC core strategy states a need for more green infrastructure
- impact on visual amenity
- Anti Social Behaviour
- Allocated as greenspace in SAP
- Allotments covered under N1A UDP
- Highway safety
- If approved this will set a precedent for other buildings on this greenspace
- Impact on local wildlife
- Land is for allotments and protected green space by Kippax Village Plan
- Out of character with the village of Kippax

RELEVANT PLANNING POLICIES:

The Development Plan

28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making in relation to this application, the Development Plan for Leeds currently comprises the following documents:

1. Leeds Core Strategy (Adopted November 2014)
2. Leeds Core Strategy Selective Review (Adopted September 2019)
3. Site Allocations Plan (Adopted July 2019)
4. Saved Unitary Development Plan Policies (Reviewed 2006), included as Appendix 1 of the Core Strategy
5. The Natural Resources & Waste Local Plan (NRWLP, Adopted January 2013 and Reviewed 2015)
6. The Kippax Neighbourhood Plan (Made February 2019)

These development plan policies are supplemented by supplementary planning guidance and documents.

Relevant policies from the Core Strategy are:

29. SP1 - Location of development
 H7 - Accommodation for Gypsies, Travellers and Travelling show people
 P10 - Design
 P12 – Landscape quality, character and biodiversity
 G3 - Standards for open space, sport and recreation
 G6 - Protection and redevelopment of existing greenspace
 G9 – Biodiversity Improvements
 T2 - Accessibility requirements and new development
 EN5 - Managing flood risk
 EN8 – Electric Vehicle Charging Infrastructure

Relevant Saved policies from the UDPR are:

30. GP5 - General planning considerations
 N23/N25 - Landscape design and boundary treatment
 LD1 - Landscape schemes

Relevant Natural Resources and Waste policies are:

31. GP1: Applications that accord with plan policies will be supported
AIR 1: The Management of Air Quality Through Development
WATER 1: Water Efficiency
WATER 2: Protection of Water Quality
WATER 7: Surface Water Run-Off
LAND 1: Contaminated Land

Site Allocations Plan

32. The Site Allocation Plan (SAP) was adopted on 10th July 2019 and therefore full weight should be accorded to it. Following a statutory challenge, Policy HG2, so far as it relates to sites which immediately before the adoption of the SAP were within the green belt, has been remitted to the Secretary of State. The ongoing remittal is at an advanced stage, with public comments on the main modifications proposed having closed in late January 2022. The Inspector will take these representations into account before issuing final conclusions. However, at this stage, it remains that Policy HG2 is to be treated as not adopted. All other policies within the SAP remain adopted and should be afforded full weight. The following policies are relevant:

Policy GS1 – Greenspace designations and protection
Policy HGR2 – Monitoring of Gypsy and Traveller sites

Neighbourhood Plan

33. The Kippax Neighbourhood Plan was made in February 2019 and therefore forms part of the Development Plan. The Plan lists a number of objectives which include:
1. Improving the built and natural environment, by encouraging investment, promoting conservation of historical sites and buildings, conserving the special sites that surround the village; and tackling run down areas.
 2. To promote opportunities for the expansion of local retail and business development.
 3. To ensure that new developments reflect the housing type and mix that best meet the needs of present and future residents.
 4. To protect open spaces, including sports, recreational and communal.
 5. To promote better transport links and traffic systems.

34. The following policies are relevant to the determination of the current application:

The site is designated as a Local Green Space and Policy GE1 states wherein "...development will be ruled out other than in very special circumstances in accordance with National Policy on Green Belts..."

Supplementary Planning Guidance and Documents:

35. Transport SPD 2023

National Planning Policy:

36. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system and must be taken into account

in the preparation of local and neighbourhood plans, as well as being a material consideration in planning decisions. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development. This means, for determining planning applications, development should be approved where it accords with an up-to-date development plan or refused consent where the adverse impacts of giving consent would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. Relevant paragraphs are highlighted below.

37. Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay.
38. Paragraph 101 states that policies for managing development within a Local Green Space (as designated by a Neighbourhood Plan) should be consistent with those for Green Belts.
39. Paragraphs 147-151 deal with proposals affecting the Green Belt and confirm that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSC. Further, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'VSC' 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 other considerations. Gypsy and Traveller sites are not included in the list of exceptions in paragraphs 149 or 150 and are inappropriate development.
40. Paragraph 110 seeks to ensure that safe and suitable access to the site can be achieved for all users in relation to development proposals. Further, paragraph 111 notes that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Planning Policy for Traveller Sites (PPTS)

41. The PPTS was last updated in 2015 and sets out the Government's planning policy for traveller sites. It should be read in conjunction with the NPPF. The policy must be taken into account in the preparation of development plans and is a material consideration in planning decisions. The Government's 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. To help achieve this, Government's aims in respect of traveller sites are:
 - a. that local planning authorities should make their own assessment of need for the purposes of planning
 - b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
 - c. to encourage local planning authorities to plan for sites over a reasonable timescale
 - d. that plan-making and decision-taking should protect Green Belt from inappropriate development
 - e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
 - f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
 - g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies

- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
- k. for local planning authorities to have due regard to the protection of local amenity and local environment

42. Paragraphs 16 and 17 of the PPTS focus on traveller sites in the Green Belt. Paragraph 17 confirms that traveller sites (temporary or permanent) in the Green Belt are inappropriate development and subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish VSC. Paragraph 17 advises that Green Belt boundaries should be altered only in exceptional circumstances. If a Local Planning Authority (LPA) wishes to make an exceptional, limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan making process and not in response to a planning application.

43. Paragraphs 22-28 of the PPTS are also relevant in determining applications for traveller sites. In particular, paragraph 24 states that:

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections”

44. Additionally, and of significance in this instance, is that where an LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites, that this should be a significant material consideration in any planning decision when considering applications for the grant of temporary planning permission (although the exceptions are Green Belts).

The Equality Act (2010)

45. The Equality Act 2010, defines Romany Gypsies and Irish Travellers as ethnic groups, meaning that they are protected against race discrimination. The Equality Act defines discrimination under the law as unfair treatment because of what it terms ‘protected characteristics’.

46. As a decision maker, LPA’s have a duty under the Equality Act to actively seek to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations. In particular, the Public Sector Equality Duty states that public body must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

47. In accordance with (b) above, a public body must also have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share. This involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

48. It is considered that the LPA have exercised its duties responsibly having regard to the Equality Act 2010 and the Public Sector Equality Duty in the assessment of this particular application and have had due regard to the nature of the applicant who shares a protected characteristic. As part of its consideration, a Equality, Diversity, Cohesion and Integration (EDCI) screening has been undertaken.

MAIN ISSUES:

49. The following main issues are considered to be of relevance when assessing this planning application:

- Planning History
- Local Green Space/Greenspace
- Need for Gypsy Traveller Sites
- Suitability of Site
- Personal Circumstances
- Design and Character
- Residential Amenity
- Highway Safety
- Planning Balance

APPRAISAL:

Planning History

50. At paragraphs 10 and 11 above, attention has been drawn to a recent appeal decision concerning a similar form of development on another site along Sandgate Terrace. The same planning policy considerations apply to this planning application as they did to the planning appeal. However, there are some significant differences between the circumstances surrounding this application and the appeal proposal. First, there are some differences in respect of the characteristics of the respective sites that will have some material bearing on the environmental effects associated with the development.

There are also some material differences in the personal circumstances of the applicant, and in particular the best interests of the children, and this is of particular significance when considering an application for a gypsy/traveller pitch. Accordingly, although the appeal decision is of some relevance, and should be afforded some weight in the decision-making process, there are material differences between the circumstances of the two developments.

Local Green Space/Greenspace

51. The proposal is located on land in Kippax, which is defined as a Smaller Settlement by Policy SP1 of the CS. The application site, as well as the adjoining land to both the east and west, is carried forward as a Green Space allocation under Policy GS1 of the SAP. In addition, the site is designated as a 'Local Green Space' by Policy GE1 of the Kippax Neighbourhood Plan. The same is true of the Sykes Field site, to the north. The Neighbourhood Plan has now passed referendum and so, in accordance with Section 3 of the Neighbourhood Planning Act 2017, the Plan is now considered part of the statutory development plan and should be given full weight in the determination of planning applications falling within the neighbourhood area.

52. Policy G6 of the CS identifies that green space will be protected from development unless one of 3 criteria are met. The criteria are as follows:

i) There is an adequate supply of accessible green space/open space within the analysis area and the development site offers no potential for use as an alternative deficient open space type, as illustrated in the Leeds Open Space, Sport and Recreation Assessment, or,

(ii) The green space/open space is replaced by an area of at least equal size, accessibility and quality in the same locality; or

(iii) Where supported by evidence and in the delivery of wider planning benefits, redevelopment proposals demonstrate a clear relationship to improvements of existing green space quality in the same locality.

Criteria (ii) and (iii) are not met as the proposal does not propose to replace the green space lost and does not deliver wider planning benefits and improvements in green space quality in the locality, and so it is criteria (i) which is of most relevance to this application. This only allows the loss of green space where there is an adequate supply of accessible green space and the development site offers no potential for use as an alternative deficient open space type. The Green Space Background Paper (2017) (which provides the most up-to-date position on green space surpluses/deficiencies) identifies that in the Kippax and Methley Ward there is a surplus of 0.46ha of allotments against the standards of Policy G3, but a deficit of - 0.32ha of parks and gardens. No evidence has been submitted to demonstrate that, if not in allotment use, it would not be possible for this land to be used for an alternative form of green space. Accordingly, the proposal is considered to be contrary to Policy G6.

53. The protection for this land as green space is strengthened by policy GE1 of the Kippax Neighbourhood Plan, which designates the site and wider allotments as a Local Green Space. The policy specifies that development will be ruled out other than in VSC in accordance with national policy on Green Belt. This is consistent with paragraph 101 of the NPPF which specifies that policies for managing developments within a Local Green Space should be consistent with those for Green Belt. Paragraphs 147 to 151 of the NPPF state that the construction of new buildings in the

Green Belt is generally inappropriate (and so harmful), and the proposed use is not one of the exceptions to this general rule set out in paragraphs 149 or 150.

54. It is considered that the allotments are greenfield land and generally take the appearance that one would expect. When the site was assessed as green space for the Green Space Background Paper (2017) it got an overall quality score of 4.5 out of 10. The Leeds Open Space and Recreation Assessment (2008) also gave it a quality score of 4.5 out of 10 where it was also noted that there were generally low maintenance scores and it being noted that a number of plots were overgrown and unused, with grass paths through the site in a satisfactory condition (though no comments were made about it looking like anything other than allotments, or being particularly untidy or appearing as derelict). Prior to the 2020 enforcement investigation and subsequent appeal relating to the steel framed building (para.13) the site remained in allotment use. Regardless of this, it is considered that even if it was agreed that the site was considered as untidy or derelict land (which it is not) and gave weight to this as the PPTS instructs, it is not considered this would overcome the Local Green Space designation in the overall planning balance.
55. It is apparent from the letters of representation that the allotments are an important resource for local people and used for the purposes of many positive civic and educational activities. In the previous appeal decision (application reference 19/00238/FU paragraphs, 10 -11) the Inspector noted that although the Green Space Background Paper identifies a surplus of such land within the Kippax and Methley Ward (0.46 hectares), the information provided by CDAF is at odds with this data, as they currently have a waiting list of 16 people. The Council also has a city-wide waiting list for access to its own allotment sites. The Inspector noted that it is likely that demand for allotments has grown significantly in recent years, which could be why the Green Space Background paper is at odds with the actual local supply.
56. In light of the above it is concluded that the proposal would be in conflict with Policy G6 of the CS. It would also be in conflict with Policy GS1 of the SAP which designates sites for Green Space use in accordance with Policy G6, and Policy GP5 of the UDPR insofar as it seeks to avoid environmental intrusion and loss of amenity and policy GE1 of the Kippax Neighbourhood Plan.

Need for Gypsy Traveller Sites

57. Paragraph 7(b) of the PPTS states that LPA's should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The PPTS states that LPA's should identify, and update annually, a 5- year supply of specific deliverable sites. The Council currently has 2 sites for Traveller provision. These are Cottingley Springs (41 pitches) and Kidacre Park (8 pitches). Both are at full capacity and new provision has remained below the identified demand leaving a shortfall. For these reasons, the initial scoping exercise undertaken for the Leeds Local Plan 2040, includes a 'call for sites' as the review moves into the 'Issues and Options' phase.

Suitability of Site

58. Policy H7 of the CS sets out that in determining planning applications for new pitches to accommodate the needs for gypsies, travellers and Travelling Showpeople, consideration will be given to the following criteria:
- i. Reasonable access to public transport, health care, schools, shops and local services;

- ii. pitches and plots should not be located on land that is deemed unsuitable for general housing, such as land that is contaminated, adjacent to refuse sites, landfill sites, heavy industry or electricity pylons;
- iii. pitches and plots should avoid zones of high flood risk (Zone 3 flood risk areas):
- iv. the following order of preference for categories of land should be followed: brownfield, greenfield and Green Belt. Alterations to the Green Belt boundary to accommodate pitches and plots will only be considered in exceptional circumstances, to meet a specific identified need. In such circumstances and as part of the Site Allocations Plan, sites will be specifically allocated as a Gypsy, Traveller and Travelling Showpeople's site only
- v. the availability of alternative deliverable sites for Gypsies and Travellers and Travelling Showpeople.

59. The application site is not in conflict with criteria i and iii as it enjoys reasonable access to local facilities/public transport and it is not located in an area of high flood risk. It is accepted that there is a shortage of alternative deliverable sites and so criteria v is of relevance. With respect to criteria ii, the land is suitable for housing from a purely amenity perspective but is clearly not allocated for this purpose within the development plan. Furthermore, as the land is a greenfield site with a very recent Neighbourhood Plan allocation as local greenspace then a gypsy/traveller residential use is less preferable than were it a brownfield site. For the avoidance of doubt, the brownfield status of the site is confirmed as allotment uses are specifically identified within the NPPF as not being 'Previously Developed Land (PDL) even where a permanent structure is present. Regarding the second element of criteria iv, this is not considered to fully apply as a permanent permission is not recommended. However, the proposal to impose a personal permission via condition does by default mean it can only be used by the applicant's family and which does have the relevant protected characteristic.

Personal Circumstances

60. The Inspector in dealing with the previous appeal noted Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
61. The Inspector also noted due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany gypsies and Irish travellers are ethnic minorities and thus have the protected characteristic of race.
62. These factors are relevant to the consideration of this application and this is recognised in the EDCI screening that has been carried out by officers. The applicant lives on the site with his family and this includes 4 children. In a statement signed by the applicant, it details that the family are registered with a local GP, 2 of their young children attend a local primary school and 2 attend educational assistance at Leeds

Gate. Should they be required to leave the site, they would need to move to another unauthorised site or roadside which would result in harm to their children's education and best interests. The appellant (Mr Nicholson) in the previous appeal had a pitch with their partner and 2 children on a lawful site which had planning permission. However, the site was in breach of planning conditions due to the number of caravans on the site. Although significant weight was attached to their personal circumstances it was considered that this was ultimately less than substantial weight in those circumstances and did not meet the requirements to serve as VSC which would have outweighed the harm identified. These are matters that distinguish this application from the application proposal subject to the recent appeal (see paragraphs 10 - 11 above) and that carry substantial weight in favour of the current application.

Design and Character

63. Policies within the adopted development plan and the advice contained within the NPPF seek to promote new development that responds to local character, reflects the identity of local surroundings and reinforce local distinctiveness. The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is therefore fundamental that new development should generate good design and respond to the local character. The NPPF goes on to state that that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
64. Policy P10 of the CS deals with design and states that *inter alia* alterations to existing, should be based on a thorough contextual analysis and provide good design that is appropriate to its location, scale and function. Developments should respect and enhance, streets, spaces and buildings according to the particular local distinctiveness and wider setting of the place with the intention of contributing positively to place making, quality of life and wellbeing. Proposals will be supported where they accord with the principles of the size, scale, design and layout of the development and that development is appropriate to its context and respects the character and quality of surrounding buildings; the streets and spaces that make up the public realm and the wider locality.
65. In terms of the impact on the character of the site and subsequently that of the Green Space, it is clear that the use of the site as a temporary traveller's pitch and the siting of the caravan and its peripherals (i.e. chicken coop, car parking and bins) will have some impact. Nevertheless, the application site still currently takes the appearance of being a part of the wider allotments. The static caravan and touring caravan are both fairly modest in size and scale and occupy only part of what is a large site. They are also set back into the site away from the frontage with Sandgate Terrace. Road side planting and fencing within the site act to soften and partially screen views from public vantage points. Given these factors and the presence of other allotment related buildings on the adjacent land, some of which are of a similar size to the static caravan, it is considered that the proposal does not appear so obtrusive as to have significant detrimental impact on the character of the area.

Residential Amenity

66. In terms of the impact upon the living conditions of the applicant's immediate family, the proposal comprises of one static caravan and one touring caravan which is considered satisfactory for a temporary permission

67. There are no space standards for caravans but the combination of a static and tourer is very typical.
68. Outdoor space at the site is also plentiful and can be used as amenity space to cater for the day to day needs of the family. The keeping of horses in connection with the residential use is also not considered to cause serious amenity concerns.
69. More generally, the site is within a well-served and assessable area for services including shops, amenities, medical and educational facilities that provide for the family.
70. With respect to any potential adverse impact on existing residents living conditions, although a number of representations raise concerns in this regard, officers consider the substantial separation distances involved to the nearest properties combined with the intensity of the residential use (i.e. that being limited to the applicants immediate family) are such that no serious conflict would occur. In this respect the scheme is in compliance with Policy P10 of the CS and saved Policy GP5 of the UDPR as well as guidance in the NPPF.

Highway Safety

71. Highway officers are now satisfied that the proposal will not result in highway safety concerns. The initial concerns relating to the location of the gate and vehicles overhanging the highway when entering the site and the right of access over the strip of land between the adopted highway and the red line boundary have been overcome through the submission of additional information. The gate to the site has been set back further within the site to ensure a vehicle towing a caravan will not overhang onto the adopted highway while the gate is operated. The applicant has also provided deeds to the site and a letter from solicitors outlining the rights of access over the strip of land. It is noted that an objection has been received that contradicts the information provided, however ultimately this would be a civil matter and for the applicant to ensure they have the correct rights to access.
72. The applicant has also provided information relating to bin stores and the revised plan shows a EVCP. However, a planning condition to formally secure a EVCP is not included as the permission will be personal to the applicant and temporary. Obviously, the applicant could still choose to install a charging point. Additionally and in the circumstances where the use has already been operating for some time without access issues (that won't be resolved by setting the gates back), the need to secure additional improvement works to the point of access is not considered desirable, both in terms of adding a degree of permanence to what is only recommended to be supported on a temporary basis and also the visual impact such works would have on the character of this part of Sandgate Terrace through urbanising what is otherwise undeveloped. .

Planning Balance

73. National planning policy attaches great importance to the protection of locally designated green space. As set out above, paragraph 101 of the NPPF specifies that policies for managing developments within a Local Green Space should be consistent with those for Green Belt. Accordingly, the same level of importance is ascribed to the protection of Local Green Spaces as Green Belt. Therefore, when considering any planning application, substantial weight should be given to any harm to Local Green Space. The provision of a gypsy and traveller pitch in this location would amount to inappropriate development and therefore harm to this designated space. The proposal

to develop this site that forms part of a wider designated area of greenspace is contrary to Policy G6 of the CS.

74. Accordingly, it falls with the applicant, for planning permission to be granted, to demonstrate that VSC exist to outweigh the presumption against the grant of permission and the harm caused. The VSC set out for this case relate to an unmet need and lack of a 5 year supply of pitches, the lack of an alternative site and the best interests of the children living at the site. The PPTS states (at paragraphs 16 and 17) that Traveller Sites are inappropriate development in the Green Belt, and that personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Space and any other harm so as to establish VSC. However, the best interests of children can outweigh the harm to the green belt and form a valid argument to establish VSC. Comments from Leeds Gate reinforce current difficulties with the supply of adequate sites and also highlight the applicant's local ties.
75. It is clear the family do have strong local links in that the children attend Ash Tree Primary School and are registered with the local doctor. The primary school is a short distance from the application site. It is acknowledged that primary education is vitally important to a child's education and social development. It also desirable to minimise disruption to a child's education.
76. If permission were to be refused ultimately the family may have to relocate. On the basis of the information submitted the family do not have an alternative site to go to. They have left the Cottingley Springs site and are not able to return due to family conflicts. In any event it would not be possible to return to that site as there is no pitch available. This has been confirmed by the Council's Gypsy Traveller Liaison Officer. Furthermore, if this were possible it would still lead to a disruption in the youngest children's education. The applicant left a roadside pitch to settle on the application site. In light of the shortfall in the provision of traveller pitches, generally and in the locality, if the family have to relocate it is likely they would have to do so without the Council's consent.
77. The personal circumstances of the applicant's and his family and the best interests of the children are matters that are afforded substantial weight.
78. It is considered that the development does not comply with Policy H7 of the LCS as it is a greenfield site whose designation as Local Green Space counts against its development for residential use. Again, this is a factor that should be afforded significant weight.
79. It is not considered that the proposal results in any harm, or benefit, to the aspects of highway safety or residential amenity and so these are neutral factors in the decision-making process.
80. Drawing all the above factors together, and having regard to the extent of harm caused, it is not considered that a permanent planning permission would be appropriate.
81. The possibility of a temporary and/or personal permission needs to be considered. The benefit of a temporary permission is that it would require the land to be returned to its intended use as allotments once the permission expires. Thus, the site would retain its status as an allotment and as greenspace. Temporary permission would give the applicant time to consider other permanent sites and the identification and delivery of sites through the review of the adopted plan. Accordingly, a temporary permission, and personal to the applicant, would serve to reduce the extent of harm caused. The

three years is considered appropriate as the Leeds Local Plan 2040 is due to be adopted in 2025, which would be well before the expiry of the temporary permission. So even in circumstances where the local plan adoption was delayed, an updated Gypsy and Traveller needs assessment would have been undertaken and a more accurate understanding of what sites are available would be known.

82. There is clear conflict with policies concerning the site's designation as Local Green Space and greenspace. There is also conflict with Policy H7, 'Accommodation for Gypsies, Travellers and Travelling Show People'. As set out above these are matters that carry substantial weight and count against the grant of a permanent planning permission. However, regard must be had to the circumstances of the family and particularly the best interests of the children living at the site. To refuse permission is likely to result in significant disruption to the younger children's education as there is not an identifiable alternative site for the family to move to. This is also a matter that carries substantial weight in the decision-making process. The grant of a temporary permission would serve to have regard to the family circumstances and protect the longer-term planning policy objectives that are relevant to this site. Whilst it might seem sensible that the length of the planning permission granted should reflect the length of time the children are of primary school age, the provision of and demand for pitches could change within a much shorter timescale and it is appropriate for the temporary permission to reflect this, particularly as a plan review is currently being undertaken and includes a call for sites. A shorter time period of 3 years is therefore recommended by officers in these circumstances.

CONCLUSION:

83. Considering the harm and conflict with policies concerning Local Green Space and greenspace and balancing this against the personal circumstances/needs of the Applicant and his family, alongside the Equality Act and Council's Public Sector Equality Duty, it is considered a reasonable and balanced response to grant a temporary 3 year personal permission.

Background Papers:

Planning Application: 22/04416/FU

APPENDIX 2

NORTH AND EAST PLANS PANEL

THURSDAY, 27TH JULY, 2023

PRESENT: Councillor J Akhtar in the Chair

Councillors B Anderson, D Jenkins,
R Jones, J McKenna, M Millar, N Sharpe
and R. Stephenson

SITE VISIT

The site visit was attended by Cllrs Akhtar, Anderson, Jones, McKenna and Millar.

18 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

19 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

20 Late Items

There were no late items.

21 Declaration of Interests

Cllr Stephenson informed the Panel that on arrival at the Civic Hall he had realised that one of the people speaking in objection to the application was a family friend. He informed The Chair that he had not spoken to the person about the application before the meeting, and was approaching the application with an open mind.

22 Apologies for Absence

There were no apologies for absence.

23 Minutes - 29th June 2023

RESOLVED – That the minutes of the meeting held on 29th June 2023 be approved as a correct record.

24 22/04416/FU - Retrospective planning application for use of land for residential purposes including the siting of one static caravan and one touring caravan on land at Sandgate Stables, Sandgate Terrace, Kippax

The report of the Chief Planning Officer presented a retrospective planning application for use of land for residential purposes including the siting of one static caravan and one touring caravan on land at Sandgate Stables, Sandgate Terrace, Kippax.

The presenting officer provided the following information to the Panel:

- The application was brought to Plans Panel at the request of the Ward Councillors Lewis, Harland, and former councillor Midgley. They objected to the scheme as the land was part of a wider allotment site and was protected greenspace as set out in the Kippax Neighbourhood Plan GE1 and through policy GS1 of the Site Allocation Plan (SAP). It was their view that the proposal was not suitable for the site and the application had not met the threshold of very special circumstances required when determining applications which would otherwise be regarded as inappropriate development due to being located within protected greenspace. It was also the view of the Ward Councillors that the proposal would have an impact on residential amenity and lead to loss of allotment land when there is demand for allotments in the area – as evidenced by the waiting list.
- It was noted that the site had a hedge buffer to the east, south and west and that residential properties were to the south on Sandgate Terrace.
- The site was contrary to policies related to greenspace and for this reason the applicant had set out very special circumstances for his application, relating to family life and most particularly the needs of the children involved.
- Members were advised of a site to the west of the application site which had been the subject of an appeal for a similar development. Members were informed that the family situation on the appeal site was different to the application site, as the family on the appeal site were living on a pitch on another site which had permanent planning permission and the children did not have links to the local schools.
- It was noted that the situation at the application site was different due to the very special circumstances put forward by the applicant which were:
 - The family had been living roadside prior to moving onto the site. This was not permitted by Government and the family had no alternative site options available.
 - Two of the children were attending the local primary school.
- The proposals for the scheme were contrary to GE1 of the Kippax Neighbourhood Plan, GS1 of the SAP and G6 of the Core Strategy. It was noted that the proposal could only be moved forward due to the very special circumstances set out.
- Conditions had been set for the scheme which included:
 - Temporary permission 3 years
 - Personal to the applicant, spouse, and dependents.
 - Returning the land to its original state following cessation of the permitted use and this would include the removal of the hardstanding and gravel path.
- It was acknowledged that the Council currently have two sites, Cottingley Springs and Kidacre Park, with all pitches full. It was noted that the Council does not have a five-year supply for deliverable sites. Information from the Leeds GATE who had been assisting the family, said they knew of families in a similar situation to that of the applicant and there was a three-year waiting list for pitches on a site.

- Members were shown plans for additions to the site which included a bin store, cycle store and the movement of the gate.
- In response to questions from Members during the site visit the following information was provided:
 - The electric point had been connected by Northern Grid and supplied electricity to the static caravan.
 - The gravel access path and hardstanding had been put in in Autumn 2020. As noted, it was proposed that a condition would be added to ensure this was removed and the land would be returned to its original state following cessation of the temporary permitted use.
- An additional condition was to be added for the applicant to submit a site plan setting out the uses of each section of land.

There were three objectors to the application in attendance at the meeting.

Resident of Sandgate Terrace provided the following information:

- It was devastating to see the changes of Carters Field allotments over the recent years. She said that this site had gone through changes and unfortunately photos had not been available to show what the site had looked like before.
- It was recognised that this development was temporary, but it was her view that the development was causing detrimental harm to the land. She thought there should be substantial weight given to the designation of the land. As it is at present, it was not presenting as greenspace and in her view was irreparable.
- There are other allotments at this location, the site was not in isolation. It was acknowledged that other allotments had outbuildings, but it was the view that they were not causing destruction to the natural habitat, and they were not dwellings.
- Where the caravan is sited was not where buildings were prior to the previous owner. It was noted that a hardstanding was put in and a building erected, but there was enforcement action, and the building was taken down and a static caravan placed there.
- It was the view and concern of the residents that granting this application had the potential for further developments on other allotments on Carters Field.
- Residents had concerns of who would monitor the site and those residing at the site, even so as to ensure compliance with any planning conditions that might be imposed. It was felt that this would inevitably fall to local residents to 'police'.
- The report had not reflected the emotional harm on the community and the detrimental effect on residents in the area. She also referred to the Inspector's report on a site nearby where a similar application had gone to appeal.

Chairman of the Castleford and District Allotment Federation Ltd provided the following information to Panel Members:

- He referenced the solicitor's letter which had been referenced in the report. It said the Allotment Federation had given a right of way to a strip of land adjacent to Sandgate Terrace. It was noted that the Federation did not own this strip of land and the Land Registry had refused to acknowledge the Federation's ownership of the strip of land. Therefore, the Federation could not grant a right of way.
- The Solicitor's letter had also made mention of the updating or maintenance of the roadway. This indicated that the right of way existed. The Chairman had a copy of the Land Registry document for that plot which did not include that strip of land but did include a half of the path that runs through the centre of the field which is the correct entrance to this strip of land.
- It was noted that Carters Field Allotments had been allotments since 1958 and the previous owners of the allotment had sold surplus produce to the local residents.

In response to questions from Members the following information was provide:

- Cllr Lewis said that the Ward Councillors' objections had been noted in the report. It was noted that the Kippax Neighbourhood Plan was voted for by the residents of Kippax in February 2019. There were compelling arguments why the land was not suitable for such a development. It was his view that how the amenity and management of utilities were not addressed adequately within the report. It was also noted that the outbuildings referenced as historic were not and were listed at paragraph 13 of the report and had been referred for enforcement action.
- It was noted that are 3 primary schools in Kippax, 1 in Allerton Bywater, 1 in Great Preston, 1 in Ledston, 1 in Micklefield and outside the ward in Garforth and Castleford.
- The Allotment Federation have 100 tenants across 4 sites in Kippax and there is a waiting list for these sites. It was the view that there may be a surplus across the area but there was not a surplus in Kippax.
- It was noted that this site had not been brought forward in the SAP for development, it was marketed and sold only as allotment land.
- It was noted that the ownership of the strip of land referred to was still the subject of ongoing investigations and discussions between the Allotment Federation and the Land Registry. The track had always been used as access for Carters Field Allotments. Members were advised that the roadway was an adopted highway and therefore under the jurisdiction of the City Council, but this is distinct from the matter of ownership of the area beneath (subsoil) that is not owned by the City Council.
- The electric point had been put in by the previous owner.

The applicant's Agent attended the meeting and provided the following information to the Panel:

- The applicant had been residing at the site with his wife and four children since June 2022 when he had purchased the land.

- His younger children attend the Kippax Ash Tree Primary School, as he and his wife had wanted the children to be educated in a state school.
- He had purchased the land as he had been unable to get a pitch on another site. Before moving to the site, the applicant and his family had been living roadside, which is now illegal.
- The Council has a shortage in its 5-year supply of Gypsy & Traveller pitches, therefore there were no available and suitable pitches for the applicant and his family.
- Right of access had been confirmed by John Howe and Co Solicitors based in Pudsey.
- There had been enforcement action previously against the steel frame building that was on the site when the applicant purchased the site. The applicant had undertaken to remove the steel frame building, which was replaced with the existing caravan structure.
- The electric point had been fitted by the applicant.
- The applicant pays council tax, and his waste is collected.
- The family are now registered with doctors and dentists in the area.

Responding to questions from Members the Panel were provided with further information:

- The family had resided on a pitch at Cottingley Springs traveller's site. However, there had been issues and the applicant and his wife had not thought it was appropriate to have the children living at this site. Therefore, they had left the site and, not being able secure another pitch on another site, had been living roadside for 6-9 months. The issues had been arguments between families, and there were general reasons for safety. The family would be happy to move to a site but there are only two in Leeds and Cottingley Springs was known to have issues.
- The family had lived roadside in various parts of the Leeds district and the children had been to various schools. An opportunity arose to buy the land and the applicant thought this was an opportunity to settle the family and for the children to be settled into a school.
- When the applicant had been made aware of planning enforcement, he had removed the steel framed structure but retained the hardstanding.
- It was confirmed that the applicant did own the freehold title to the land.
- Whilst living roadside the family had become involved with Leeds GATE who had been assisting them and this was how the agent had got to know of the family, through the Leeds GATE.
- While the two younger children are at a state primary school, the two older children are educated through Leeds GATE. Gypsy Traveller Families prefer for their young children to be state educated and when they reach secondary education age, they are educated through the Leeds GATE in the Leeds area.
- The applicant purchased the land for £16,000 and the deeds were issued through a solicitor. The Gypsy Traveller community prefer to live in caravans rather than in houses.
- After the 3-year temporary permission the family would move onto a site if there was an appropriate site for them.

- The applicant was aware that he would need planning permission, but the family had already moved onto the site, and this was why the application was retrospective. The applicant was aware that the site would need to be returned to its original state once the temporary permission had ceased.
- The electric point had been installed, as before this the electricity had been run off a generator which was noisy.
- It was the intention of the applicant to have 3 horses in the paddock area and for the two areas of grassland to remain as they are. The applicant would be prepared to accept a condition to this effect or provide an undertaking that the two areas of grassland would remain.
- The family have been looking for a pitch on a site but on average only 2 pitches a year become available.

The Area Group Manager recognised that this application was a hard one for the Panel. However, the Panel needed to consider the proposals before them irrespective of the history of this case. It was acknowledged that this did breach planning controls and the start of the development had been without planning permission and was contrary to greenspace policy. It was therefore necessary for Members to determine whether they were satisfied that very special circumstances existed, such as to outweigh the harm and development being contrary to policy if it was granted permission. This was to be the focus of Members' attention in the decision-making process taking place.

In response to questions from Members to officers the following information was provided:

- After the 3-year temporary permission enforcement action would be taken unless the applicant put in for a longer period. The temporary permission is personal to the family only. The site would be restored to its original state and these two points were conditioned. If this was not adhered to an Enforcement Notice could be issued.
- The Enforcement Notice at the cessation of the temporary permission would be served on any owners of the land. It was acknowledged that this would be difficult, but the service would try to serve the notice.
- It was acknowledged that there was a 0.1-hectare ratio per horse in British Horse Society guidance. The officers would check that the size of the proposed paddock was sufficient space for three horses.
- Officers were unable to confirm how the site was banded for council tax.
- Protected characteristics, as noted in the Report, were to be given some consideration in the decision-making process, but so too were the personal circumstances of the applicant and his family in this instance. This was because there was a judgment to be made as to whether it was deemed there were very special circumstances established to a sufficient degree to outweigh any harm from what would otherwise be regarded as inappropriate development.

- No percentage could be placed on what weight Members should give to any of the factors, but it was for Members to use their own judgment in the planning balance.
- Members acknowledged the Inspector's comments from an appeal of a site nearby but had concerns that this may not be in line with current guidance and policies in relation to the Gypsy Traveller Sites.
- It was acknowledged that the Council did not have a 5-year supply for Traveller sites as set out in the SAP. Members were provided with a policy up-date on how this is being considered as part of the Local Plan Review process and what this means in the longer-term.
- Members were informed that the permission was specific to this family for this site. The Enforcement Team would have the responsibility for monitoring compliance with the terms of this planning condition. Timescales for visits to the site could be agreed. It was noted that the Enforcement Team would be reliant to some extent on the residents somewhat to report if there was a breach of controls, but this is as is often the case with planning enforcement matters on sites across the City.
- Members were reminded of an appeal in 2018 at Hollinghurst on a retrospective application for traveller's land which was refused by the Panel but allowed on appeal. On this occasion, once at appeal, the Inspector had said that the weight should have been given to the unmet need and Council's lack of supply of Gypsy Traveller pitches.

The Panels comments included:

- There was insufficient information in relation to why the family had left Cottingley Springs, making themselves intentionally homeless.
- Insufficient information on the steps that would be taken to restore the site to its original condition.
- The word CHOICE had been used on numerous occasions in relation to the applicant which was picked up by the Panel. It was acknowledged that everyone had a right to a family life and everyone had a right to be treated fairly and equally, as is indeed enshrined in the law. However, there were different ways in which this could be approached and achieved.
- The Panel had noted the very special circumstances relating to ensuring education for the children.
- This was a difficult decision especially in light of information provided for the 2018 appeal, in relation to unmet need which was a significant factor that the Panel should take into account.
- More information was required from Leeds GATE who had been assisting the family.

Cllr Stephenson put forward a motion to refuse the application on the grounds that significant weight had been placed on the very special circumstances that the children attended a primary school. However, the applicant had chosen to put himself and his family in this position. There were school places elsewhere. This application was contrary to policy on greenspace and the very special circumstances were not deemed sufficient to outweigh this.

Cllr Anderson seconded the motion. On being put to the vote, this motion was not carried.

Cllr Jenkins put forward a motion to defer the application for more information to be provided in relation to unmet need, issue of choice, advice from Leeds GATE, the school, and if it would affect the children if they were removed and ward members views. Also, the consequences of refusal given the Inspectors comments to a 2018 appeal.

Cllr McKenna seconded the motion. He also requested further information on reason why the family had left Cottingley Springs, and information in relation to the size of the paddock to ensure that the three horses had sufficient space. Also, to look at if the applicant was willing to change part of the green space back to allotment land and how this could be secured.

The Area Group Manger summed up the information requested by the Panel as:

- Returning some of the land back to allotment land.
- Information in relation to the land allowed per horse for grazing.
- Advice from the Leeds GATE, the school and ward members.
- More information in relation to refusal and any consequences.
- More information on unmet need.
- And take legal advice on the scope and context of what weight could be applied to the history of the family and why they left Cottingley Springs and if this is material to the planning application.

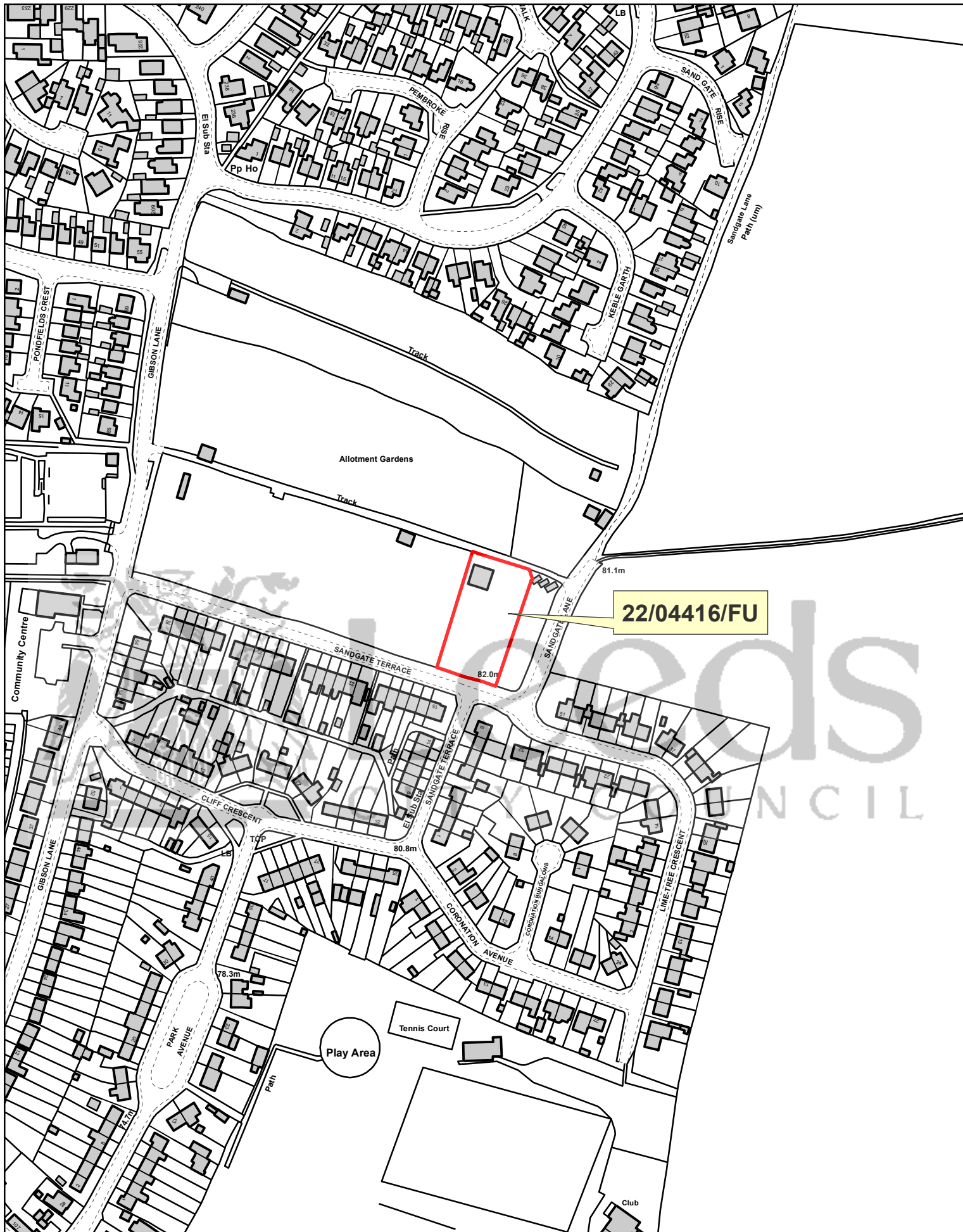
On being put to the vote, this was carried.

RESOLVED – To defer for further information as requested by the Plans Panel in relation to:

- Returning some of the land back to allotment land.
- Information in relation to the land allowed per horse for grazing.
- Advice from the Leeds GATE, the school and ward members.
- More information in relation to refusal and any consequences that flow particularly in respect of the children of the applicant.
- More information on unmet need.
- And take legal advice on the scope and context of what weight could be applied to the history of the family and why they had left Cottingley Springs and if this is material to the planning application.

25 Date and Time of Next Meeting

RESOLVED – To note the next meeting of the North and East Plans Panel will be held on Thursday 24th August 2023 at 1.30pm.



NORTH AND EAST PLANS PANEL

© Crown copyright and database rights 2023 Ordnance Survey 100019567

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

SCALE : 1/2500



