



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



PLANS PANEL PRESENTATION

SCALE 1:2500



NOTE:
CONTRACTOR TO VERIFY ALL SIZES ON SITE BEFORE COMMENCEMENT.

NOTE:
PLEASE DO NOT SCALE FROM THIS DRAWING.

Party Wall Act
Notices under the Party Wall Act are to be served by the building owner or appropriate body appointed by the building owner.
For further clarification on the Party Wall Act 1996 contact:
Cairn Wharf Consultancy Ltd.
M: 07739 576 181 E: cw@cairnwharf.com
For further information on the Party Wall etc. Act 1996:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523010/Party_Wall_etc_Act_1996_-_Explanatory_Booklet.pdf

Building Contract
It is recommended that a formal written agreement is put in place between the building owner and the building contractor.
A typical agreement that protects both owner and builder would be produced by the JCT.
For further information on Building contracts speak to MAS Design Consultants Ltd.

CDM 2015 Regulations
The Construction Design and Management (CDM) Regulations 2015 apply in full to all construction works and the client must now appoint a Principle Designer and a Principle Contractor. MAS Design Consultants Ltd. will act as Principle Designer. The Contractor must produce a written Construction Phase Plan.
For further information on the CDM 2015 Regulations can be seen at <http://www.hse.gov.uk/pubns/indg411.pdf> or contact MAS Design Consultants Ltd.

GENERAL NOTES
Materials to match existing.

These notes do not comprise a full specification. The drawings are for Building regulations purposes only and are not working plans. They do not comprise of a complete specification for the whole of the works. Their primary function is to assist the Local Authority Inspector to determine compliance in line with Building regulations standards.

Where further clarifications are required contractor shall refer to the client for details and instruction.

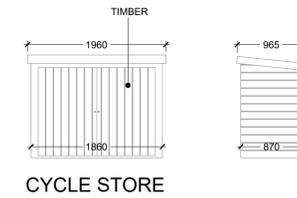
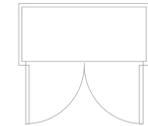
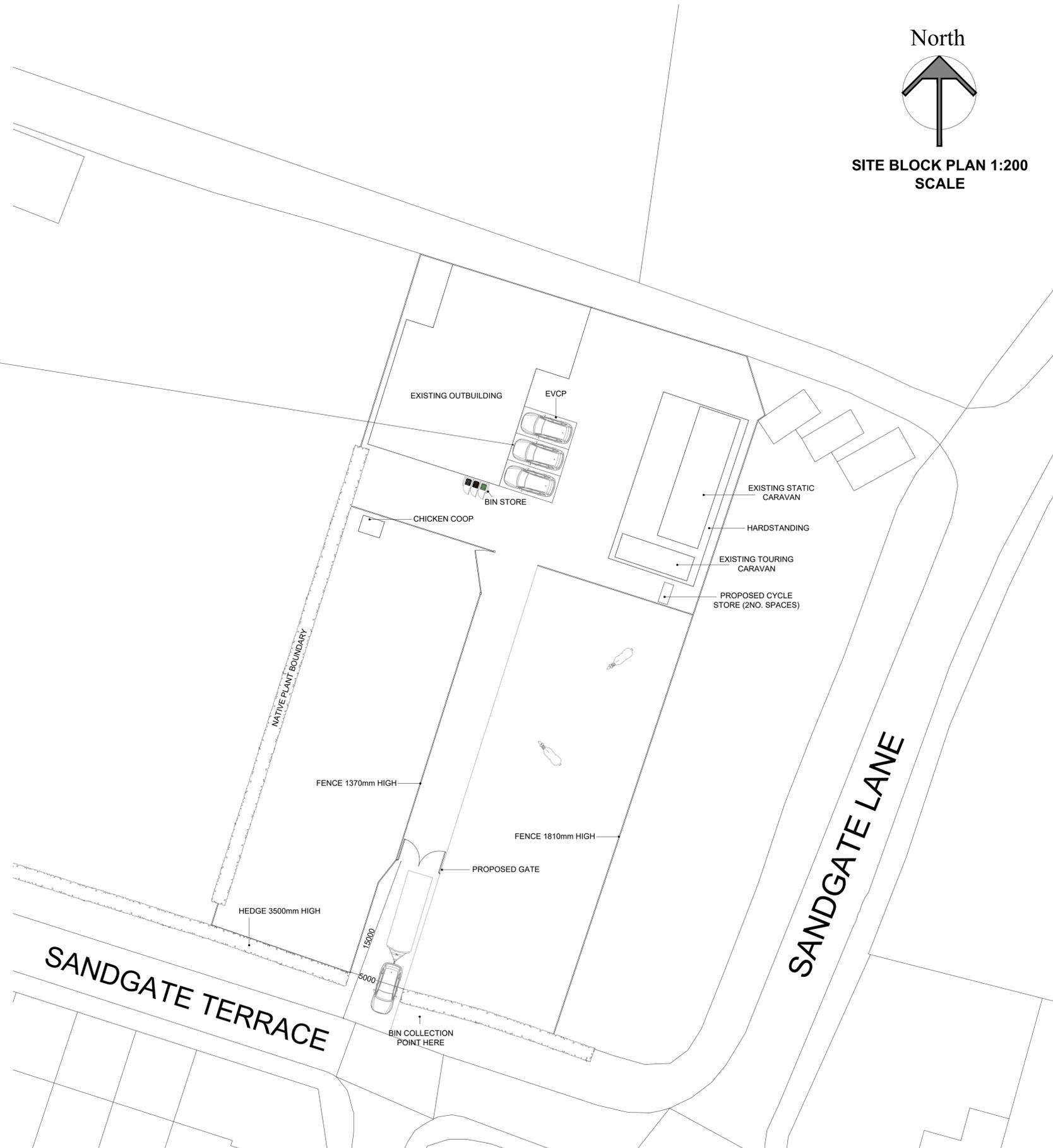
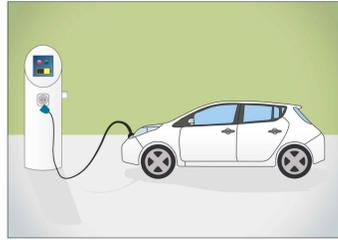
All dimensions must be checked by the contractor and any discrepancies noted in writing to MAS Design Consultants Ltd.

All works must be carried out in accordance with current Building Regulations, Codes of Practice and Planning Officers requirements.

All materials must comply with current British Standards in situations used.
February 23



SITE BLOCK PLAN 1:200 SCALE



REV B - AMENDED TO HIGHWAYS COMMENTS - 09/06/2023
REV A - AMENDED TO PLANNING COMMENTS - 10/03/2023



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PLANNING

EXTENT OF PROJECT:
RETROSPECTIVE APPLICATION FOR SITING OF CARAVAN FOR RESIDENTIAL PURPOSES.

CLIENT DETAILS:
MR ADAM SMITH
LAND OFF SANDGATE TERRACE
KIPPAX
LEEDS
LS25 7BQ

DRAWING TITLE:
SITE PLAN AS PROPOSED.

PAPER	SCALE	DATE	DRAWING No	REV
A1	1:200	17/10/22	3835/03/000	B