



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 23rd February 2012

Subject: Application 11/04310/FU - Retrospective use of land for siting of mobile homes with associated works and retention of chicken shed, 2 single stables and a dog pen at Caravan at The Stables, Ninevah Lane, Allerton Bywater, Leeds, WF10 2EW.

APPLICANT

P Doran

DATE VALID

6th December 2011

TARGET DATE

31st January 2012

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:

REFUSE PERMISSION for the following reasons:

1. The site lies within an area defined as Green Belt and the Local Planning Authority considers that the proposed mobile homes for residential occupation and associated infrastructure constitutes inappropriate development in the Green Belt in light of the guidance in Planning Policy Guidance Note 2 (PPG2), the draft NPPF and Policy N33 of the Unitary Development Plan and would undermine the purpose and function of the Green Belt. The applicant has also failed to demonstrate very special circumstances which could justify inappropriate development in the Green Belt. It therefore, is considered that the proposal is contrary to Policies N33 and H16 of the adopted Leeds Unitary Development Plan (Review 2006) and the guidance contained within PPG2.
2. The Local Planning Authority considers that the proposed mobile homes for residential occupation and associated infrastructure would, due to their size, siting and combined visual effect, have a harmful impact on the openness of this Green Belt location, whilst also having a harmful impact on the visual amenity and rural character of this edge of village locality due to the design and facing materials used. It is

therefore, considered that the proposal is contrary to the national planning policy guidance in PPG2 and Policies GP5, H16 and N13 of the adopted Leeds Unitary Development Plan (Review 2006).

3. The Local Planning Authority considers that the use of the land for the purposes of stationing caravans for human habitation intensifies the use of an access route that is unsuitable by reason of its narrow width, a tight bend with poor visibility and poor surfacing of the track between the bend and the site. The proposals are therefore considered to be contrary to Policies T2 and GP5 of the adopted Leeds Unitary Development Plan (Review 2006), national advice in PPG13 and 'Manual for Streets' and the Council's advice contained within the 'Street Design Guide'.

1.0 INTRODUCTION:

- 1.1 The retrospective application is presented to Plans Panel due to the sensitivity of the proposal and the significant amount of interest it has generated.

2.0 PROPOSAL:

- 2.1 This is a retrospective application for the use of land for the siting of mobile homes with associated works and the retention of a chicken shed, two single stables and a dog pen.

3.0 SITE AND SURROUNDINGS:

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

4.0 RELEVANT PLANNING HISTORY:

- 4.1 11/00755/UCU3 – Enforcement case - Use of land for the stationing of caravans for human habitation, laying out of hardstandings and construction of buildings and septic tank.
- 4.2 10/01265/USOC3 – Enforcement case (unrelated to the current application) – Siting of caravans and engineering works. One old touring caravan on land, not occupied. Complainant confirmed it had been on site for many years. Other works were permitted development or not development.
- 4.3 10/03982/FU - Detached stable block – Land north of The Bungalow, Ninevah Lane – Approved November 2010.
- 4.4 06/06384/FU - Erection of one block of 6 stables to vacant land – The Caravan, Ninevah Lane – Approved December 2006.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 As the development was carried out without the benefit of planning permission, enforcement action was pursued when the matter was brought to the Council's attention. A Temporary Stop Notice was served on 13th October 2011 to prevent more caravans being brought to the site and other works carried out. A planning application was submitted in October 2011, although it remained invalid until December 2011. As a Temporary Stop Notice only lasts for 28 days and it was considered that there was a continuing risk of the development intensifying an Enforcement Notice and Stop Notice were served on 10th November 2011. An appeal was lodged against the enforcement notice on 4th December 2011, which places the requirements of the enforcement notice in abeyance. The Enforcement Notice requires the cessation of the use of the land for the stationing of caravans for human habitation and associated motor vehicles within four months of the notice taking effect, to remove the structures on the land (including hardcore) and create a seedbed for grass within five months of the notice taking effect and to seed the entire area with grass in the first available planting season.
- 5.2 The appeal has been made on the following grounds:
- Ground A - that planning permission should be granted for what is alleged in the Notice.
 - Ground F – That the steps required to comply with the requirements are excessive and lesser steps would overcome the objections.
 - Ground G – That the time given to comply with the Notice is too short.

The appeal is to be heard by means of a Hearing in March 2012.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised as a departure that affects a public right of way. Six site notices were initially displayed, posted on 23rd December 2011. Following reports from the public that a number of the notices had been removed, a further eight site notices were displayed, posted 6th January 2012.
- 6.2 One letter of representation has been received from Cllr Keith Wakefield and Cllr James Lewis (both Kippax and Methley Ward) stating that they have been contacted by a large number of residents who are concerned about the application and Travellers using the site. It is noted that the site is very close to residential premises and numerous complaints have been received about noise from the generator and barking dogs.

- 6.3 A further letter of representation has been received from Cllr James Lewis, objecting to the application on the grounds that:
- The site is in Green Belt and therefore development should only be allowed in very special circumstances, a test that is not met in this case.
 - The unauthorised development is generating local amenity problems with noise from generators and dogs. The close proximity of residential properties on King Edward Avenue demonstrates the inappropriateness, given the loss of amenity.
 - The poor access down a long single track with no pavement is potentially dangerous and not suitable for the proposed use.
 - Residents have raised concerns regarding the lack of details for the storage and removal of rubbish, parking for vehicles other than domestic ones, boundary treatments and visual amenity for users of nearby footpaths.
- 6.4 One letter of representation has been received from Allerton Bywater Parish Council objecting to the proposals on the grounds that the site is within Green Belt and the requirements of the applicant are not considered to be exceptional. Reference is made to UDP policy regarding static caravans and also to the title deeds for the land which are considered to prohibit this type of development. Concerns are also raised about noise nuisance and the effect on the surrounding countryside, particularly the nature reserve on the former colliery site. Additional concerns are raised in relation to increased traffic on Ninevah Lane and it is noted that other developments have been refused due to highway implications.
- 6.5 One letter of representation has been received from Great and Little Preston Parish Council supporting the comments made by other local residents objecting to the proposals. Concerns are raised about noise, the effect on nearby properties and the effect on the recent environmental improvements to the area, including the St Aidans Nature Park.
- 6.6 Approximately 1266 letters of representation (some of which are standard letters) have been received from local residents stating objection on the grounds that:
- The proposals are on Green Belt land.
 - Enforcement action has been taken against unauthorised development in the Green Belt elsewhere in the local area and this applicant should be treated the same way.
 - The proposed development would, if allowed, create a precedent for other pockets of Green Belt land to be developed in a similar manner.
 - The proposed development is adjacent to residential properties.
 - The proposed development would attract other travellers into the area with their commercial vehicles and caravans and result in problems of anti-social behaviour.
 - The generator causes noise and disturbance to nearby properties. One letter reports that a larger generator has been brought on site and further fencing erected.
 - It is reported that another application nearby for a single house was previously refused as it would add traffic to Ninevah Lane.
 - The village has doubled in size in recent years with no real gain in services.
 - Concern is raised that there would be local animosity towards the applicant and it is considered that the Council should find an alternative site (this letter incorrectly assumes that the Council is landowner).
- 6.7 Two letters of support have been received from local residents noting the history of the site as a small holding. It is considered that the proposed use is a visual improvement on the previous situation and does not give rise to any highway issues

given that the use of this part of Ninevah Lane is less than it has been historically. It is also felt that it is much better for this family to be living here, rather than living at the side of the road. However, a condition is suggested to restrict the site to just this applicant and his family.

7.0 CONSULTATIONS RESPONSES:

Statutory

- 7.1 Environment Agency: - Objection to the development as submitted because it involves the use of a non-mains foul drainage system, but an inadequate assessment of the risks of pollution to ground and surface waters has been provided. Further to the receipt of these comments, the applicant has provided further information which at the time of writing is being considered by the Environment Agency. A verbal update will be provided to Members on this point.

Non Statutory

- 7.2 Highways: - It is considered that the use of the land for the stationing of caravans for human habitation would intensify a route that is unsuitable to be used as a means of pedestrian and vehicular access (including service and emergency vehicles) by reason of its narrow width over a length of approximately 275m, lack of pedestrian facilities over a significant part of this length, a tight bend with poor forward visibility (about 140m from the site entrance) and poor surfacing of the track between the bend and the site. Due to these constraints, the site would also not provide satisfactory waste collection/storage facilities for the caravans. Accordingly, the proposals would be contrary to Policies T2 and GP5 of the UDP and advice contained in the Street Design Guide, Manual for Streets and PPG13.
- 7.3 Environmental Protection Team: - The application site is situated in close proximity to residential properties on King Edward Avenue which have the potential to be affected by the intended use. Complaints have previously been received from the residents on King Edward Avenue about noise from barking dogs and the on site generator. Whilst there is potential for disturbance to nearby occupants from the application site, it is considered that an appropriate condition could otherwise be imposed in order to satisfactorily mitigate against any potential noise from the generator. It is also noted that the dogs have since been removed from the site.
- 7.4 Mains Drainage: - In keeping with the Council's Building Regulations and Minimum Development Control Standards for Flood Risk, soakaways should be investigated and used where practicable for the surface water disposal from this proposed site. Whilst the applicant has indicated that surface water will be discharged to the watercourse, it has previously been shown that soakaways were to be used for the surface water discharges from the approved stables. Details of the septic tank can be dealt with by the Building Inspector, although any overflow from the tank to the watercourse would require approval from the Environment Agency. Conditions are recommended requiring an investigation into the feasibility of infiltration drainage methods, attenuation to greenfield rates of 5l/s if infiltration is not feasible and a scheme of surface water drainage works.
- 7.5 Contaminated Land: - No objection, subject to the imposition of conditions to confirm that the made ground on which the development sits is suitable for use.

7.6 Public Rights of Way: - A claimed footpath abuts the site. However, it would appear that the development will not affect the claimed footpath and therefore no objection is raised.

8.0 PLANNING POLICIES:

8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. However, the RSS is a strategic planning document, used to inform more detailed policies at a local level. Accordingly, it is not considered that there are any particular policies which are relevant to the assessment of this proposal.

8.2 Unitary Development Plan Policies:

GP5 General Amenity considerations

N32 Designated Green Belt

N33 Limited categories of development for which planning permission will be granted.

H16 Sites suitable for Travellers and Travelling Show people.

T2 Access and Highway safety.

8.3 The following national planning policy and advice is relevant:

PPS1 - Delivering Sustainable Development

PPG2 - Green Belts

PPG13 – Transport

Manual for Streets

Advice in Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites and draft replacement guidance published for consultation by CLG in April 2011.

Draft NPPF.

8.4 The following local guidance is relevant:

Street Design Guide – Supplementary Planning Document (Adopted August 2009).

9.0 MAIN ISSUES

9.1 1. Green Belt issues

2. Very Special Circumstances

3. Access and Highway Safety

4. Noise and disturbance

5. Drainage

10.0 APPRAISAL

Green Belt Issues

10.1 The site lies within the designated Green Belt and guidance within PPG2 provides that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. It is considered that the use of land for the siting of mobile homes for residential occupation and associated infrastructure is inappropriate development within this Green Belt location as it fails to satisfy the criteria set out in paragraph 3.4 of PPG2. The proposed use and associated domestic activity causes significant harm to the open character of the area and represents an encroachment of development into the countryside. Whilst the site is located on the edge of Allerton Bywater, it is considered that this is a vulnerable piece of Green Belt and the proposed use would sever the open field between the site and the urban area from the surrounding countryside. The mobile homes introduce further buildings that by reason of their size and siting serve to erode the open character of the area and

appear as alien features within this rural edge of village setting. The siting and design of the mobile homes has little or no regard to the open and rural surrounds and as such appear out of place and harmful to the character and visual amenities of the area. The associated trappings of, and activity associated with, the domestic occupation also serves to adversely affect the open character of the area. The site is set in otherwise rural surrounds on the edge of the village of Allerton Bywater. The extent of built development, its form and visual appearance and associated activity, is incongruous in this open rural setting. Whilst it is noted that the applicant has suggested a condition to provide a hedge to the eastern boundary, it is not considered that this would satisfactorily overcome the level of harm to the Green Belt.

Very Special Circumstances

- 10.2 Having regard to the advice given in PPG2 and the development plan, the use for mobile homes is inappropriate development within the Green Belt. It should not be permitted unless very special circumstances exist and the harm to the purposes of Green Belt has to be significantly outweighed by other considerations. The onus rests with the applicant to demonstrate that such circumstances exist.
- 10.3 The applicant has submitted that the argued limited harm arising from the location and scale of development, the personal needs of the applicant and his family (The need for a settled home, personal health issues, access to education for children and the importance of extended families to Gypsy Traveller communities), the pressing, unmet needs for sites in Leeds and the failure of Policy are other considerations that constitute very special circumstances. The applicant argues that substantial weight should therefore be given to these considerations in determining whether the harm to Green Belt is outweighed.
- 10.4 The proposed development would also represent inappropriate development in the Green Belt according to the guidance contained in the draft NPPF and the draft NPPF maintains the requirement to demonstrate very special circumstances justifying inappropriate development in the Green Belt.
- 10.5 Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites) paragraph 49 provides that new Gypsy and Traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: Green Belts (PPG2). National planning policy on Green Belts applies equally to applications for planning permission from gypsies and travellers, as well as the settled population. Alternatives should be explored before Green Belt locations are considered.
- 10.6 CLG published a consultation document on planning for Gypsy and Traveller sites in April 2011. The document reaffirms many of the principles set out in the current national guidance including not locating sites in high risk flood areas, locating sites where there is ready access to local services/facilities and promoting good relations between Gypsies and Travellers and the settled community. The document suggests that, to date, the perception across the country has been that planning applications for Gypsy and Traveller sites located on Green Belt land have been treated more favourably than those for other forms of housing. In future, the government wants to see a re-balancing of this position whereby all housing related planning applications on Green Belt are treated the same way. The consultation document confirms that Gypsy and Traveller sites should ideally be located on brownfield sites. In this case, the applicant has not demonstrated that there are no other sites outside of the Green Belt, that are suitable or available.
- 10.7 The submitted Design and Access Statement states that the land was bought by the applicant in late 2010 and has been occupied since December 2010. Consent is

sought to station two mobile homes and one touring caravan on the land for residential occupation, together with associated sheds and kennels. The applicant is a Gypsy who has spent most of his life travelling in the Leeds area. His grandmother resided at the Cottingley Springs Caravan site until her death 4 years ago. The applicant has stated that he could not reside at Cottingley Springs due to disputes with other families there, although no supporting evidence has been submitted. Following a request for evidence, the agent acting on behalf of the applicant has pointed out that there was no Police involvement in the dispute and therefore a lack of records, which is not an unusual situation in Traveller communities.

10.8 There is evidence of an unmet need for Gypsy and Traveller sites, both regionally and locally. For example, whilst it does not represent the definitive position on the current or future situation, the West Yorkshire Gypsy and Traveller Accommodation Assessment (GTAA) suggests a regional requirement for 124 extra pitches in the period 2008-2015, with the figure for Leeds being 48 residential pitches and 11 transit pitches. Currently, within the Council's area there are no authorised private sites. Circular 01/06 provides that Councils must address the accommodation needs of both Travellers and Gypsies. The Core Strategy of the Local Development Framework (LDF) which has undergone initial consultation will set out the local policy framework for locating Gypsy and Traveller sites and further consultation is ongoing. Work is in progress on the Site Allocations Development Plan Document (DPD) with an estimated date for its adoption in 2013. Essentially the situation is that there is a clear unmet need for sites and the identification of such sites through the DPD is some years away.

10.9 Whilst it is accepted that there is an 'unmet need' for alternative Traveller sites, no substantial evidence has been submitted that justifies setting aside the presumption against inappropriate development in the Green Belt at this location and in light of the harm identified at paragraph 10.1 above. Policy H16 of the Unitary Development Plan states that the Council will continue to search for suitable sites for Travellers. Whilst it is acknowledged that there is a desire to live as an extended family in Leeds, (other members of the family include the applicant's wife who is indicated as living in Rochdale, their son and daughter who are both under the age of 2 and the applicant's mother who currently resides in Hatfield), no reason is given as to why other suitable sites which are not in Green Belt could not be utilised for this purpose. It is also acknowledged that the applicant has Type II Diabetes, confirmed by his Morley based doctor. It is noted that whilst he has been diagnosed and whilst he is registered with a doctors surgery, he has had limited contact with the surgery over the past two years. Whilst this is unfortunate and whilst there may be some benefits from being located on a settled site, again, no reason is given as to why other sites which are not in Green Belt could not fulfil this requirement. On balance, it is considered that the desire to live as an extended family and the applicants health condition, whilst important, are not so sufficient as other considerations to constitute very special circumstances that would outweigh the harm of the impact on the Green Belt.

Access and Highway safety

10.10 Highways officers consider that the use of the land for the stationing of mobile homes for human habitation would intensify a route that is unsuitable to be used as a means of pedestrian and vehicular access (including service and emergency vehicles) by reason of its narrow width over a length of approximately 275m, lack of pedestrian facilities over a significant part of this length, a tight bend with poor forward visibility (about 140m from the site entrance) and poor surfacing of the track between the bend and the site. Due to these constraints, the site would also not provide satisfactory waste collection/storage facilities for the caravans. Whilst reference is made to an arrangement with the occupiers of The Bungalow to leave refuse in a

turning head on Ninevah Lane, this is reliant on the goodwill of these occupiers and may not be a solution that can be relied upon in the future. Accordingly, the proposals would be contrary to Policies T2 and GP5 of the UDP and advice contained in the Street Design Guide, Manual for Streets and PPG13.

Noise and disturbance

- 10.11 The application site is situated in close proximity to residential properties on King Edward Avenue. Complaints have previously been received from residents on King Edward Avenue about noise from barking dogs and the on site generator. It is understood that the dogs have since been removed and so this issue has potentially been resolved in the short term. It is also understood that the applicant has made some modifications to the generator in order to mitigate against the noise impact. Whilst there is potential for disturbance to nearby occupants from the application site, it is considered that an appropriate condition could otherwise be imposed in order to satisfactorily mitigate against any potential noise from the generator. The applicant has also indicated that if permission were granted, the site is capable of being connected to the mains electricity supply, therefore negating the need for a generator. It is understood that the dogs have since been removed from the site, although, in any event, other legislation exists to deal with noise or nuisance caused by dogs.

Drainage

- 10.12 Whilst the proposals are acceptable to the Council's Flood Risk Management Team, subject to the imposition of conditions, there is currently an outstanding matter with regard to foul drainage and the objection from the Environment Agency. However, the applicant has provided further information and that is currently being considered and it is anticipated that there is a likelihood of the Environment Agency removing its objection. A verbal update will be provided to Members on this matter.

11.0 CONCLUSION

- 11.1 It is considered that the use of the site for the siting of mobile homes is an inappropriate use in the Green Belt. The proposed use and associated domestic activity causes significant harm to the open character of the area and represents an encroachment of development into the countryside. Whilst the site is located on the edge of Allerton Bywater, it is considered that this is a vulnerable piece of Green Belt and the proposed use would sever the open field between the site and the urban area from the surrounding countryside. The site is set in otherwise rural surrounds on the edge of the village of Allerton Bywater. The extent of built development, its form and visual appearance and associated activity, is incongruous in this open rural setting. As such it causes harm to the character and visual amenities of the area. It is also considered that the proposed use will intensify the use of an access route that is unsuitable for this purpose. Access to the site is narrow, lacks pedestrian passing places, has poor visibility at a tight bend and makes inadequate provision for refuse storage and collection. Whilst noise complaints have been received regarding the use of a generator on site, it is considered that this matter could otherwise be dealt with by condition in order to prevent giving rise to noise and disturbance to nearby residents. It is also considered that drainage issues in relation to the site are capable of being dealt with by way of conditions. Nevertheless, in light of the extent of harm detailed above, the proposed use and associated works are recommended for refusal.

Background Papers:

Application file 11/04310/FU

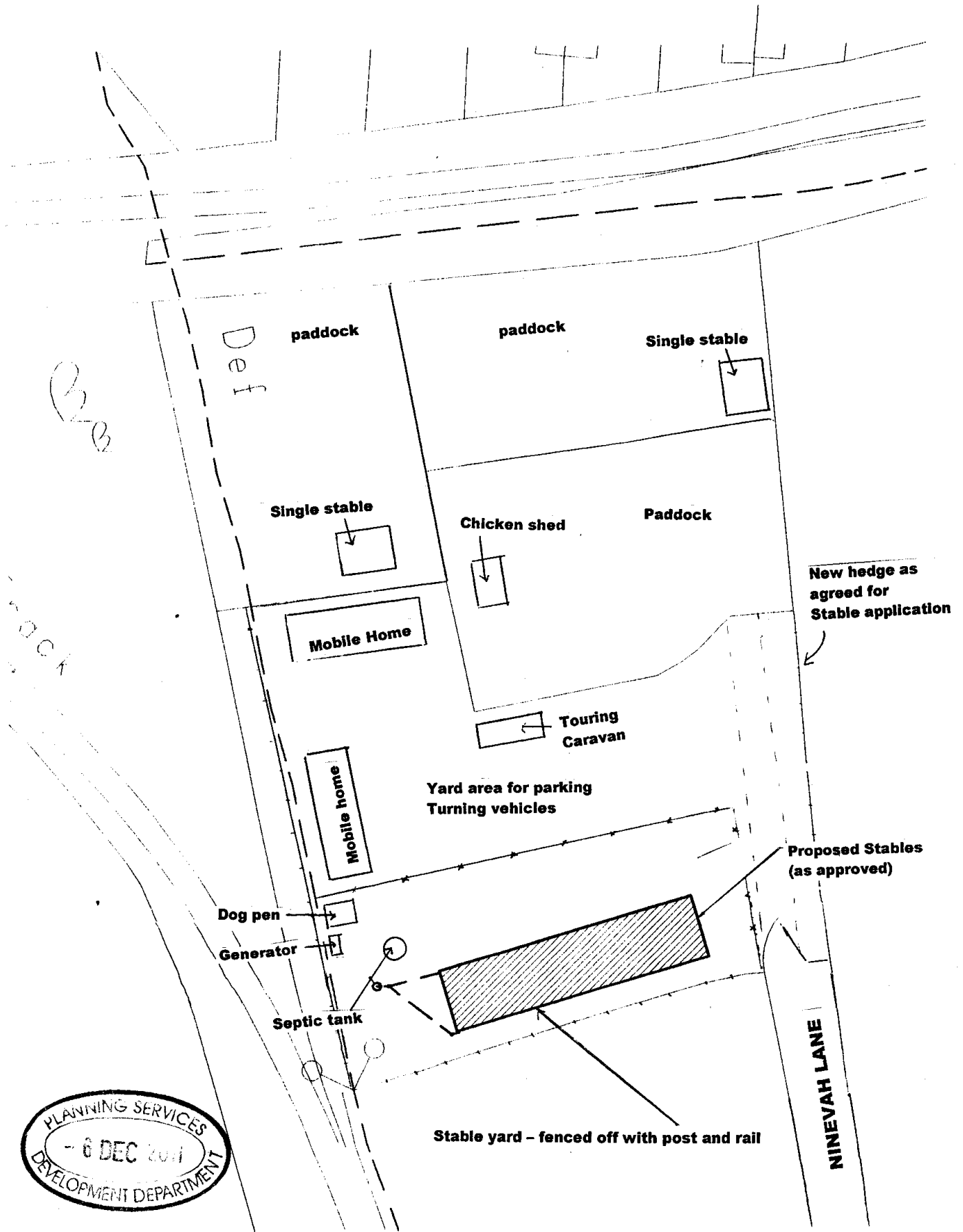
Enforcement case 11/00755/UCU3

Application file 10/03982/FU

Enforcement case 10/01265/USOC3

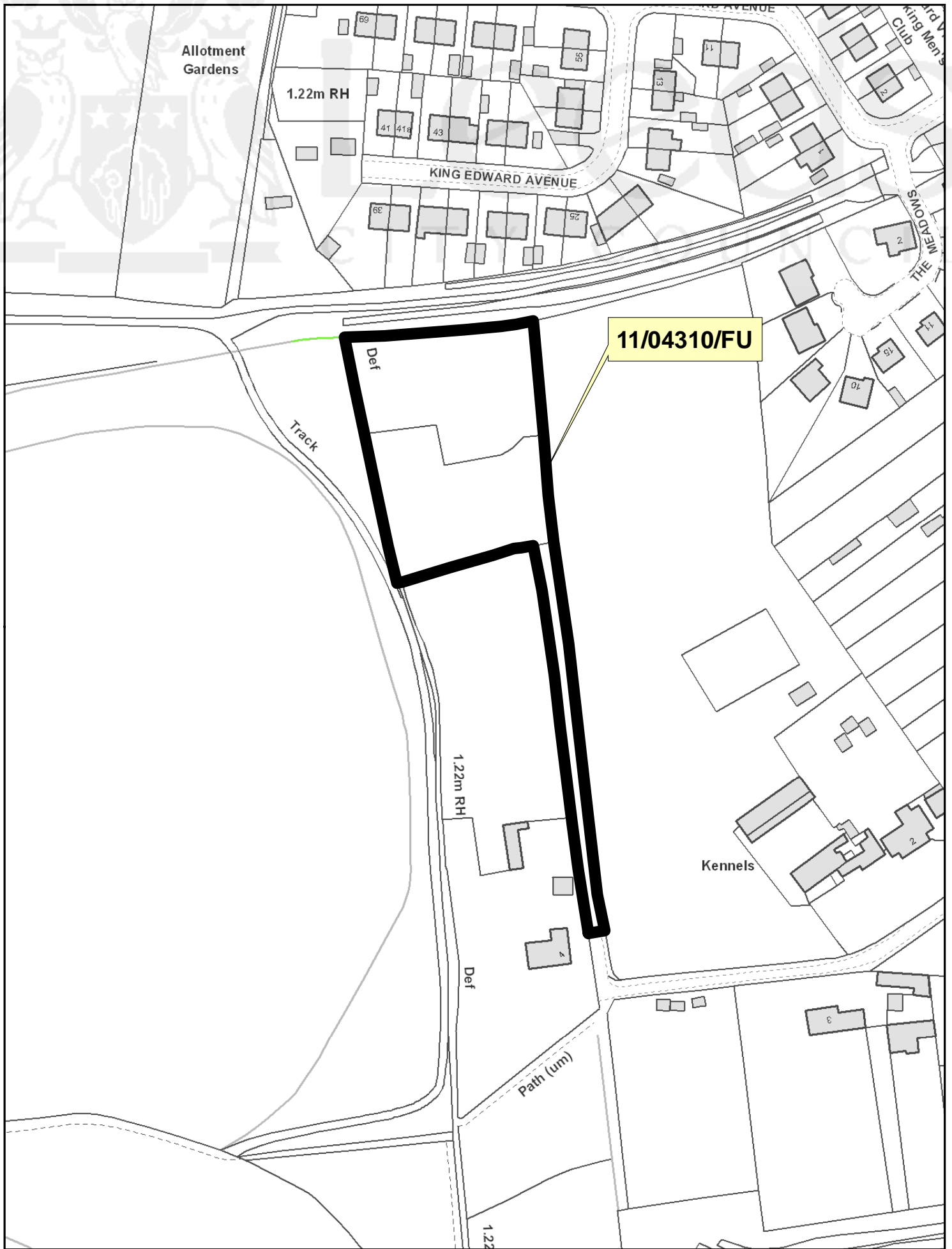
Application file 06/06384/FU

Certificate of ownership:
As signed by applicant.



The Stables, Ninevah Lane, Allerton Bywater
Mr P Doran

PROPOSED SITE LAYOUT
Scale 1:500



EAST PLANS PANEL

