

## SCHEDULE A: Applications with Recommendation

19/0010

Item No: 05

Date of Committee: 22/03/2019

**Appn Ref No:**  
19/0010

**Applicant:**  
Mr Amos Price

**Parish:**  
Wetheral

**Agent:**

**Ward:**  
Wetheral

**Location:** Land adjacent to Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE

**Proposal:** Change Of Use Of Land To Mixed Use Of Agriculture And Siting Of 1No. Residential Gypsy/Travellers Pitch With 3No. Caravans (Including 1No. Static Caravan); Erection Of Amenity Building; Laying Of Hardstanding (Part Retrospective) Without Compliance With Condition 8 Imposed On Planning Permission 14/0825 To Allow The Submission For The Development And Landscape Details Of The Site And Subsequent Completion Of Development

**Date of Receipt:**  
07/01/2019

**Statutory Expiry Date**  
04/03/2019

**26 Week Determination**

---

### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

1.1 It is recommended that this application is approved with conditions.

#### 2. Main Issues

2.1 Whether The Principle Of The Variation Of The Planning Condition Is Acceptable

#### 3. Application Details

##### The Site

3.1 The application site is located to the south of the village of Scotby and immediately adjacent to a Public Bridleway that leads from Broomfallen Road to the Garlands. The land is within the open countryside. The distance

between the site and the centre of the village, where services such as the pub, village hall and licensed village shop and Post Office are to be found, is approximately 1.3 kilometres.

- 3.2 The land slopes down from Broomfallen Road to the east and existing trees and hedgerows provide a degree of screening to the site. The bridleway forms the northern boundary with open countryside on the remaining sides.
- 3.3 The landform along the M6 corridor is undulating with small fields and good hedgerows and hedgerow trees. The built-up area of Carlisle is on the west side of the motorway and Scotby village on the other. The site lies in a low-lying basin in the valley of the Wash Beck and, at its nearest point, only some 60 metres east of the motorway. From the site a track leads north for about 350 metres to a junction with Broomfallen Road marking the edge of Scotby village. In the other direction the track goes over the motorway and then becomes a footpath across a field to Garlands where there are the modern buildings of the NHS Carleton Clinic and housing estates in Harraby.
- 3.4 The application site is one of six Gypsy/ Traveller pitches in this locality.

## **Background**

- 3.5 The application for planning permission for the change of use of land to a mixed use of agriculture and siting of one residential Gypsy/ Travellers pitch with three caravans (including one static caravan); erection of amenity building; laying of hardstanding (part retrospective) was refused in 2015.
- 3.6 A subsequent appeal to the Planning Inspectorate was allowed in 2016. The permission was subject to 8 conditions and pertinent to this appeal is condition 8 which reads:

*“The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 56 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:*

- i) within 3 months of the date of this decision a scheme for: the layout of the site including the positioning of the caravans and ancillary buildings and areas of hardstanding; boundary treatments; the means of foul and surface water drainage; external lighting; landscaping including tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities, hereafter referred to as the site development scheme shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;*
- ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;*
- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall*

*have been approved by the Secretary of State; and*  
iv) *the approved scheme shall have been carried out and completed in accordance with the approved timetable.”*

- 3.7 Since planning permission has been granted, the ownership of the application site has changed and now belongs to the current applicant.

## **The Proposal**

- 3.8 Planning permission is sought to vary the planning condition to allow the submission of details to satisfy the requirements of the planning condition.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice. In response, no representations have been received.

## **5. Summary of Consultation Responses**

**Wetheral Parish Council:** - the committee does not consider that a reasonable case has been made for the site expansion. The committee understands that the applicant is already on a traveller encampment elsewhere.

## **6. Officer's Report**

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP6 and HO11 of the Carlisle District Local Plan 2015-2030. The proposal raises the following planning issues.

#### **1. Whether The Principle Of Development Is Acceptable**

- 6.3 Section 73 of the Town and Country Planning Act 1990 concerns determination of application to develop land already carried out without compliance with conditions previously attached. It is colloquially known as 'varying' or 'amending' conditions. Section 73 applications also involve consideration of the conditions subject to which planning permission should be granted. Where an application under S73 is granted, the effect is the issue of a fresh grant of permission and the notice should list all conditions pertaining to it.
- 6.4 The planning permission was subject to the standard condition which requires

the permission to be implemented within three years from the date of the consent which in this instance expires on 27th April 2019.

- 6.5 Wetheral Parish Council has lodged an objection on the basis that no reasonable case has been made for the site expansion. From the background information, Members should be aware that the planning permission remains extant but due to the change in circumstances, the current owner is unable to comply with the requirements of condition 8 and submit an application to discharge the condition. Approval of this application would not result in an intensification or expansion of the site or result in a further extension of time for its implementation. The principle of development has already been established through the decision issued by the Planning Inspectorate. The applicant would still comply with the three year time period for implementation detailed in the first condition of the decision and condition 1 attached to this report reaffirms this. The variation of condition 8 is a technicality which would allow the subsequent submission of details to discharge the condition i.e. layout, landscaping, materials etc. The remaining conditions that control the use of the site and the amount of caravans that are eligible to be on the site remain enforceable and are subject to conditions attached to the draft decision notice.
- 6.6 The need for the applicant to be on the site is questioned, however, it has already been established in the preceding paragraph that the principle of development remains extant. The planning permission does not include a personal condition, therefore, anyone meeting the criteria of being a Gypsy or Traveller is eligible to live on the site. On this basis, the principle of the variation of the planning condition is acceptable.

## **Conclusion**

- 6.7 In overall terms, the planning application proposes the variation of a planning condition to alter time scale to allow the submission of an application to discharge details that the details of the development which in this stance relate to the layout of the site including the positioning of the caravans and ancillary buildings and areas of hard standing; boundary treatments; the means of foul and surface water drainage; external lighting; landscaping including tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities.
- 6.8 The principle and level of the use together with the overall timeframe for implementation of the planning permission remain unaltered by this application.
- 6.9 In all aspects the report demonstrates that the proposal is compliant with the objectives of the national and local plan policies and the application is therefore recommended for approval subject to the imposition of appropriate planning conditions.

## **7. Planning History**

- 7.1 Planning permission was refused for the change of use of land to a mixed use of agriculture and siting of one residential Gypsy/ Travellers pitch with three caravans (including one static caravan); erection of amenity building; laying of hardstanding (part retrospective) was refused in 2015. A subsequent appeal to the Planning Inspectorate was allowed in 2016.

## 8. Recommendation: Grant Permission

1. The development shall be begun not later than the 27th April 2019.

**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the Planning Application Form received 7th January 2019;
2. the Notice of Decision;
3. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. This permission relates solely to the land edged red on the 1:1250 site plan submitted with a letter from the agent for the appellant dated 8 April 2016 approved under application reference 16/0825.

**Reason:** For the avoidance of doubt.

4. Construction of the amenity building shall not commence until details of the external materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the development is appropriate to the character and appearance of the area in accordance with Policies SP6 and HO11 of the Carlisle District Local Plan 2015-2030.

5. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites published in August 2015.

**Reason:** The unfettered occupation of the land for residential purposes would be contrary to Policy HO11 of the Carlisle District Local Plan 2015-2030.

6. No more than three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan, shall be stationed on the site at any time.

**Reason:** To ensure that the development is appropriate to the character and appearance of the area in accordance with Policies SP6 and HO11 of the Carlisle District Local Plan 2015-2030.

7. No commercial activities shall take place on the land, including the storage of materials.

**Reason:** To ensure that the development is appropriate to the character and appearance of the area in accordance with Policies SP6 and HO11 of the Carlisle District Local Plan 2015-2030.

8. No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted and it shall not exceed 3.5 tonnes in weight.

**Reason:** To ensure that the development is appropriate to the character and appearance of the area in accordance with Policies SP6 and HO11 of the Carlisle District Local Plan 2015-2030.

9. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 56 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- i) prior to the expiry of the planning permission stated in condition 1 of this permission, a scheme for: the layout of the site including the positioning of the caravans and ancillary buildings and areas of hardstanding; boundary treatments; the means of foul and surface water drainage; external lighting; landscaping including tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities, hereafter referred to as the site development scheme shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;
- ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State; and
- iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

**Reason:** To ensure that the development is appropriate to the character and appearance of the area in accordance with Policies SP6 and HO11 of the Carlisle District Local Plan 2015-2030.

---

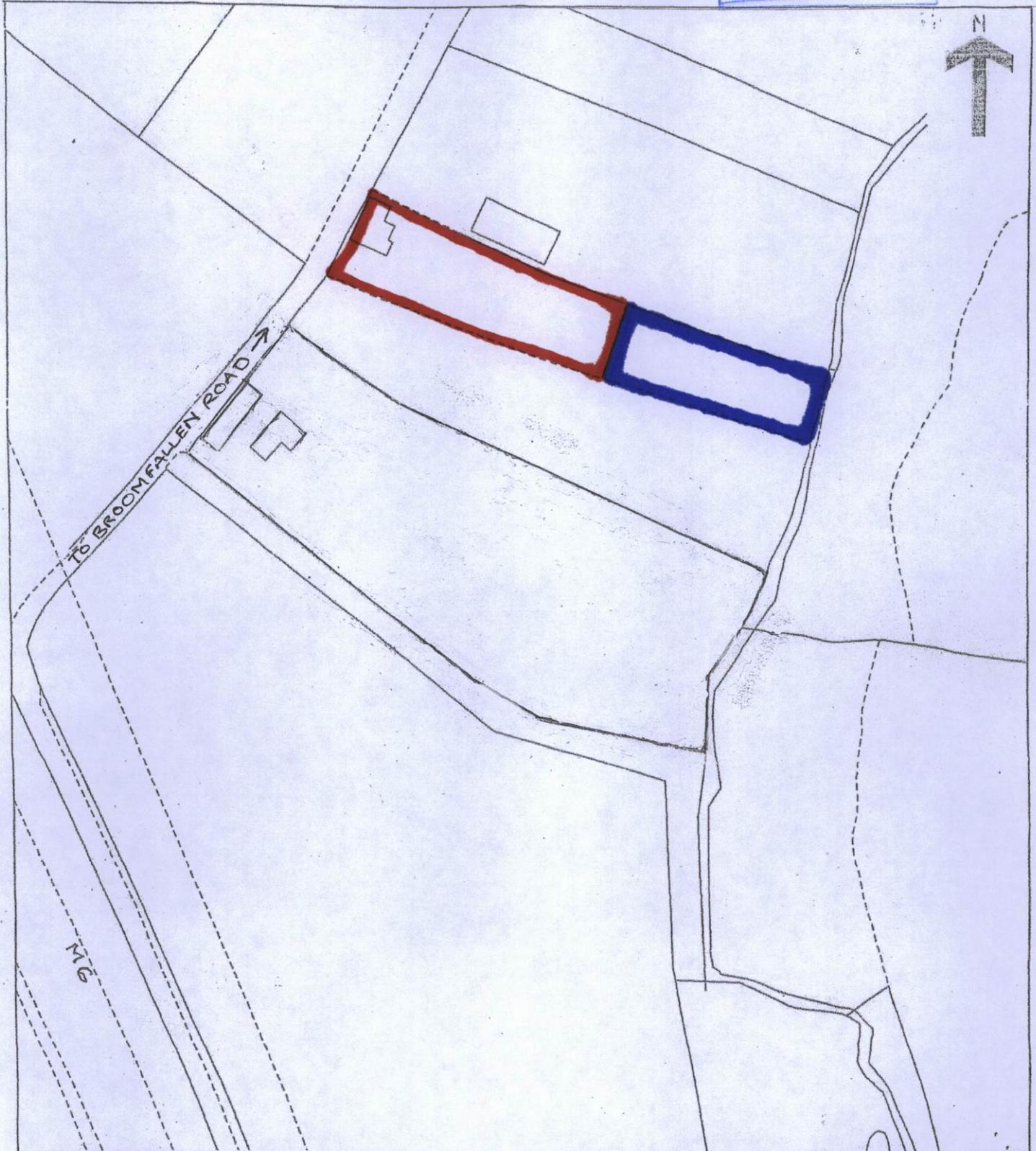
LOCATION PLAN

DWG 01

RECEIVED

24 SEP 2014

1410825



SCALE- 1: 1250

