

	<p style="text-align: center;"><b>REPORT TO PLANNING &amp; DEVELOPMENT COMMITTEE</b></p> <p style="text-align: center;"><b>TO BE HELD ON THURSDAY, 14 April 2016</b></p>	
<p><b>APPLICATION REFERENCE NO:</b> <b>15/02638/RG3</b></p>	<p><b>TARGET DATE:</b> <b>4 April 2016</b></p>	<p><b>GRID REF:</b> <b>502042-484172</b></p>

**REPORT OF THE PLANNING SERVICES MANAGER – PSM/16/110**

**SUBJECT: Removal of Condition 1 relating to 12/02543/RG3 to allow for continuing use for one period of up to 14 continuous days per annum of land to accommodate travellers resorting to the parish of Seamer annually around the time of the travellers horse fair for Scarborough Borough Council (Mr Martin Pedley) Field At Grid Reference 502042 484172 To North Of B1261 Between Seamer And Crossgates Scarborough North Yorkshire**

1.0 THE PROPOSAL

1.1 This site is situated midway between Seamer and Crossgates on the northern side of the B1261. It is a 4.05 hectare (10 acre) grass field. Sloping gently upwards in a South to North direction away from the road. There are two hard surfaced access and egress points directly onto the B1261, constructed in association with the use of the site as a temporary travellers' site. The Eastern boundary of the site has been reinforced with further hedgerow and tree planting over the last few years and this is beginning to mature.

1.2 In December 2009 planning permission was granted for the use of the land as a temporary caravan site for travellers attending the Seamer Horse Fair for up to 21 days a year. That consent was given for one year initially in order to monitor and review the use of the site. In 2011 consent was granted for another two years and subsequently for a further 3 years in 2013, but for a maximum of 14 continuous days a year. The site has operated every year for the last 6 years.

1.3 The current application seeks a permanent permission to continue the annual usage of the site for up to 14 days through the removal of condition No. 1 of the 2013 planning permission which states:

"The use of the site as a travellers' caravan site shall be for a maximum of 14 continuous days in each calendar year and for 3 years only, unless the prior written approval of the Local Planning Authority is obtained to vary this condition.

Reason: In the interests of the amenities of nearby residents in accordance with Policy H10 of the Scarborough Borough Local Plan and to allow future review of the use of this site."

## 2.0 SCREENING OPINION REQUIRED?

2.1 No

## 3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None

## 4.0 CONSULTATIONS AND COMMENTS

The following is a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.1 Seamer Parish Council - No objection is raised provided that the permission is granted for no more than three years.

4.2 Highway Authority - There are no local highway authority objections to the proposed development

4.3 Environmental Health (SBC) - I can confirm that I have no objection to granting this application on Environmental Regulation or housing grounds.

4.4 Architectural Liaison Officer (North Yorkshire Police) - I have discussed this application with the officer responsible for policing the Seamer Travellers Horse fair event. Insp Short has confirmed that he has been in consultation with the applicant regarding this application and that he is of the same opinion, that this site provides the only realistic solution with regards to addressing the on-going issues raised by the annual travellers' horse fair held at Seamer. The North Yorkshire Police have therefore no objections to the proposal.

4.5 Publicity - Consultation period expired on 25 January 2016.

4.6 Objections from 101 members of the public were received, as follows:

Miss Justine Impey (2 Heron Lane, Crossgates), Mr John Sandford (2 Heron Lane, Scarborough), Mr Irving Stanley (28 Leighton Close, Crossgates), Mr Chris Charlton (81a Main Street, Seamer), Mrs Janet Charlton (81a Main Street, Seamer), Mrs Julia Marr (62 Main Street, Seamer), Miss Enid Constantine (12 Betton Rise, East Ayton), Mr Guy Hedges (38 Abbots Garth, Seamer), Mr Kevin Dengate (1 Wold View Park, Scarborough), Mrs Melanie Wilson (Brigantia Gardens, Scarborough), H M Gormanly (13 Crab Lane, Crossgates), Paul Hodgson (79 North Street, Scalby), Susie Smart (The Paddock, High Mill Lane, Addingham, West Yorkshire), R H Jackman (3 Brierley Road, Crossgates), Cllr D Jeffels (Not Applicable), Mrs Sarah Moseley (21 Beacon Road, Seamer), Mr Simon Meynell (15 Napier Crescent, Seamer), Mrs Audrey McNally (31 Stoney Higgs Road, Seamer), Mrs Shivaun Meynell (15 Napier Crescent, Scarborough), Miss G Newham (39 Pasture Lane, Seamer), Mr Andrew Horncastle (6 Sandpiper Close, Crossgates), Mr Stephen Topham (90 Abbots Garth, Seamer), Mrs

Caroline Dudley (Sunnycroft, Eastgate, Seamer), Mrs Clare Topham (90 Abbots Garth, Seamer), Mr John Newham (39 Pasture Lane, Seamer), Mrs Ann Newham (39 Pasture Lane, Seamer), Miss Stephanie Hartburn (9 Eastgate, Seamer), Miss Andrea Tavendale (8 Western Mount), Ms Jo Park (14 Centurion Way, Crossgates), Miss Zoey Park (18 Stockhill, Seamer), Mr Matthew Ridsdale (26 The Grove, Scarborough), Mrs D Kirby (Pasture Lane, Scarborough), Mrs Jessica Kennedy (4 Hadrian's Walk, Crossgates), Mrs Jennifer Ridsdale (26 The Grove, Seamer), Mrs Collette Ward (5 Mill Way, Scalby), Mr Richard Kennedy (4 Hadrian's Walk, Crossgates), Ms Aileen Windsor (22 Dale Close, Staveley, Chesterfield), Mr Callum Plant (45 Abbots Garth, Seamer), Mr John Goodall (15 Hadrian's Walk, Crossgates), Mrs C Plant (Abbots Garth, Seamer), Miss Wendy Taylor (9 Stoney Haggs Road, Scarborough), Mr Robert Morris (2 Abbots Garth, Seamer), Mrs Lynne Parker (1 Beacon Road, Seamer), David Leathard (3 Station View, Crossgates), Mr Thomas Colman (9 Napier Crescent, Seamer), Mrs Josie Cawood (8 School House Drive, Seamer), Mrs Rachael Pollard (12 Falcon Ave, Scarborough), Mrs A Wilkins (1 Londesborough Park, Seamer), Mrs Angela Wallis (Station House, Station Road, Crossgates), Mrs Fiona Young (Main Street, Irton, Scarborough), Mr David Parker (1 Beacon Road, Seamer), Mr Lewis Roberts (21 The Orchard, Snainton), Mr Steve Sowden (21 Denison Ave, Seamer), Mrs Jill Gould (5 White Horse Close, Seamer), Mr Michael Gould (5 White Horse Close, Seamer), Miss Helen Donovan (22 The Pheasantry, Crossgates), Mr Rich Kenworthy (23 Outgaits Close, Hunmanby), Mr Anthony Benjamin (76 Pasture Lane, Seamer), Mrs J Lake (Centurion Way, Crossgates), Miss Nichola Chaplin (46 Pasture Lane, Seamer), Mrs Christine Robinson (Silvanna, Crossgates, Scarborough), Mr Kevin Vasey (22 Leighton Close, Scarborough), Mrs Jill Horncastle (6 Sandpiper Close, Scarborough), Mrs Trish Ireland (17 Ridge Green, Scalby), Mr John Hick (33 Eastgate, Seamer), Mrs Christine Hick (33 Eastgate, Scarborough), Mrs Tracy Breckon (12 Abbots Garth, Seamer), Miss Abigail Durrant (2 Station View, Crossgates), Miss Carey Robinson (Minerva, Crossgates), Mrs Ann Barker (32 Pasture Lane, Seamer), Mrs Pamela Cooper (18 Napier Crescent, Seamer), Mr Anthony Cooper (18 Napier Crescent, Seamer), Mrs Alison Driver (1 Bry Hills, Seamer), Mrs Vikki Ward (74 Leighton Close, Crossgates), Mrs Julie Sumner (10 Beacon Road, Scarborough), Mr Dan Sumner (10 Beacon Road, Scarborough), Mrs Alison Cutler (5 Vicarage Close, Seamer), Mrs Sophie Miners (7 New Parks Crescent, Scarborough), Mrs Jean Widdowfield (30 Pasture Lane, Seamer), Mrs Michaela Kenyon-Taylor (24 Hadrian's Walk, Crossgates), Mr Clive Wardman (33 Station Road, Scarborough), Mrs Julie Brown (3 White Horse Close, Seamer), Mrs A Shepherdson (20 Claudius Grove, Crossgates), Mrs Kelly Hunter (Magpie Garth, Crossgates), Mrs Ceri Colman (9 Napier Crescent, Seamer), Mrs Clare Dove (18 Beacon Road, Seamer), Mrs Verity Hedge (44 Crab Lane, Crossgates), Mrs Catherine Hainsworth (6 Beacon Road, Seamer), Mrs Natalie Moore (2 Byward Drive, Crossgates), Ms Suzanne Wallis (2 White Horse Lane, Seamer), Mr David Chamberlain (36 Constantine Crescent, Scarborough), Mr Thomas Thompson (17 Eastgate, Seamer), Mr D Greenley (25 Abbots Garth, Seamer), Mr Ian Millmoor (88 Main Street, Seamer), Mrs Sharron Griffin (25 Napier Crescent, Seamer), Mr John Ridsdale (35 Stoney Haggs Road, Seamer), Mr Paul Hunter (2 White Horse Close, Seamer), Mrs Susan Bond (56 Abbots Garth, Seamer), Mr Paul Alderton (9 Stoney Haggs Road, Seamer), Mrs Anneka Palmer (30 Centurion Way, Crossgates), Mrs Lisa Ridsdale (35 Stoney Haggs Road, Seamer), Mr Alan Pickering (9 Rowan Fields, Crossgates)

4.7 The nature of their objections can be summarised as falling within two categories, namely; observations relating directly to the proposed removal Condition 1; and, more general comments relating to the impact of retaining use of the site in Seamer on the amenity of local residents.

## Removal of Condition 1

- Keep present arrangements in place, which have contributed to the apparent reduction in anti-social behaviour and crime.
- Removal of the condition could undermine the positive relationships that have been built with the police, local authority and RSPCA that have helped to contribute to the reduction in crime.
- Fears that the removal of the condition removes the current safeguards that a temporary arrangement provides for local residents. It appears unjust to remove the relative protection of a temporary arrangement, which is regularly reviewed and considered annually.
- The condition to ensure that the logistics and planning for the event is revisited periodically must stay in place. To remove it would be remiss given past experiences.
- Likely that many people will not understand the impact of Condition 1.
- Fears that the site will become a year round facility.
- If the site was made permanent (Condition 1 removed entirely) there would be no incentive to find alternative solutions.
- The site was intended to be a temporary site for regular review.
- A review of potential sites has not been carried out and the consideration of other sites should be reopened.
- Removing Condition 1 would remove the voice of local residents.
- Belief of some that the medium/long-term of SBC should be to end the fair altogether or to move it to an alternative location that does not affect residents. The removal of the condition would reduce any possibility of this outcome.
- Questions raised as to why a 14 day period is required as based on the previous 2 years, the horse fair doesn't last that long.
- A shorter period of stay should be considered.

## Impact on the local community

- Intimidating behaviour of travellers who walk through surrounding areas.
- Local residents, including young children, are afraid to leave their homes for the duration of the period of the fair.
- The Green (Open space in the centre of the village) becomes 'uninviting' for local residents as it is used regularly by young travellers who intimidate local children.
- Some local businesses (including Fish and Chip shop at Seamer) close for duration of the fair due to concerns over public safety while others employ security staff (Proudfoot).
- Increase in reported crime coincides with the arrival of the fair.
- Police presence helps but issues arise when officers leave.
- While levels of reported crime have reduced over the years, the fear of crime has not.
- The horse fair utilizes valuable resources in terms of policing manpower which are already at breaking point and causes disruption to the local infrastructure.
- There is an increased risk to public and road safety through the inappropriate use of horse drawn traps.
- Increase in deposits of litter on the site and in surrounding areas.

4.8 Mr and Mrs A W Ingham, Nicton House, Crossgates - (Have submitted a lengthy written objection with photographs which is available to view in its entirety on the website and is summarised here). The report is considering a new standalone planning

application (albeit to remove a condition on an existing planning Permission Decision) and should, therefore, consider all relevant local plan policies and base its recommendation on that full consideration.

We have taken independent Legal advice from a specialist firm of planning lawyers (Walton & Co.) who have confirmed that this application must be tested against all relevant Local Plan policies. As the Condition was placed on the policy to allow a review of the future use of the site, it is a requirement to review the application against all relevant Local Plan policies. The Planning Committee was very clear that a more suitable location may be found or become available during this three year period We urge you to test this application fully against Local Plan Policies E1 and E3, as not to do so will expose any Planning Permission granted to Legal challenge.

In view of the changed date of the Cock of the North Motorcycle race and the knowledge that there is no alternative use of Oliver's Mount at the times of the Horse Fair it is no longer valid to exclude Sites 22 and 23 from the list of possible locations. Furthermore, sites 22 and 23 are not situated in the Open Countryside and have been regularly used as temporary caravan sites. Consequently, there is no longer a valid reason to rely on the exception of b ii provided in Policy E1 as there is a Suitable Alternative Site.

The experience of having used the site for six years has given a great deal of practical evidence of serious harm to Residential Amenity. I have set out below examples of the harm personally suffered:

Damage to trees; trespass; defecation and urinating in our grounds; police responses required; excrement thrown onto our property; noise disturbance; littering; forced entry onto our property; theft; entrance to driveway blocked; fires lit close to our boundary It is difficult to explain the worry and upset that these incidents caused to us. It is impossible to relax when you are aware that thieves have come through from the Site by damaging fencing and cutting through the existing hedgerow to force their way into our property. There is the constant fear that the incident will be repeated at any time, particularly during the hours of darkness with the genuine concern that our garage or even our house could be the next target. For the duration of the Horse Fair we have to take particular measures to ensure that our house is not left unoccupied at any time. The impact of this incident in isolation is sufficient evidence to demonstrate the very serious effect on residential amenity as a consequence of the use of the Site for the Horse Fair.

It is clear that despite a very highly visible and substantial police presence there has still been a very significant increase in the total reported crime and anti-social behaviour in the month of July in each of the years for which figures are publicly available.

We have noted the unprecedented increase in the numbers of Travellers attending the Horse Fair during the six year period that the Site has been used and managed by the Applicant. The Applicant has claimed that the reason that the provision of the site is essential is to reduce the impact on local residents. However, the provision of the site has served to encourage significantly greater numbers of Travellers to attend, which in turn has the effect of increasing the impact on local residents. The corollary to this is that the provision of the site has failed to achieve the claimed objective of reducing the impact on local residents. Arguably, the increase in the numbers of Travellers attending has caused a greater impact on local residents than the claimed benefit of providing the managed site.

There was a very intimidating impact of the Horse Fair on the local residents, many who are elderly and vulnerable, due to:

- o Large groups congregating in the village,
- o Drunken and unruly behaviour,
- o Cruelty to animals,

- o Damage to Scarborough Borough Council signage, neighbourhood watch signs and road traffic signage,
- o Police "No Waiting" traffic cone thrown over 2 metre high Heras Site Fencing into our paddock, and
- o Fly tipping.

In summary there is considerable evidence that the holding of the Horse Fair so close to the villages of Seamer and Crossgates is having an extremely serious detrimental impact on the Residential Amenity and is in clear violation of policy H10.

There is clear Government instruction to limit the number of days the site can be used for the accommodation of travellers, with a view to overcoming objections. The Applicant has indicated that the Site would only be available for four nights in 2016. If the planning application is to be permitted then the time the site is available must be substantially reduced from that permitted in the main planning permission. In addition, this policy implies that a maximum number of caravans that is permitted to be on the Site be established. This is essential for the safety of the occupants of the Site and for the safety of any visitors, which would otherwise be put at risk due to overcrowding. The holding of the Horse Fair on the land adjacent to the B1261 has significant implications to the road users. There are large numbers of travellers (including some very young minors) who are driving horse and traps on the main road. The arrival of the Travellers for the opening of the Site on 9 July 2012 caused very serious tailbacks in both directions of the B1261 that effectively closed the road from before 6am until 8.30am (approximately). The extremely muddy conditions on the site caused a large amount of mud to be brought onto the highway. Parking of vehicles on the grass verges along the highway obstructs the vision for vehicles leaving the site and adjacent properties.

Requests that if planning permission is granted it be for a further 3 years only and for a maximum duration of 7 days, that no trading be allowed, no vehicles parked on highway verges, temporary fencing of at least 2 metres high be erected along the eastern boundary of the site and along the B1261 boundary east of the site; and a maximum number of caravans should be specified.

4.9 Walton and Co (Solicitors on behalf of Mr and Mrs Ingham) - In the report on the previous application it was recommended that the Planning Authority did not need to reengage with the provisions of the Development Plan save policy H10. A Section 73 application will create a new planning permission. It is quite clear therefore that the application must be considered in the light of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly it is necessary for the Planning Authority to have regard to the provisions of the Development Plan in any decision. Given the site lies within the open countryside, then it is beyond all doubt that Policy E1 must be engaged. The application is contrary to Policy E1 and should be refused.

4.10 The South Bay Traders Association - As an association we welcome all those who wish to come and enjoy our beautiful Borough and coast line, however rules are in place to cover all Borough wide events in order that they remain appropriate and in balance. My members therefore believe that a 7 day occupation restriction should be placed on this application as the event itself last for 4 days; this would allow for a decent leeway, should it be required. The application is contrary to Policy E1 and should be refused.

## 5.0 RELEVANT SITE HISTORY

5.1 2009 - Planning permission granted for use of land as a travellers' site for maximum of 21 continuous days per year. Condition imposed restricting permission to one year.

5.2 2011 - Planning permission granted for continuing use of land as a travellers' site for 21 continuous days per year. Condition imposed restricting permission to a further 2 years.

5.3 2014 - Planning permission granted for continuing use of land as a travellers' site for 14 continuous days per year. Condition imposed restricting permission to a further 3 years.

## 6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise (in the case of advertisement applications the Advertisement Regulations 2007 are applicable). Attention is drawn to the following Development Plan and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

### **Scarborough Borough Local Plan (Saved Policies)**

**H10** - Protection of Residential Amenity

### **Scarborough Borough Local Plan (Proposed Submission)**

**DEC 4** - Protection of Amenity

**HC 7** - Gypsy and Traveller Site Provision

### **National Planning Policy Framework**

**NPPF11** - Conserving and enhancing the natural environment

**NPPF15** - Planning policy for traveller sites

### **Scarborough Borough Supplementary Planning Documents**

None relevant

### **Local Planning Policy Guidance**

None relevant

## 7.0 ASSESSMENT

7.1 This is an application to remove a planning condition made under section 73 of the Town and Country Planning Act 1990. The Government provides clear advice on the determination of Section 73 applications in its Planning Practice Guidance. This states:

"Some or all of the conditions could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990. In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application - it is not a complete re-consideration of the application." (Officer's underlining).

7.2 The reason for condition, as set out in paragraph 1.3 of this report was to allow the continuing use of the site to be reviewed after 3 years in the interests of residential amenity. In that respect the reason for the condition refers specifically and solely to Local Plan Policy H10, which is concerned with the protection of residential amenity. The condition and stated reason for it makes no reference to the need review the principle of the development; reconsider its location in the open countryside, or whether any alternative sites may have become available, because this was not the purpose of the condition. Similarly it makes no reference to any of the other Development Plan Policies that were relevant to the consideration of the original planning application in 2009, such as E1 (Open Countryside), E3 (Landscape between Settlements) and H15 (Gypsy Sites) because they were not relevant to, or the reason for, this particular condition.

7.3 The comments by Walton and Co are correct in that any planning application, including this one, must be determined in accordance with the Development Plan unless material considerations indicate otherwise and that is also the advice provided in paragraph 6.1 of this report. However, only the provisions of the Development Plan that are relevant to the proposal under consideration can be given weight. In this case that is Policy H10 for the reasons given above.

7.4 The main issue in the consideration of this application is therefore whether there are any planning reasons relating to adverse impact on residential amenity why this condition should not be removed and the use of the land as a temporary travellers' site for up to 14 continuous days a year should not continue.

7.5 The applicants have submitted a supporting statement which explains that:

- A group of public sector organisations including North Yorkshire Police, the Borough Council and North Yorkshire County Council co-ordinate their activities around the horse fair with a view to minimising the impact upon the settled community.
- The maximum number of modern living units that the site accommodated, at any one time was 237 in 2011. The number of stalls remained relatively constant over this period of time.
- I believe that during the six years that the travellers have been accommodated on the land to which this application relates the impact upon the settled community has been reduced from that previously experienced when the travellers occupied land without consent. The Borough Council's overarching aim has therefore in my opinion been achieved with the help of our partners by providing a site that is fit for purpose and which the travellers will use.
- Throughout the six years of site use all operational matters and associated plans have been kept under constant review by the involved public sector organisations and have been revised to further reduce the impact of the event on the settled community.
- The 2015 event passed off smoothly with positive feedback received from Seamer Parish Council and neighbours to the site.
- From the positive feedback received the implemented policing plan can be considered to have been a successful exercise including providing reassurance to the



local community by, for example, increasing patrols and also in light of the limited number of reports received in respect of reported crimes and anti-social behaviour. Positive benefits have also been derived from the use of full time onsite CCTV coverage. Council staff have maintained a dialogue with neighbouring landowners and we remain committed to taking measures to reduce the impact of the site upon them.

- In regards to traffic management there has been minimal disruption caused to the other road users; the worst disruption experienced was in 2012 when we opted to open the site at 7.30am which unfortunately caused a traffic 'tailback' for about an hour on the B1261. Since then the site has been opened earlier, at around 5am, to try and minimise any disruption to other road users, and if consent was to be granted to further utilise the established site then it is likely that we would continue to open the site earlier. The site has proven that it can continue to be utilised in adverse weather conditions, having faced a severe test in 2012. Whereas many other events in Yorkshire had to be cancelled, including the Great Yorkshire Show, this site remained open and so contained the event without the travellers moving to other sites in the Seamer/Crossgates area.

- The off-site tethering/grazing of the horses has effectively been addressed by allowing the travellers to utilise the former quarry, known locally as the Dell, which abuts the site.

- During the periods when the site was made available to the travellers no significant unofficial sites were resorted to. On fair days all visitors' vehicles were accommodated within the boundary of the site and the site was cleared of all travellers' vehicles/caravans prior to the 6pm imposed deadline.

- The site is fit for the intended purpose and provides the only realistic solution with regards to addressing the ongoing issues raised by the annual travellers horse fair held in Seamer. No viable alternative site has been identified that would meet the needs of the traveller community and the settled community.

7.6 It is clear from the comments of local residents that at the time of the horse fair there is noise disturbance, trespass, and various forms of anti-social behaviour that causes inconvenience and harm to the amenities of residents in and around Seamer and Crossgates. Some members of the settled community feel intimidated during the event. None of these circumstances can be regarded as ideal. However, many of the concerns raised relate to the presence of travellers in the general area, and are not considered to be a consequence of using this particular site; although the concerns raised by the nearest neighbour are generally related to the use of this specific site.

7.7 It is likely, that whether a site is provided or not, travellers will visit the area at this time of the year to hold a horse fair and many of adverse impacts on amenity will be experienced by the local community. If unauthorised encampments are established it will be more difficult to manage, control, and police the activity that causes distress to the settled community.

7.8 From the information provided by both the applicant and the Police, it is accepted that in the 6 years that this site has been in operation there has been considerably less disturbance and conflict between the wider settled community and travelling community than in years when unauthorised encampments were used, particularly the two years prior to its introduction when the public open space on Centurion Way was used for unauthorised camping. The advice of the Police is that this site provides the only realistic solution to addressing the ongoing issues raised by the horse fair.

7.9 The impact on residential amenity will vary depending on proximity to the site, with the closest neighbours apparently experiencing the greater impact, but overall it is considered that the use of this site has resulted in less disturbance, conflict and harm to the amenities of the local settled community as a whole than before. This has been acknowledged by some of those making representations about the application. When assessing the impact of the proposal on residential amenity, it is important to bear in mind that it is not the role of the planning system to protect the interests of one individual over another, but to consider the wider public interest, although the impact on individuals is, of course, a material consideration.

7.10 Local Plan Policy H10 states that planning permission will not be granted for development that has a serious effect on residential amenity. "Serious" is a key word because the policy does not prevent development just because it has an adverse effect. What is "serious" is ultimately a judgement for the Committee. Although pre-dating the NPPF, it is consistent with the NPPF's advice in respect of noise disturbance. This expects planning decisions to "avoid noise from giving rise to significant adverse impacts on health and quality of life..." and "mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from new development..." In August 2015, the Government updated its Planning policy for traveller sites, which is to be read in conjunction with the NPPF. This states that decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective; to reduce tensions between settled and traveller communities; and, to have due regard to the protection of local amenity. Although attracting limited weight at this stage, Policy DEC 4 of the Local Plan Submission Document states that proposals for development should not give rise to unacceptable impacts on amenity and, reflecting the NPPF, that development which causes significant harm to amenity will not be permitted. Policy HC 7 of the Submission Document deals specifically Gypsy and Traveller site provision. This states that accommodation for Gypsies and Travellers will be permitted subject to various criteria, including avoiding any unacceptable adverse or detrimental impact on the amenity of neighbouring residents. The justification to this emerging policy acknowledges that current arrangements are in place for the temporary accommodation requirements arising from the Seamer Horse Fair, but should the situation change, alternative arrangements that satisfy the criteria of this policy will be looked upon favourably.

7.11 The closest residential property is situated approximately 60 metres from the eastern boundary of the application site. There is a field between the travellers' site and house. Although it is in the same ownership as the nearest house, it does not form part of the residential curtilage of the property (it is the field that was recently subject to a planning application for a drive-in cinema). The eastern boundary of the site has been planted and is starting to mature, providing an effective screen between the site and land to the east in summer months, as acknowledged at the time of the cinema application.

7.12 It is considered that due to: the level of separation from both the closest neighbour and other residential neighbours; the management measures put in place by the Borough Council, Police and other organisations (and required by planning condition); the short duration of the event (although the planning permission allows for up to 14 days, it has never been used for more than 10 and the actual operation period has been consistently reduced each year down to 5 days (4 nights) in 2015, the same is currently proposed for 2016 should planning permission be granted); and, the information provided by the applicant, consultees, and local residents suggests the

adverse impact on and disruption to residential amenity, although inconvenient and clearly unwelcome for a short time, should not be regarded as serious or significant in this case. Much of the impact on amenity is a result of the presence of travellers in the area, rather than specifically related to the use of this site and is likely to occur at this time of the year anyway. Therefore, this proposal is not felt to be in conflict with Local Plan policy H10. It also meets the requirements of the Government's guidance on Traveller sites in terms of residential amenity, reducing unauthorised encampments and reducing tensions between settled and travelling communities. The proposal would also comply with emerging Local Plan policy.

7.13 It should also be borne in mind that the applicants and vast majority of consultees and interested parties agree that the disruption caused and impact on amenity has been much reduced since this site has been provided. It is considered that factor in itself would, in any event, outweigh any perceived conflict with Development Plan policy.

7.14 Therefore it is considered that there are no planning reasons not to remove the condition and thereby, allow the provision of this temporary site to continue.

7.15 Removal of the condition would allow the site to be provided on an annual basis subject to any conditions imposed, without the need to 'reapply' for planning permission in the future. The Government's guidance on this issue is clear: "It will rarely be justifiable to grant a second temporary permission - further permissions should normally be granted permanently or refused if there is clear justification for doing so." The site has now operated for 6 years, in all types of weather without significant problems. Although it is understood that reviews of the provision and management of the facility are justified and necessary due to the concerns of the local community and nature of the activity, it is considered that this is more appropriately the role of the Borough Council as operators of the site in conjunction with its partners; it is not the role of the Planning Authority. The site and use has been demonstrated to be acceptable in planning terms over an extended period.

7.16 If the Committee is minded to grant planning permission, consideration needs to be given to what conditions should be imposed. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. It is considered that all of the conditions on the 2013 consent should be repeated, save No1 which is the subject of this application and condition No 6 concerning a Temporary Traffic Regulation Order. On review, this concerns highway legislation and is a matter for the Highway Authority, not the Planning Authority.

7.17 As condition No1 would be removed, it is considered necessary to replace it with a new condition that continues to restrict the maximum annual usage of the site to 14 continuous days. In 2013 the maximum number of days was reduced from 21 to 14. At that time the applicants explained that any lesser period would not provide the operational flexibility required. As 21 and 14 days have previously been considered acceptable, there is no planning justification for reducing that period further. Fourteen days is a relatively short period and acceptable in terms of impact of residential amenity, should the site ever need to operate for that long.

7.18 Notwithstanding his objections, the closest neighbour has requested that various conditions be imposed if planning permission is to be granted. These concern; prevention of trading on the site; no parking on highway verges; temporary fencing along the eastern boundary of the site and along the B1261 road frontage of his property; and, a maximum number of caravans permitted.

7.19 Trading on the site has long been a part of the event. It is not considered that trading in itself has a detrimental effect on residential amenity. Any illegal trading activity would be a matter for the site operators and Trading Standards, not the Planning Authority.

7.20 Parking of vehicles within the Highway including verges, whether legally or illegally, is a matter for the Highway Authority.

7.21 There is no justification for the suggested 2 metre temporary fencing to be required as a planning condition. The existing site boundaries are clearly defined and have been reinforced by fencing and hedging, so the site boundaries should be clear to users. Similarly there is no planning justification for fencing off boundaries that are not part of the site and planning conditions cannot be used to compel an applicant to undertake works on land that is outside of his control.

7.22 It is not considered that a maximum number of caravan units should be imposed. The site has a finite physical capacity which was almost reached in 2011. There is no evidence that impact on the amenities of local residents is proportionate to the number of caravan units occupying the site. Imposing a maximum may also lead to unauthorised encampments which the facility is designed to avoid. That would conflict with current national planning policy. It is also understood that not all units are inhabited, for example some of the traditional bow top caravan units are used for display purposes.

## POSITIVE & PROACTIVE STATEMENT

The applicants entered into pre-application discussions with officers about the form and content of the application so that no further amendments were required post submission of the application.

## RECOMMENDATION

**PERMISSION BE GRANTED**, subject to the following condition(s)

1 The use of the site hereby approved as a travellers' caravan site shall be for a maximum of 14 continuous days in each calendar year.

Reason: In the interests of the amenities of nearby residents in accordance with Policy H10 of the Scarborough Borough Local Plan

2 The measures set out in the management plan for the site previously approved as a requirement of condition No 2 of planning permission 09/02105/RG3 shall be implemented whenever the site is occupied.

Reason: To protect the amenities of occupiers of the site and local residents in accordance with Policy H10 of the Scarborough Borough Local Plan.

3 Whenever the site is in use as a travellers' caravan site, it shall be subject to a system of CCTV monitoring.

Reason: To protect the amenities of occupiers of the site and local residents in accordance with Policy H10 of the Scarborough Borough Local Plan and crime prevention and community safety.

4 The site shall be cleared of all litter, rubbish, temporary structures and any other paraphernalia associated with its use as a travellers' site within 7 days of it ceasing to be occupied.

Reason: To protect the character and appearance of the landscape in accordance with Policies E1 and E3 of the Scarborough Borough Local Plan.

5 Whenever the site is in use as a travellers' caravan site, the B1261 public highway between Seamer and Crossgates shall be mechanically swept as necessary to prevent the deposit of mud, grit and dirt on the highway by vehicles travelling to and from the site.

Reason: To ensure that no mud or other debris is deposited on the carriageway, in the interests of highway safety.

6 The access and egress to the site shown on approved drawing referenced GP/SHF/002A, including all associated hard and artificial surfacing, shall be removed in their entirety and the field and highway verge reinstated to their former condition if the site is not used for the purpose hereby approved for a continuous period of two years.

Reason: In the interests of the appearance of the area in accordance with Policy E3 of the Scarborough Borough Local Plan.

7 The approval to use this land as a temporary travellers' caravan site only applies while the operation of the site is organised by and remains the responsibility of Scarborough Borough Council (or any succeeding local authority).

Reason: To ensure that the site is operated in a manner that protects the amenities of local residents in accordance with Policy H10 of the Scarborough Borough Local Plan.

*David Walker*

**Background Papers:**

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR N READ ON 01723 232483 email [nick.read@scarborough.gov.uk](mailto:nick.read@scarborough.gov.uk)

