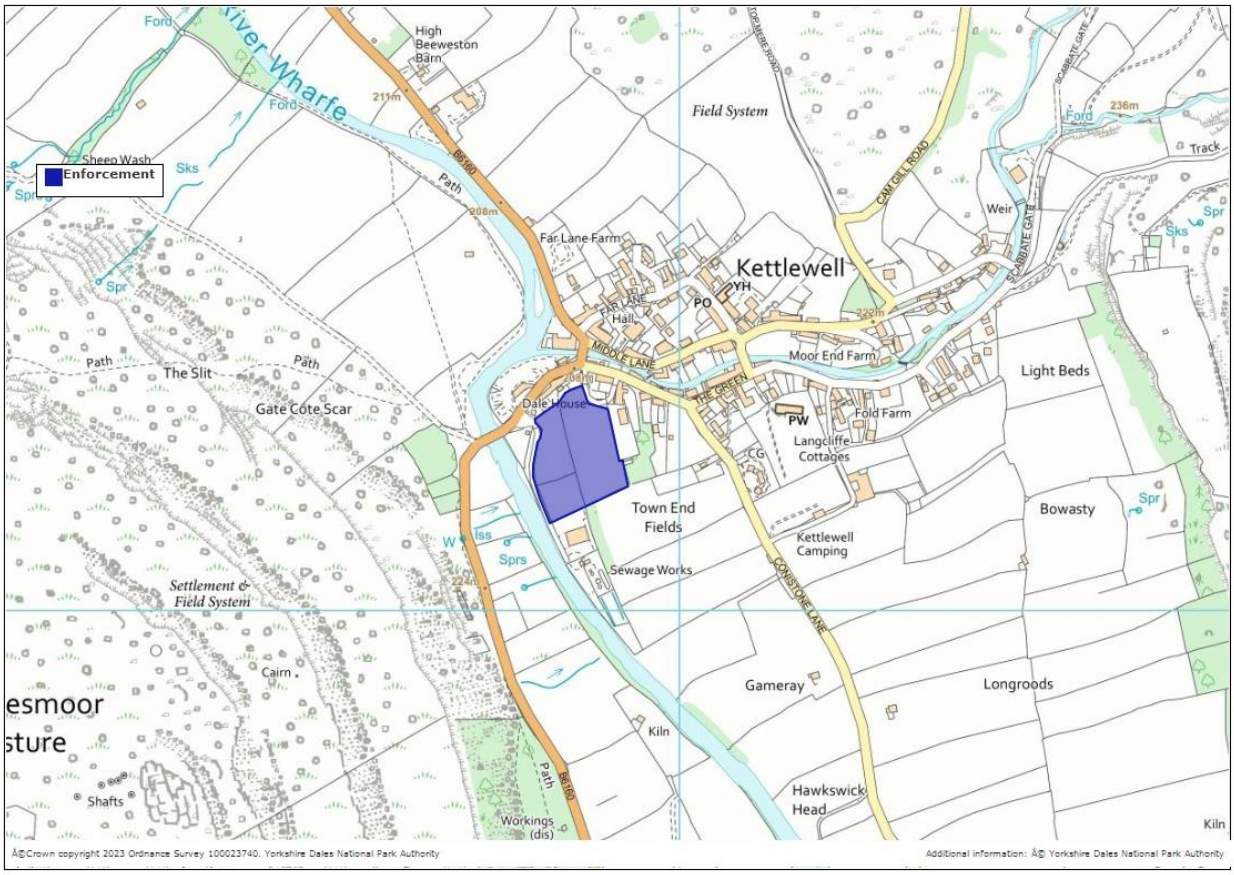
YORKSHIRE DALES NATIONAL PARK AUTHORITY ITEM 9.1

Committee:	Planning	**Parish:**	Kettlewell
Date:	11 July 2023	**Officer:**	Alison Pilkington
Case No:	EC/46/103	**Site Address:**	Land at Low Hall Farm, Kettlewell
Breach:	Use of Land as Caravan Site		



PURPOSE OF THE REPORT

1. To report the unauthorised use of land at Low Hall Farm as a camping and caravan site and seek authorisation for formal action.

SITE

2. The Land at Low Hall Farm is located to the south side of Kettlewell behind the properties on the B6160 and to the east of the River Wharfe. Low Hall Farmhouse is located off Middle Lane and the land is to the south-west.

3. The site consists of 3 grass fields with an access track through the western field to the eastern field, this track divides the western field. There are converted agricultural buildings at the southern boundary of the land which is in the same ownership as the fields. The access to the land is from the B6160 just before the bridge leading out of the village to the west.

4. There are views into the site from the elevated B6160 to the west, these views are restricted by the trees when they are in full leaf. There are also views into the site from the entrance and the car park which also uses the same entrance from the main road. The site is clearly visible from the rear gardens and rooms of all of the properties which back onto the land from the B6160. There are also views into the site from the properties which bound the land to the east. The site is also clearly visible from the Public Right of Way (No.21) which runs along the western boundary of the site. The site can also be seen from more distant elevated views from the Cam Gill Road to the east.

5. The land abuts the Kettlewell Conservation Area and as such has an impact on the setting of the conservation area. This part of the village is described as being more densely built with the green space being confined to private back gardens. It is the boundaries of these private gardens within the Conservation Area that the site abuts. The caravan site is clearly visible and is seen in views looking into the Conservation Area from elevated views to the east and west and from the Public Right of Way when approaching Kettlewell from the south.

SPECIFIC BREACH OF PLANNING CONTROL

6. This case relates to the change of use of the fields at Low Hall Farm, Kettlewell from an agricultural use to use as a caravan site without planning permission.

RELEVANT PLANNING HISTORY

7. The following applications are relevant to this case:

   YD5/46/155A - Full Planning Permission for Retention of Use of Land for Temporary Siting of a Caravan (part of the site) – REFUSED – 20 October 1992

   C/46/155C/LDC - Lawful Development Certificate (Existing Use) in Respect of Use of the Land as a Seasonal Camping and Caravan Site (01 March to 31October each year) – REFUSED – 31 January 2023

BACKGROUND

8. This matter was first raised with the Authority in 2022 (EC/46/103A) when complaints were received that the land was being used as a caravan site. The allegation acknowledged that for several years 3 touring caravans used the land near the converted farm buildings during the summer months. The land had been bought recently and the new owner is using the fields as a camping and caravan site.

9. The increased use of the fields resulted in caravans, motorhomes, etc being sited directly behind the rear garden walls of the properties along the northern boundary of the fields, with resulting disturbance to neighbours from vehicle noise, general activity and alleged anti-social behaviour.

10. Craven District Council confirmed that the site did not have a caravan site licence and that as far as they were aware the land was only used for Exempt Caravan Rallies and not a permanent site which would have required a licence.

11. Certain caravanning activities are permitted development ("PD rights") under Schedule 2, Part 5 of the Town and Country Planning (General Permitted Development) Order 2015 and do not require a site licence, . In particular, PD rights permit:

    a) Meetings organised by exempted organisations (caravan rallies) – the use of land as a caravan site provided this is by the members of an exempted organisation and is under that organisation's supervision. The meeting must also be no more than five days in duration;

    b) Sites occupied and supervised by exempted organisations (temporary holiday sites) – the use of land as a caravan site provided this land is occupied and supervised by an exempted organisation for the purposes of recreation under part 5 of the above order

12. In addition to this under Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) Order 2015, land can be used for the purpose of camping for up to 28 days in any calendar year. The permitted development rights were increased to 56 days for a two-year period during 2020 and 2021 because of the COVD-19 pandemic, which was subsequently reduced to 28 days.

13. At a meeting with the owners in May 2022 they stated that they had purchased Low Hall Farm and the fields on the basis that it was an existing camping and caravan site. The owners stated that they had spoken with the previous owners and they had confirmed that the land has always been used as a caravan site.

14. The owners were informed that there is no site licence for the land to be used as a permanent caravan site and no planning permission. They were informed that they could apply for planning permission, or if they had sufficient evidence to show that the land has been used as a caravan site for a period of 10 years, then they could apply for a Certificate of Lawful Development for Existing Use.

15. The owners submitted a Lawful Development Certificate application on 1 August 2022 for a permanent seasonal camping and caravanning site (1st March -31st October each year) (C/46/155C/LDC). On receipt of the valid application the 2022 Enforcement Case was closed as Application Received. The planning application was later refused on 30 January 2023. Whilst it was noted that there had been use of the Site over the years for certain caravanning and camping activities evidence had not established that such use had been ongoing with sufficient continuity for more than 10 years in excess of what was permitted under PD rights

16. Further complaints were received in April 2023 (EC/46/103B) but were not substantiated at the time and the case closed as No Breach. At this time correspondence was sent to the owners to outline what they were able to use the land for without planning permission under PD rights eg. 28 days a year permitted development for tent camping and Exempt Caravan Rallies, not as a permanent caravan and camping site.

17. The owner's agent then confirmed that they would be considering an appeal against the refusal of the Lawful Development Certificate. Fresh complaints with photographic evidence were received from a number of sources which clearly show the site as being used for caravans and campervans. Some of the caravans, etc would have been in association with exempt rallies, but clearly not all. The current enforcement case was opened on 16 May 2023 to investigate these new complaints.

18. In response to the investigation being re-opened the agent confirmed on 31 May 2023 that an appeal had been lodged against the refusal of the Lawful Development Certificate and asked that no enforcement action to be taken until the appeal has been determined.

PLANNING POLICY

19. Guidance in the Authority's Planning Enforcement Plan states "Following an investigation of the facts of the case the Authority will make a reasoned decision whether it is expedient to take action. In making this decision the case will be primarily assessed in terms of the level of **harm** that is being caused, or could potentially be caused, to the **natural or built environment,** and to **public amenity**."

20. The information and recommendation(s) contained in this report are consistent with the National Planning Policy Framework, the Authority's statutory purposes and its approved strategic planning framework:

    Yorkshire Dales National Park Local Plan (2015 – 2030) policies: SP1 Sustainable Development, SP4 Development Quality, T1 Camping and T2 Touring Caravan Sites.

    National Planning Policy Framework (2021) paragraphs: 59, 176.

ASSESSMENT

21. The site is located adjacent to the rear of properties along the B6160, some of these are commercial properties with living accommodation, some are private residential properties:

    Cliffe Cottage;
    Cliff View;
    Dale House – commercial holiday let;
    The Cottage Tea Room and BnB – owners live on site;
    Amber Cottage;
    Wayside Cottage; and
    Bridge End Cottage.

22. There are other properties which look onto this site off Middle Lane/Conistone Road, Foundry Cottage and Homecroft are the closest properties with views into the site. Alva Barn, The Coach House, Curlew Cottage, and Plover Cottage will have views from their rear gardens and/or windows. This site is between approximately 10m – 30m away from these properties and between 10m and 18m from the gardens to these properties.

23. The unauthorised use of the land as a permanent caravan/camp site has introduced a more intensive use than had previously taken place. Photographic evidence shows that there are times when the site accommodates a large number of caravans and campervans. Clearly this level of usage generates a significant degree of noise and activity arising from vehicles arriving and leaving the site and activity from visitors on the site setting up camp and enjoying meals outside sometimes until late hours. Given the close proximity of residential properties, in many cases only separated from the campers by a low stone boundary wall, this level of noise and activity would undoubtedly be disturbing to a level exceeding what residents would reasonably expect. Furthermore the stationing of caravans and campervans against the wall separating the site from resident's gardens clearly undermines privacy enjoyed by residents in their gardens and homes. The unauthorised use adversely affects

residents enjoyment of their gardens and properties to a high degree and is a significant increase in what had been the case previously.

24. The unauthorised development conflicts with Policy SP4 which requires that development respects the amenity of neighbours and Policies T1 (camping sites) and T2 (touring caravan sites), both of which require the potential sites to be well screened. The site is not screened from adjacent properties and is clearly visible from the Public Right of Way running to the south of the site and from the B6160.

25. The NPPF advises that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks …….. which have the highest status of protection in relation to these issues." [para. 176]. The site is not screened other than by dry stone field boundary walls, the existing farm buildings and tree cover along the river bank to the west. The site is visible from the footpath to the south, from the B6160 and from longer range views from higher land to the west and east. White caravan and campervan bodies are particularly noticeable in a pastoral landscape and stand out within the context of a traditional dales village. The unauthorised development would have a moderately adverse impact on the scenic quality of the landscape – the pastoral setting of the village and its intrinsic character. Whether this impact could be adequately mitigated by appropriate landscape planting is not relevant in the context of an enforcement action as it would in the context of a planning application.

26. At Paragraph 59 the NPPF also states that: "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

EQUALITY ACT

27. The Authority has a duty under s.149 of the Equality Act 2010 to have regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant characteristic and persons who do not share it. The relevant characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; and sex and sexual orientation.

28. It is considered that there are no overt reasons why the proposed enforcement action would affect anyone with the protected characteristics such that the enforcement action should not be taken on equality grounds.

CONCLUSION

29. An appeal lodged against the refusal of the Lawful Development Certificate and the agent has requested that no formal enforcement action is taken until the outcome of this appeal. It is noted that the appellants have asked for the appeal to be dealt with as a Hearing, that there is no start date yet from the Planning Inspectorate confirming the appeal is valid, or what type of appeal it will be. At the time of writing the average time taken for Enforcement appeals dealt with by Hearings is 71 weeks with Inquiries taking 103 weeks.

30. Waiting for the outcome of the appeal will mean that there is potential for this site to continue to cause harm for residents for another year and then if the appeal is dismissed the Authority would still need to consider whether it is expedient to take enforcement action. If an enforcement notice is served it could be the subject of a further appeal with a further delay in action being taken. If a Notice is served it is open to the owners to also submit an appeal against the Notice and potentially the Planning Appeal and Enforcement Appeal can be dealt with at the same time.

31. The continued use of this land as a permanent camping and caravan site causes a high level of harm to the privacy and amenity of residents living next to the site. Furthermore, the use has an adverse impact on the character and appearance of the landscape, including the setting of the Conservation Area, the pastoral setting of the village and the character of the village itself. As such it is contrary to both local and national policies and is not sustainable development with regard to the impact on neighbours and the scenic beauty of the landscape. Whilst it is acknowledged that this land can be used for exempt caravan rallies and for 28 days for tent camping, this temporary use is not prolonged whereas the current use has the potential for the land being used continuously without any control. For these reasons, it is considered necessary to take formal action against the unauthorised use of this land before the outcome of the recently submitted appeal is known.

RECOMMENDATION

32. For the reasons set out above it is recommended that the Authority's Solicitor is authorised to serve an Enforcement Notice to secure the cessation of the use of the site as a caravan and camping site in excess of any use permitted under PD rights with a compliance period of 1 month.

33. That, in the event of non-compliance with the Notice, the Authority's Solicitor be authorised to commence prosecution action.