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**F/YR21/0713/F**

**Applicant: Jordan And Steven Davies      Agent :      Joseph Jones**  
**BFSGC**

**Cedar Rose Stables, Horsemoor Road, Wimblington, Cambridgeshire**

**Change of use of land for the use of travellers including siting of 3no static and 3no touring caravans, water treatment plant and keeping of horses and part use of existing stables as day room**

**Officer recommendation: Grant**

**Reason for Committee: Parish Council comments contrary to Officer recommendation**

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## **1 EXECUTIVE SUMMARY**

- 1.1 Sufficient information has been submitted to demonstrate that the applicant and proposed occupiers of the site meet the definition of gypsy/traveller as set out in the PPTS.
- 1.2 The proposal is assessed to have an acceptable impact upon the character and appearance of the area and together with the approved Spinney traveller site to the west, is tipping into the limit of scale of such development such that it has potential to dominate the nearest settled community. However, the size of site compared to pitches and suitable landscaping help to reduce such impact. As this matter is finely balanced, the personal circumstances of the applicant and family have been taken into account and are found to outweigh any issue of dominance in this particular case.
- 1.3 The site is located in flood zone 3 but there are no sites allocated within the Fenland Local Plan and the local authority does not have an up-to-date gypsy and traveller needs assessment. It is therefore considered that the Sequential Test with regard to flood risk is passed. The provision of additional traveller/gypsy accommodation does bring wider public benefits and the development can be made safe over its lifetime.
- 1.4 The application accords with the relevant policies of the development plan and there are no other material considerations which weigh against the proposal.

## **2 SITE DESCRIPTION**

- 2.1 The application site comprises a roughly rectangular parcel of land measuring approximately 1158 square metres. The site lies within the countryside and is within flood zone 3 which is the area at most risk of flooding. Only the area comprising the access and location of the caravans and stable building are included in the red line site boundary, however, the remainder of the land is edged blue as it is owned by the applicant and used as private recreation land by the

occupiers of the site. To the north the site is bordered by a large drainage ditch and open fields, to the west by The Spinney traveller site (granted on appeal), to the south by Horsemoor Road and sporadic development and open fields and to the east by other traveller sites which presently do not have the benefit of planning permission and are subject of other pending applications as the time of writing this report. The front boundary of the site (blue edged land) where it adjoins the highway is bounded by a post and rail fence. The west boundary contains tall conifers which have been planted on the Spinney side of the boundary. The rear/north boundary is quite open to the fields beyond but there is some hedgerow. The east boundary (of the blue edged land) comprises a close boarded fence which has been erected on the other side of the boundary.

- 2.2 A stable building sits to the rear western corner of the site. This was approved for recreational horse stabling under application F/YR19/0497/F on 2<sup>nd</sup> August 2019.
- 2.3 Access to the site is direct from Horsemoor Road and is situated to the southwest corner and runs along the western boundary of the site.
- 2.4 To the other side of Horsemoor Road and in the near vicinity of the site is builders' storage yard, granted planning permission under F/YR19/0740/F and a residential and storage site for travelling showpeople which includes 3 residential caravans, which was granted planning permission under F/YR14/0213/F. Travelling west along Horsemoor Road, particularly after the sharp bend into Hook Road, there are a few sporadic residential properties to either side of the road then upon reaching Eastwood End, there are residential streets in what would be called a settlement even though not a village in its own right but part of Wimblington. This area is segregated from the main settlement of Wimblington further to the west by the A141. The area of land to the north, east and south of the traveller sites, of which this application is one, is otherwise very open, flat and typical of the Fenland landscape.

### **3 PROPOSAL**

- 3.1 The proposal is for change of use of the land to a mixed use for residential and keeping of horses to include three static caravans and three touring caravans for a Romani Gypsy extended family and hardstanding, water treatment plant and associated development. The application was not retrospective at the time it was made but the development has since taken place. At least part of the stable building on site is being used as a day room.
- 3.2 The hardstanding and location of the caravans is in the immediate vicinity of the stable building i.e. set to the rear of the site. The rest of the land in the ownership of the applicant is grassed.

Full plans and associated documents for this application can be found at:

<https://www.publicaccess.fenland.gov.uk/publicaccess>

### **4 SITE PLANNING HISTORY**

- 4.1 F/YR19/0497/F – Stable block and use of land for keeping horses (recreational only) – approved 02/08/2019.
- 4.2 The Spinney (traveller site to the immediate west)

F/YR14/0854/F – Change of use to traveller site to include 5 static caravans and 1 tourer, allowed on appeal 13/05/2016.

F/YR17/0349/VOC – Amended conditions attached to appeal decision for five pitches to allow 8 pitches and up to 5 tourers – permitted 10.10.2019.

## 5 CONSULTATIONS

- 5.1 **Wimblington Parish Council** – *No objections to 3 static caravans but object to 3 touring caravans due to poor access and highway difficulties. This would lead to more traffic using the road with no passing places. There are already many more vehicles to other sites using the single track lane. This would change the character of the surrounding area and adversely affect neighbours*
- 5.2 **CCC Highways** – *The previous comments sent have been amended in the plans. Highways have no further objections to the application*
- 5.3 **Environment Agency** – No objection but comment that the site is in flood zone 3 and it is assumed that the LPA has applied the sequential test and the development has passed it. The main source of flooding is via the watercourses under the jurisdiction of the IDB and as such the EA has no objections on the ground of flood risk. Advice is provided to the applicant re flood mitigation and flood warning measures and with regard to the potential requirement for an EA permit for non mains drainage foul sewage treatment package. The LPA may wish to append a condition to permission if granted about a flood plan.
- 5.4 **Middle Level Commissioners-** No comments received.
- 5.5 **Local Residents/Interested Parties**

Three letters have been received from three residential households in the vicinity of the site who support the application and comment on how the family has integrated and is respectful and how tidy the site is kept.

A letter has been received from a close relative to one of the occupiers of the site which sets out why the family wish to stay in Fenland, details the history of family and connections in the area and also the health and educational needs of some members of the family

## 6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).
- 6.2 The Council has a duty Under the Equality Act 2010, Section 149, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

## **7 POLICY FRAMEWORK**

### **7.1 Planning Policy for Traveller Sites August 2015**

Policy B – Planning for traveller sites

Policy C – Sites in rural area and the countryside

Policy H – Determine planning application for traveller sites

Policy I – Implementation

### **7.2 National Planning Policy Framework (NPPF)**

Para 2: NPPF is a material consideration in planning decisions.

Para 7: Purpose of the planning system is to contribute to the achievement of sustainable development

Para 11: Presumption in favour of sustainable development

Para 12: Conflict with an up-to-date plan should not usually be granted

Para 80: Avoid the development of isolated homes in the countryside unless specified exceptions apply

Para 119: Promote effective use of land

Para 123: Take a positive approach to alternative land uses

Para 124: Making efficient use of land (density - need & character)

Para 159: Development should be directed away from areas at highest risk of flooding.

Para 161: Need to apply the sequential and exceptions tests.

### **7.3 Fenland Local Plan 2014**

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside

LP5 – Meeting Housing Need

LP12 – Rural Areas Development Policy

LP14 – Responding to Climate Change and Managing the Risk of Flooding in Fenland

LP15 – Facilitating the Creation of a More Sustainable Transport Network in Fenland

LP16 – Delivering and Protecting High Quality Environments across the District

## **8 KEY ISSUES**

- **Principle of Development**
- **Character and Appearance**
- **Impact on Settled Community**
- **Sustainability re transport, highway safety and utilities**
- **Flood Risk**
- **Other Issues**
- **Personal Circumstances**

## **9 BACKGROUND**

- 9.1 The site is adjacent to the site at The Spinney which has planning permission for up to 8 pitches (as set out in the planning history section above). This application, together with this adjacent site would create a continuous use of land, albeit in separate family occupation for up to 11 traveller pitches.
- 9.2 There are two further pending retrospective applications for change of use of land to create traveller pitches on land to the east of Cedar Road Stables. Application F/YR21/0356/F is for 5 pitches and application F/YR21/0768/F is for 1 pitch.

## **10 ASSESSMENT**

### **Principle of Development/Need for pitches**

- 10.1 The site is outside the built-up area of a settlement and therefore, in planning policy terms it is in an area which is considered to be in the countryside whereby local plan policies for 'Elsewhere' locations apply. Except on statutorily designated Green Belt land (not applicable anywhere in Fenland) the Planning Policy for Traveller Sites (PPTS) published in August 2015 is not opposed in principle to Traveller sites in the countryside. It does however state in Policy H (paragraph 25) that Local Planning Authorities (LPAs) should "very strictly limit" new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
- 10.2 Furthermore, paragraph 25 states that LPAs should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure. In its recent decisions the Council has accepted that planning permission can be granted on sites in the countryside, acknowledging that the identified need will not be met by land within existing towns and villages.
- 10.3 Policy A within the PPTS sets out at c) that local planning authorities should use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. Policy B states that in producing their Local Plan, local planning authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. They should identify a supply of specific, deliverable sites, or broad locations for growth, for years 6 – 10 and, where possible, for years 11 – 15. To be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with realistic prospect that development will be delivered on the site within 5 years. To be developable, sites should be in a suitable location for traveller site development and there should be reasonable prospect that the site is available and could be viably developed at the point envisaged. The last Gypsy and Traveller Needs Assessment (GTANA) was carried out in 2013 and this identified a need for 18 pitches up to the year 2026. Since then, at least 40 pitches have been granted. However, the GTANA is not up to date and there is presently no evidence of what the need is in Fenland for gypsy and traveller pitches. A new GTANA was commenced in 2019 but this is not yet completed and there is no available up to date empirical evidence, at the time of writing this report that could assist with this issue.
- 10.4 Policy LP5 Part D of the local plan states that there is no need for new pitches as per the findings of the Fenland GTANA update in 2013. However, an appeal decision received in April 2020 (APP/D0515/C/19/3226096) identified that there

was an unmet need within Fenland which was a matter of common ground between the LPA and the appellant.

- 10.5 Policy H of the PPTS re-affirms the provision of Section 38(1) of the Planning and Compulsory Purchase Act 2004 i.e. that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Fenland Local Plan identified no need for pitches (policy LP5) in Fenland based on the evidence contained in the GTANA of 2013 and no pitches were allocated. The GTANA of 2013 and the subsequent policy position in LP5 of there being no need for pitches, is now out of date. Policy LP5 goes on to state that the Council will be prepared to grant permission for sites in the countryside, provided that there is evidence of a need as identified in the local assessment, that the occupiers meet the definition of Gypsy and Travellers or Travelling Showpeople and that the criteria set out in policy LP 5 (a) to (f) are met. The lack of an up to date needs assessment based on up-to-date evidence and the PPTS which was published in 2015 are material considerations to weigh alongside the development plan policy. It is clear that at present, the Council would not be able to sustain an argument that there is no need for pitches within Fenland and nor can it be confirmed with evidence that there is an identified need. Therefore, it is not reasonable, at present, to refuse traveller site applications on the premise that there is no need.
- 10.6 Policy LP5 states that permission for sites in the countryside would depend on evidence of a need for such provision. However, this policy conflicts with the PPTS (post Local Plan adoption) Paragraphs 11 and 24, which endorse criteria-based policies where there is no such need, and Paragraph 25 which expects sites to be located in the countryside, albeit with restrictions, but without any precondition of evidence of need.
- 10.7 The Council's Senior Community Support Officer confirmed (on 8<sup>th</sup> June 2022) that there are no available pitches on any of the Council run sites within Fenland and that there are 46 people on the waiting list.
- 10.8 The Council's Traveller and Diversity Manager visited the site and advises that the occupiers of the application site were living on a friend's site that was sold, thus they had to move and wanted to stay in the area for health reasons and to maintain the children's education. The case officer visited the site and learned that the applicant and his family have historical connections to the area, and they attend church in Fenland.
- 10.9 Annex 1, Glossary to the PPTS defines Gypsies and Travellers for the purpose of applying this policy as;
  - a) whether they previously led a nomadic habit of life
  - b) the reasons for ceasing their nomadic habit of life
  - c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances
- 10.10 The Council's Traveller and Diversity Manager is satisfied, based on the information he obtained at his site visit, that the occupiers of the site meet the PPTS definition of a Gypsy or Traveller.
- 10.11 Given the lack of up-to-date evidence as to the need for pitches and that the applicant/occupiers meet the definition of Gypsies and Travellers, the principle of the development in this countryside location is acceptable. Regardless of need, policy LP5 requires proposals to also meet the criteria set out within the policy and

this is applicable whether up to date need is identified or not and shall be applied on a case-by-case basis. Despite there being a degree of tension/conflict between the application of criteria based policy to determine applications in paragraphs 11 and 24 of the PPTS (ie apply where there is no need) and policy LP5 (apply whether there is a need or not), the criteria set out in Part D of policy LP5 generally reflect other policies of the local plan and concern issues of acknowledged importance such as visual appearance, flood risk, impact on the environment and amenity. They also generally reflect issues referred to in the PPTS. Compliance with this criteria is considered in the following sections of this report but in terms of the principle of the development, the proposal is acceptable.

### **Character and Appearance**

10.12 Part D of policy LP 5 of the local plan, sets out the following criteria against which applications for Gypsy and Traveller (and Travelling Showpeople) caravan sites and associated facilities will be assessed;

- (a) the site and its proposed use should not conflict with other development plan policies or national planning policy relating to issues such as flood risk, contamination, landscape character, protection of the natural and built environment, heritage assets or agricultural land quality; and
- (b) the site should provide a settled base and be located within reasonable travelling distance of a settlement which offers local services and community facilities, including a primary school; and
- (c) the location, size, extent and access and boundary treatment of the site should allow for peaceful and integrated coexistence with the occupiers of the site and the local settled community; and
- (d) the site should enable safe and convenient pedestrian and vehicle access to and from the public highway, and adequate space for vehicle parking, turning and servicing; and
- (e) the site should enable development which would not have any unacceptable adverse impact on the amenities of occupiers of nearby properties, the health or wellbeing of any occupiers of the site, or the appearance or character of the area in which it would be situated; and
- (f) the site should be served by, or be capable of being served by, appropriate water, waste water and refuse facilities whilst not resulting in undue pressure on local infrastructure and services

10.13 Policy LP 16 requires all new development to;

- (c) retain and incorporate natural and historic features of the site such as trees, hedgerows, field patterns, drains and water bodies
- (d) Make a positive contribution to local distinctiveness and character of the area, enhance its local setting, respond to and improve the character of the local built environment, provides resilience to climate change, reinforce local identity and does not adversely impact , either in design or scale terms, on the street scene, settlement pattern or landscape character of the surrounding area.

10.14 Policy H, Paragraph 24 (d) of the PPTS states that local planning authorities should consider this issue (amongst others) when considering planning applications for traveller sites;

“that the locally specific criteria used to guide the allocation of sites in plans or which forms the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites.” (it is

noted that this wording assumes that where there is a need for sites that these will be allocated)

- 10.15 Paragraph 25 of the PPTS states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements....sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on local infrastructure.
- 10.16 Paragraph 26 of the PPTS states that when considering applications, local planning authorities should attach weight to the following matters;
- (a) effective use of previously developed (brownfield), untidy or derelict land
  - (b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
  - (c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
  - (d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community
- 10.17 The fen area in which the site is located can be characterised as follows;
- Large scale, flat and open landscape with extensive views and large skies
  - Largely unsettled, arable landscape with isolated villages and scattered individual properties
  - Individual properties often surrounded by windbreaks including numerous conifers
  - Rectilinear field structure divided by pattern of artificial drainage ditches
  - Very few hedgerows in landscape
  - Productive and functional landscape with few recreational uses
  - Long straight roads, elevated above surrounding fields but locally uneven
- 10.18 As one moves west along Hook Road, the landscape character changes and field patterns become smaller, older roads are more winding, there are some unsympathetic industrial structures at the edge of settlements but there are open panoramic views across Fens.
- 10.19 There are notable large agri/industrial buildings to the west near the bend in Hook Road but although these are large, they are separated from the site and the case officer considers they are not seen as being in the same viewpoint context as the site when travelling in the vicinity.
- 10.20 Given that caravans are nearly always white or cream in colour, it is quite difficult to ensure that they do not have an unacceptable impact on the appearance or character of an area, especially an area that is so flat and open to long distance views as characterised above. The location of the site within the landscape, the placement of the caravans within the site and the boundary treatment will be important to ensure that the caravans do not appear as stark incongruous features within the landscape setting. There is also a balance to be struck with criteria (c) of policy LP5 of the local plan and with paragraph 26 (d) of the PPTS which advise against having too much hard landscaping or high walls or fences around a site.
- 10.21 In this particular instance, the size of the site (the overall land area edged red and blue on the location plan) compared to the number of static and touring caravans proposed is generous. The caravans are located towards the rear of the land



adjacent to the stable building (now partly used a day room). The majority of the land, approximately two thirds of its area, is given over to grass for recreational purposes for the occupiers of the site. The western boundary contains high conifer hedging on the adjacent authorised traveller site The Spinney; thus, views of this application site are restricted when approaching from the west along Hook Road. When travelling south along Horsemoor Road, the land to the east of this site, at the corner is highly visible and the caravans within the other two presently unauthorised sites are visible from some distance. The caravans on this application site are not highly visible because they are not located on the corner, and they are partially screened by the existing stables and other hedgerows. Should the other unauthorised caravan sites be removed then this site may become more visible from the corner to the east. It is considered that this could be resolved with appropriate planting in the form of native hedgerow to the east boundary of the site. This site does not diminish the landscape character of the area either when close up to the site or when viewed from a long distance, especially from the east and north when approaching from Horsemoor Road. The existing post and rail fence to the front of the land is appropriate to this rural setting and the positioning of the caravans to the rear of the site assists with them being both as discreet as caravans can be whilst not being segregated by tall fencing and/or brick walls. As such, it is considered that the proposal is acceptable in terms of its impact on character and appearance of the area, subject to some additional landscaping which can be conditioned. It would therefore comply with policy LP5 (a) and (e) and with paragraph 26 (b) and (d) to which local planning authorities are required to attach weight.

### **Impact on Settled Community**

- 10.22 Policy L5, Part D criteria (e) states that the site should enable development which does not have any unacceptable adverse impact on the amenities of occupiers of other nearby properties. Policy C of the PPTS states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. Policy H states that LPAs should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure.
- 10.23 This matter was recently addressed in a decision on application F/YR21/0487/F regarding provision of 10 plots at Land South of Greenbanks, Garden Lane, Wisbech St Mary. Reference was made to appeal decision APP/L2630/C/20/3250478 in South Norfolk where the Inspector determined that the nearest settled community was a different concept to nearest settlement. In that case the nearest settled community consisted of a scatter of houses and farms that lay within 1km of the site. In that instance, the pattern of development within 1km of the site consisted of a scatter of houses and farms. In the case of the Greenbanks site it was considered that a 0.5km radius was appropriate for gauging impact on the nearest settled community. A 1km radius would have included the outlying parts of Wisbech St Mary which had a very different settlement pattern, density and character to the development in the countryside in which the application site was situated. It is considered that this is also the case with regard to this application. A 1km radius would include properties in Eastwood End which is the edge of the built-up area of Wimblington and has a very different settlement pattern, density and character to the site and the scattered dwellings within its vicinity. However, it also needs to be kept in mind that (a) taking a radius approach to establishing what comprises the nearest settled community is not set out in the development plan policy and the size of

the radius is subjective; and (b) in rural areas within Fenland, the settled community is likely to contain few scattered houses. In such instances, many traveller sites might be considered to dominate the nearest settled community because the numbers of dwellings will be low.

- 10.24 There are approximately 12 properties within a 0.5km radius of the site, excluding traveller plots and these properties are all located to the west along Hook Road. To the north, east and south of the site there are only isolated farm houses at the edge of a 1km radius of the site.
- 10.25 This proposal would take the total number of authorised traveller pitches in the immediate vicinity of the site to 12 – this includes the authorised 8 pitches at The Spinney and the one pitch at the authorised Travelling Showperson site to the other side of Hook Road/Horsemoor Road (near to the corner). Therefore, the issue to consider is whether an increase from 9 pitches to 12 pitches at this particular location, would begin to dominate the nearest settled community.
- 10.26 If just looking at numbers i.e. a total of 12 traveller pitches in the vicinity compared to approximately 12 dwellings within the 0.5 km radius of the site, it could be argued that the number of pitches could dominate the nearest settled community. Taking this application on its merits i.e. that it involves an increase in only 3 pitches and that those pitches are set within a spacious site that is well landscaped, the argument of dominance becomes more finely balanced. It is not considered that the appearance of the site in addition to the neighbouring site at The Spinney creates an environment that feels like it over dominates the settled community. This appears to be borne out by the lack of objection to this particular site from the Parish Council and local residents.
- 10.27 As this matter is finely balanced although potentially a single reason for refusal, it is reasonable and necessary to weigh alongside this issue consideration the personal circumstances as set out in the section below at paragraph 10.45

### **Sustainability re transport, highway safety and utilities**

- 10.28 With regards to the vehicular and pedestrian access, the site is served by a 5-metre wide gravelled vehicular and pedestrian access which is set in from the western boundary. Visibility when exiting the site is good in both directions. Amended plans were received which show visibility splays, following comments from the local highway authority (LHA) who also require the first 10 metres of the access to be sealed and to drain away from the highway. It is considered that subject to a condition requiring the sealing and draining of the access and maintenance of the visibility splays, that the proposal complies with policy LP5, Part D (d). The site also provides adequate parking and turning space.
- 10.29 The appeal Inspector in his decision to allow the The Spinney traveller site adjacent to this proposal commented as follows;
- “Nothing in the NPPF or PPTS that says traveller sites have to be accessible by means other than a private car. In fact, both recognise that the lifestyle of travellers must be factored into the planning balance.”
- 10.30 Although the site is in the countryside, Wimblington, Doddington and March are only a short drive away from the site and each provides access to primary schools, medical facilities and other services. The Spinney site was found to be

acceptable with regards to it being a sustainable location and it must follow that this site is also sustainable in this regard and in compliance with policy LP5, Part D (b). Taking into consideration that sites will be acceptable in the countryside, it would be unusual for such sites to be served by pavements.

- 10.31 The foul water drainage at the site is via a non mains wastewater treatment package plant as there is no available connection to the mains sewage system. Surface water drains to the ditch. The Environment Agency has raised no objections to the proposal but confirms that the foul drainage may also need an Environmental Permit from the EA. It is therefore considered that the detail in this regard can be adequately controlled through the permitting system as required. It is noted that in the above-mentioned appeal decision regarding the adjacent Spinney site, no details were known about utilities and the Inspector was content to deal with these matters by conditions. The agent has confirmed verbally that the site was connected to mains water prior to the occupiers moving onto the land to live.
- 10.32 It is considered that the site has adequate pedestrian and vehicular access, is within a short drive to the nearest settlements where schools and services are located and is or is capable of being served by mains water and adequate foul and surface water drainage. The application is therefore in compliance with policy LP5, Part D (b), (d) and (f).

### **Flood Risk**

- 10.33 The site lies within flood zone 3 (defended) and is highly vulnerable development. The site is accompanied by a Flood Risk Assessment (FRA). The EA has not objected to the application on the grounds of flood risk but has assumed that the local planning authority has applied the sequential test and has offered advice regarding flood warning. The EA states that the main source of flood risk associated with this site is associated with watercourses under the jurisdiction of the Internal Drainage Board (IDB), who should be consulted with regard to flood risk and residual flood risk associated with watercourses under their jurisdiction and surface water drainage proposals. The IDB has been consulted and no response has been received.
- 10.34 In determining the appeal for the adjacent Spinney site, the Inspector stated the following in relation to flood risk;

*“The site is located within an area designated as lying within Flood Zone 3. A Flood Risk Assessment (FRA) carried out for the appellant concluded that the site has the benefit of defences designed to withstand a 1 in 100 year event, including climate change, and that with these defences in place the flood risk to the site is identical to a site in Flood Zone 2.*

*The FRA concluded that as the nearby drainage ditches were substantially below the level of the site, surface water would either be collected in the ditches or, if they were overwhelmed, it would flood lower land to the north. These conclusions are consistent with the findings of a FRA carried out for a Travelling Showperson’s site to the opposite side of the road, and neither the Environment Agency nor the Internal Drainage Board raised objection to the appeal proposal and, in the case of the Travelling Showperson’s site the Council were satisfied that the wider sustainability benefits and the lack of evidence of more suitable sites outweighed flood risk considerations*

*With regard to the sequential test, the Development Plan does not identify any deliverable land for gypsy sites and there are no “reasonably available” appropriate sites with a lower risk of flooding. The site specific FRA demonstrates that the proposal would be safe from flooding for the lifetime of the development. However, to provide additional assurance and safeguards, the production of a Flood Plan for evacuation of the site can be required by condition.”*

- 10.35 The Fenland Local Plan does not identify any deliverable land for gypsy sites. This, coupled with the fact that the majority of the land outside of towns and villages will lie within flood zones 2 or 3, lead to a conclusion that there are no reasonably available sites with a lower risk of flooding. It is therefore considered that the sequential test will be passed.
- 10.36 Following successful completion of the sequential test, the exception test must be met which requires (a) development to demonstrate that it achieves wider community sustainability benefits having regard to the District’s sustainability objectives, and (b) that it can be made safe for its lifetime and will not increase flood risk elsewhere (‘flood risk management’).
- 10.37 Wider community sustainability benefits - The District’s sustainability objectives are outlined under 2.4 of the FLP and, relevant to this application includes the aim to thrive in safe environments and decent affordable homes (6.1) and redress inequalities related to age, gender, disability, race, faith, location and income. In respect of the proposal, it would assist in addressing a shortfall of accommodation needs for the Traveller community where an inadequate supply of housing currently exists.
- 10.38 The FRA has outlined the historic flood events in recent years, including the floods of 1998 and works undertaken or being undertaken by the EA and the IDB which ensure that water is pumped away via pumping stations and the drainage channels. Risk of actual flooding to the site, due to the defences in place, is considered to be minimal. The proposed mobile homes would be raised off the ground by 450mm above existing ground level. If flooding did occur, the FRA states there would be an acceptable evacuation route to higher ground and that the development would not exacerbate flooding elsewhere. The applicants are happy to subscribe to the EA telephone warning service and to produce a Flood Evacuation Plan for the site which could be required by condition.
- 10.39 Taking the above into account, it is considered that with regards to flood risk, the proposal is acceptable, subject to condition and complies with policy LP5, Part D (a) of the local plan. It is recognised that the PPTS, paragraph 13 (g) advises local planning authorities not to locate sites in areas of high risk of flooding, but the local circumstances of Fenland district must be taken into account, given the amount of land in the district that is at a higher risk of flooding. As already stated, the Inspector for the Spinney site took a pragmatic view on this matter.

## **Other Issues**

### **10.40 Residential Amenity**

The development is sufficiently separated from the adjacent Spinney site and other dwellings, of which there are few in the vicinity, so as not to impact on residential amenity in terms of loss of privacy, loss of light etc. Over dominance has already been assessed above.

#### 10.41 Heritage Assets

There are no heritage assets in the vicinity of the site.

#### 10.42 Natural Environment

The submitted biodiversity checklist does not point to protected species being present on the site. A short report has been submitted but it is not written by a qualified ecologist so has limited value. However, from historical aerial photographs, the previous use of the site was for grazing and the land was covered in open grass. Hedgerows have not been removed to enable the development to take place and there is scope to provide additional native hedgerow planting to improved the screening of the site and to provide improved biodiversity. As the development has already taken place it is not possible to say with certainty that no protected species were affected by the development, however, impacts can be limited in the future. It was noted that there is external lighting in place during the site visit and a condition will be imposed requiring details of external lighting and to ensure that luminance is minimised.

#### 10.43 Contaminated Land

There is no evidence to suggest that the site is contaminated.

#### 10.44 Agricultural Land Quality

The Natural England land classification map shows the site to be grade 2, very good quality agricultural land. The majority of land within the district outside of the built up areas will be either grade 1 or grade 2 land. Given that there are no available alternative sites available, the proposal is acceptable in this regard.

### **Personal Circumstances**

- 10.45 The Council's Traveller and Diversity Manager has assessed the personal circumstances of the occupiers of the site and concludes that there are benefits to the occupiers to being able to remain at this settled base. This includes being able to provide stable schooling opportunities for the children. The issue of a potential for this site in cumulation with the existing authorised sites to dominate the settled community has required these personal circumstances to be weighed in the planning balance. The issue of dominance is quite finely balanced in this particular situation. There are both educational and health needs of children and health needs of adults to be taken into consideration. These weigh in favour of the proposal and in this instance outweigh any concern about over dominance, such that the proposal is acceptable.

## **11 CONCLUSIONS**

- 11.1 In conclusion, the existing policy framework surrounding the development is such that the Local Planning Authority is unable to demonstrate that it has an adequate supply of sites for the accommodation of the gypsy and traveller community. The application is accompanied by sufficient information to demonstrate that the proposed occupants satisfy the definition of gypsies and travellers within the Planning Policy for Traveller Sites (2015) document and on that basis the principle of the development is considered to be acceptable.

- 11.2 Impact on the character and appearance of the area is acceptable due to the location of the site, position of the caravans within the site and existing boundary screening. However, hedgerow planting should be provided to the eastern boundary but this can be conditioned. Details of external lighting shall also be conditioned.
- 11.3 The proposed access and parking are acceptable, and the site is located within an acceptable distance of settlements that provide services. Details concerning the requirement to seal and drain the first 10 metres of the access will be conditioned as will the requirement to maintain visibility splays.
- 11.4 Although the site is located in Flood Zone 3, the EA has not raised objections and due to a lack of other suitable alternative sites in areas at lower risk of flooding, the sequential test is passed. There are sufficient community benefits to this site being permitted to pass the exceptions test. Notably, flood risk was not a concern to warrant dismissal of the appeal which allowed the Spinney site on the adjacent land.
- 11.5 Due consideration has been given to the Human Rights Act 1998 and the Equality Act 2010. The issue of a potential for this site in cumulation with the existing authorised sites to dominate the settled community has required these personal circumstances to be weighed in the planning balance. The issue of dominance is quite finely balanced in this particular situation. There are both educational and health needs of children and health needs of adults to be taken into consideration. These weigh in favour of the proposal and in this instance outweigh any concern about over dominance, such that the proposal is acceptable.
- 11.6 In all other respects, the proposal is considered to be acceptable and subject to the conditions to be imposed complies with policy LP5 of the local plan (which also reflects other policies of the plan)

## 12 RECOMMENDATION

**Grant;** subject to the following conditions:

- |   |   |
|---|---|
| 1 | The site shall not be occupied by any persons other than gypsies and travellers as defined in annex 1 of Planning Policy for Traveller Sites (DCLG August 2015) |
|---|---|

Reason: The application is only approved due to the applicants meeting this definition and to clarify what is hereby approved.

2 No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 shall be a static caravans) shall be stationed at the site at any time. The caravans shall only be stationed within the land edged red on the approved location plan and shall not be stationed in the land edged blue on the approved location plan.

Reason: To clarify what is hereby approved and to ensure that the stationing of the caravans does not have an adverse impact on the character or appearance of the area in accordance with policy LP5 of the Fenland Local Plan

3 No more than one commercial vehicle shall be kept for use by the occupiers of each plot and shall not exceed 3.5 tonnes in weight.

Reason: In order to control commercial activity at the site and the visual appearance of the land in accordance with policy LP5 of the Fenland Local Plan

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

Reason: In the interests of the visual appearance of the land and area in accordance with policy LP5 of the Fenland Local Plan

5 Within 3 months of the date of this decision, the access to the site shall be constructed and sealed for the first 10 metres from the highway edge and drained away from the highway in accordance with the details shown on the approved highway access drawing HWACS - 02-2022. The visibility splays shall be provided concurrently with the works to seal and drain the access as shown on this approved drawing, and retained as such thereafter and kept clear of any object above 0.6 metres in height.

Reason: In the interests of highway safety in accordance with policy LP5 of the Fenland Local Plan

6 Within 2 months of the date of this decision, the following information shall have been submitted to the Local Planning Authority for approval;

- Details of a scheme to plant a mixed native hedgerow to as a minimum, the eastern side boundary of the land edged blue on the approved location plan. This shall include a plan, planting specification and timetable for planting. The approved scheme shall be implemented in full in accordance with the approved timetable. Should any of these plants die, become diseased or are removed within the first 5 years of planting, they shall be replaced by similar native species within the next available planting season. The hedgerow shall be retained thereafter.

- Details of all existing and proposed external lighting including luminance levels and measures to avoid light spillage. Within 4 weeks of the approval or refusal of the lighting scheme from the local planning authority, all unauthorised lighting shall be permanently removed from the site, including the land edged blue on the approved location plan. Thereafter, only external lighting that accords with the approved lighting scheme shall be erected.

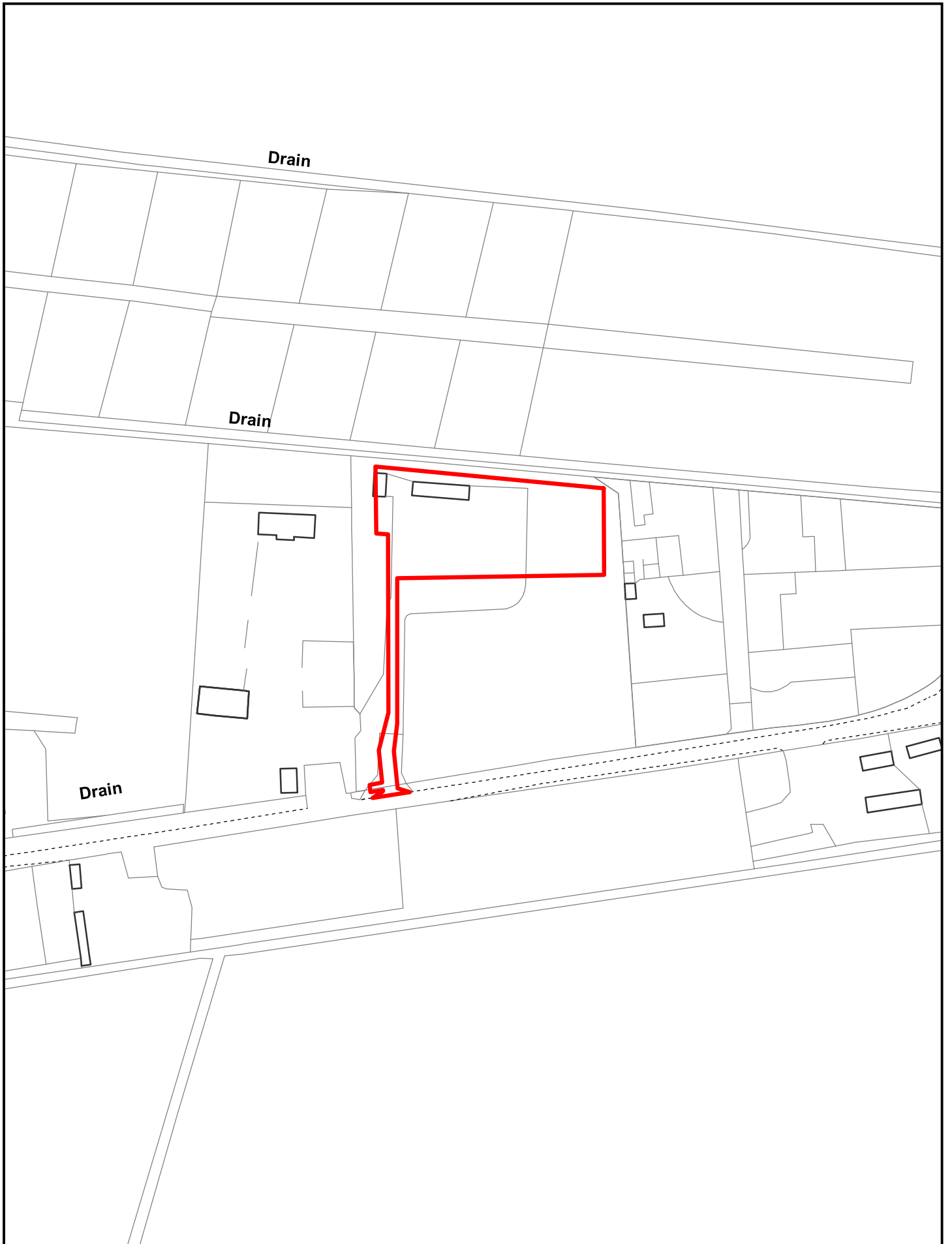
-Details of a flood evacuation scheme. Within 2 weeks of approval of the scheme by the local planning authority, the scheme shall be implemented in full and in retained in perpetuity

Reason: In the interests of the visual appearance of the site, biodiversity and the safety of the occupiers of the site in accordance with policy LP5 of the Fenland Local Plan

7 With the exception of the post and rail fencing existing at the front of the land edged blue on the approved location plan and notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no other gates, fences, walls or other means of enclosure shall be erected on the site or on the land edged blue on the approved location plan, unless planning permission has first been obtained from the local planning authority.

Reason: In the interests of the visual appearance of the site in accordance with policy LP5 of the Fenland Local Plan





Created on: 11/05/2022

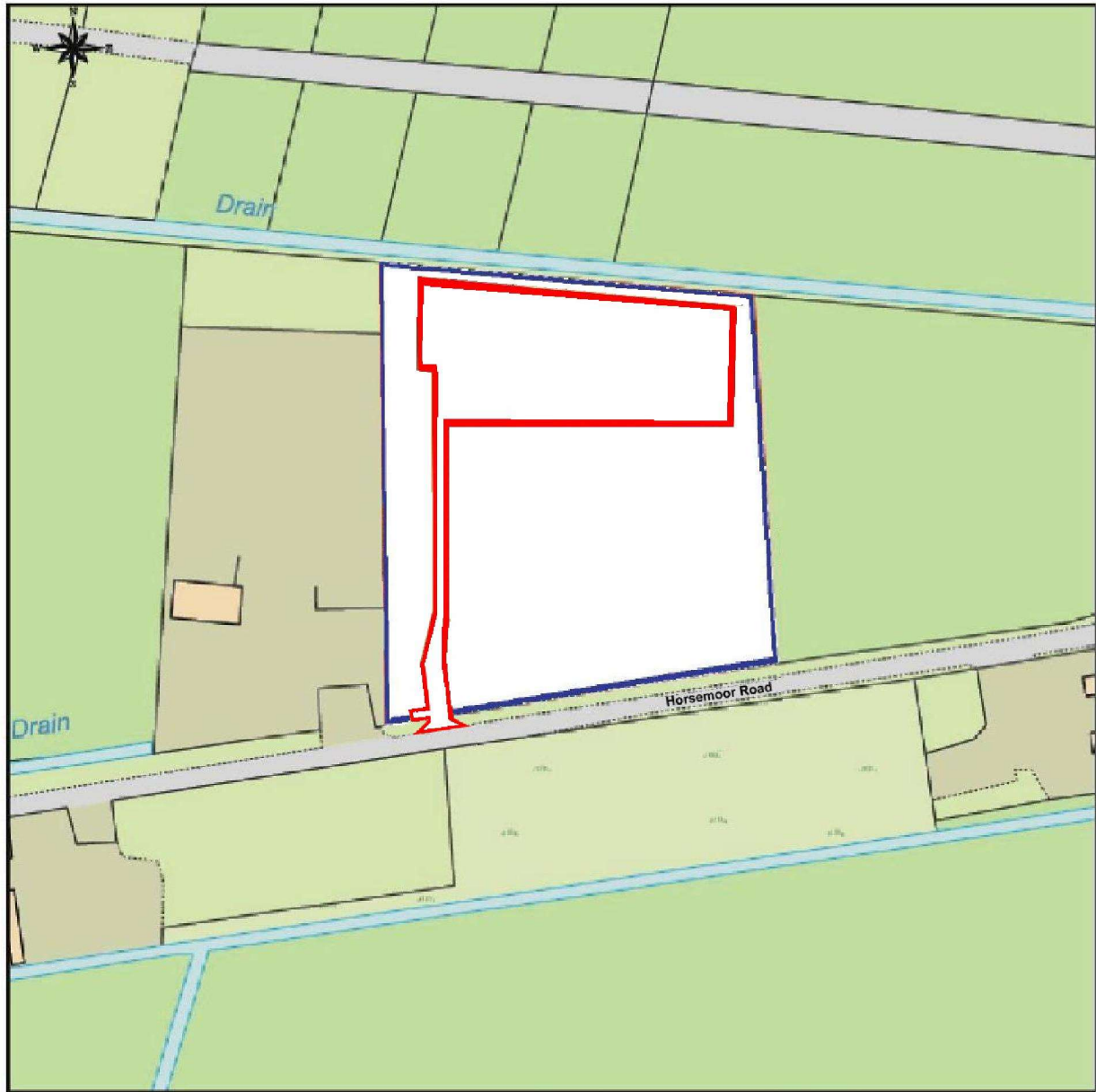
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**F/YR21/0713/F**

Scale = 1:1,250



# Location Plan



0m 20m 40m 60m 80m 100m

May 2022

Scale 1:1250 @ A4

Drawing No.: LP-02-22

The Spinney  
Hook Rd - Horsemoor Rd  
Wimblington  
March  
PE15 0QL

Joseph G Jones  
Principle Consultant  
info@bfsqc.info

Contact - Tel:  
07756 917937

Architecture  
**BFSGC**  
www.bfsqc.com

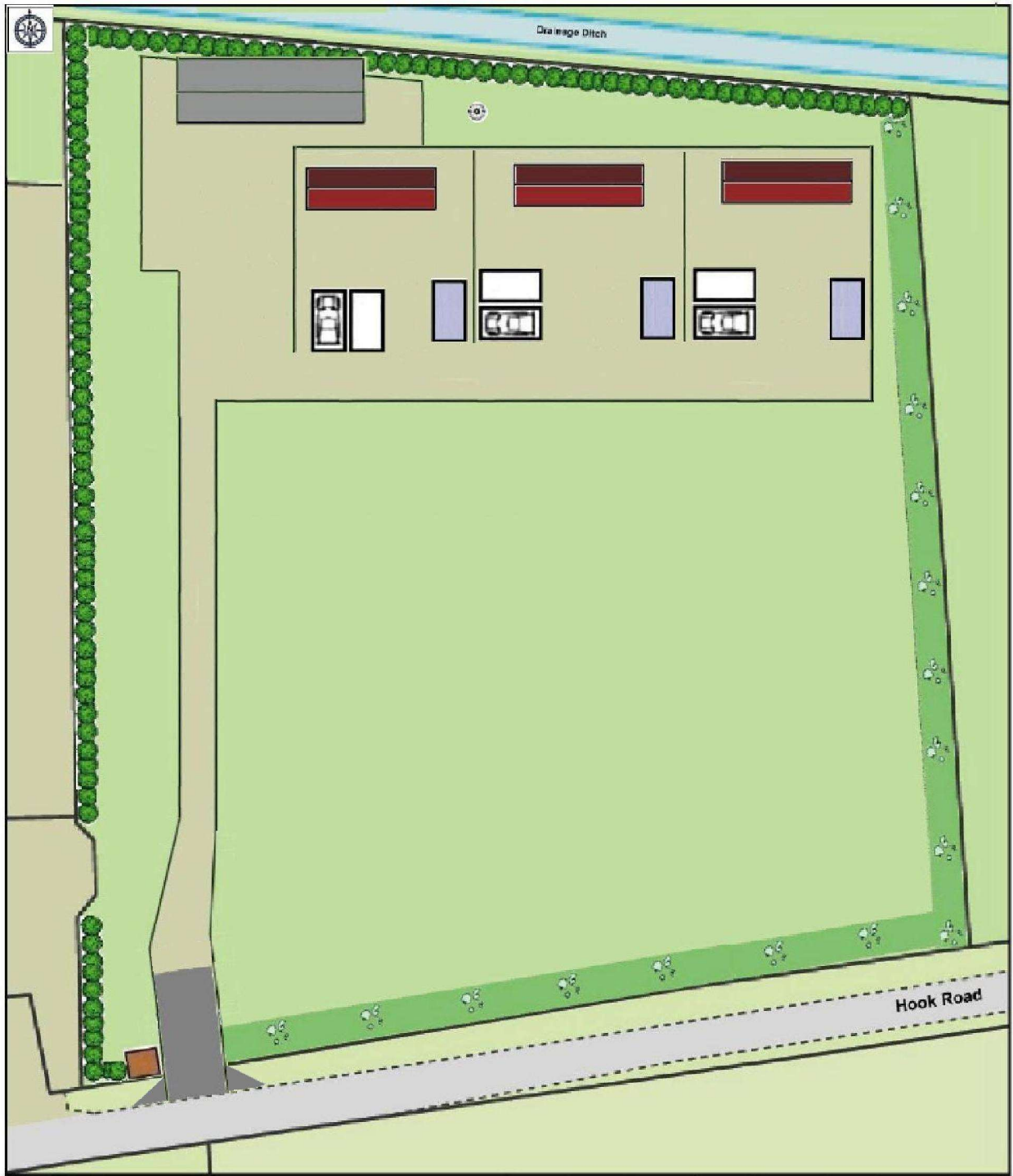


Drawing No.  
BP-01-2020

site  
plans

Prepared by: J Jones, 02-03-2021

# Block Plan



February 2022

0m 5m 10m 15m 20m 25m 30m 35m 40m

Scale 1:500 @ A4

Drawing No.: BP-02-2022



KEY	
	Static Caravan
	Touring Caravan
	Parking
	Waste & Recycling
	Planting
	Stable
	Hardstanding Shingle
	Grass
	Water Treatment Plant
	New Screening
	Tarmac/Block Pave

**Cedar Rose Stables**  
**Horsemoor Rd**  
**Wimblington**  
**March**  
**PE15 0QL**

Joseph G Jones  
 Principle Consultant  
 info@bfsgc.info  
 Contact - Tel: 07756 917937  
 Architecture  
**BFSGC**  
 www.bfsgc.com

Drawing No.  
 BP-01-2022

**site plans**

Prepared by: J Jones,



# Proposed Highway Access

Drawing No.: HWACS-02-2022  
February 2022



The access drains south to north  
(away from the highway)

10m

5m

2m

2.75m

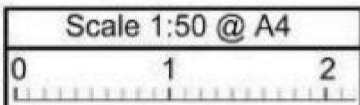
Precast Concrete Edging

Tarmac

Tarmac

Dropped kerbing (granite sets-150mm x 75mm)  
or precast concrete kerb (125mm x 150mm)

Horsemoor Road



Project	Design:
Title: Cedar Rose Stables	Sage Ct, Unit 3 Sibleys Rise,
Client:	South Heath, Bucks, HP16 9QG
Drawing	Tel: 07756 917337
Title:	

All building works to comply with the relevant British standards and/or codes of practice.  
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