
F/YR21/0356/F

Applicant: Mr J Boswell

**Agent : Mr Matthew Taylor
Taylor Planning And Building**

**Land East Of Cedar Rose Stables, Horsemoor Road, Wimblington,
Cambridgeshire**

Change of use of land for the use as 5no traveller's plots including siting of 5 no mobile homes and 5 no touring caravans and formation of a new vehicular access (retrospective)

Officer recommendation: Grant

Reason for Committee: Parish Council comments contrary to Officer recommendation

1 EXECUTIVE SUMMARY

- 1.1 The development has an adverse impact on the character and appearance of the local area and landscape setting contrary to policy LP5 (a) and (e) and LP16(d) which aims to ensure that development makes a positive contribution to local distinctiveness and character of the area, enhancing the setting. It is also contrary to paragraph 26 (b) of the PPTS which requires local authorities to attach weight to sites that are well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.
- 1.2 The cumulative impact of this proposal for five pitches together with other nearby approved traveller pitches is considered to result in a domineering impact upon the settled community which is contrary to paragraph 14 in Policy C and paragraph 25 of Policy H of the Planning Policy for Traveller Sites, which seek to ensure that sites are well planned and in rural areas respect the scale of, and do not dominate the nearest settled community.
- 1.3 The lack of an up-to-date gypsy and traveller needs assessment and lack of available pitches does not in itself outweigh the harm set out in the above two paragraphs. In other respects, e.g. access and flood risk, the proposal is acceptable. However, taking the development plan as the starting point for the determination of applications, the proposal is not acceptable on landscape and domineering impact grounds.
- 1.4 However, personal information and evidence has been submitted with regards to the occupants of the site. This has been carefully considered by Officers and it is clear that if permission were refused and the occupiers of the site were forced to vacate the site, the welfare of several of the occupiers, in particular the children would be harmed, and their health and education would be likely set back. The welfare of children is of paramount importance. The weight attached to these considerations, in this instance, outweighs the policy objections to the proposed development in the planning balance, such that the application is recommended for approval subject to conditions

2 SITE DESCRIPTION

- 2.1 The site is roughly square shaped but with an “outshoot” to the east and comprises approximately 0.34 hectares. It is situated close the sharp bend in the road where Hook Road turns into Horsemoor Road and is in the open countryside. The site was formally described as paddock but as this application is retrospective now contains five static mobile homes, tourers and has a vehicular access off Hook Road and is occupied as a traveller site with five family pitches.
- 2.2 The site lies to the east of the recently approved traveller site at Cedar Rose Stables which contains 3 static mobile homes (approved under F/YR21/0713/F), beyond which to the west is a further approved traveller site, The Spinney which was approved on appeal and has permission for 8 pitches. Opposite, to the other side of Hook Road/Horsemoor Road is an approved travelling showperson’s pitch for one static mobile home. There are some employment sites to the south of Hook Road and sporadic residential properties to the east but otherwise to the north and east of Horsemoor Road is open countryside.
- 2.3 The two plots labelled as empty field on the submitted site plan which are immediately to the east of this site and adjacent to Horsemoor Road are now occupied by travellers and there are pending applications for both sites under references F/YR21/0768/F and F/YR22/1135/F which are to be considered later in the agenda.
- 2.4 To the rear of the site is a drainage ditch which is managed by Middle Level Commissioners. The site lies within flood zone 3 which is the area at highest risk of flooding.

3 PROPOSAL

- 3.1 This is a retrospective application for change of use of the land to accommodate 5 static mobile homes for occupation by travellers and placement of 5 touring caravans (one for each plot) together with a vehicular access off Hook Road. The submitted revised site plan A-E (2) shows that the site and plots will be screened by post and rail fencing with laurel planting. There will be a pair of 5 bar gates set in from the entrance which will be sealed and drained for 10 metres back from the edge of the carriageway. The plots will be arranged on either side of a central gravelled 6-metre-wide access road which runs centrally through the site. At the time of the officer site visit, the site was enclosed with close boarded fencing.
- 3.2 Full plans and associated documents for this application can be found at: [F/YR21/0356/F | Change of use of land for the use as 5no traveller's plots including siting of 5no mobile homes and 5no touring caravans and formation of a new vehicular access \(retrospective\) | Land East Of Cedar Rose Stables Horsemoor Road Wimblington Cambridgeshire \(fenland.gov.uk\)](https://fenland.gov.uk/Planning/0356/F)

4 SITE PLANNING HISTORY

None

5 CONSULTATIONS

5.1 Wimblington Parish Council –

First response – object due to “*overdevelopment of land and volume of traveller pitches would exceed residential homes on this stretch of Horsemoor Road. Site is in flood zone 3. LP5 Part D(f) refers*”.

Second response – Object due to location close to bend in road. 9 touring caravans – site is not large enough to sustain 5 static mobile homes, 9 tourers and the traffic. The road is narrow and there are no safe havens for pedestrians, horse riders or cyclists due to loss of verges. The road surface already suffering damage. The speed limit of 60 mph cause major threat to those who have no safe haven.

The site is in flood zone 3. Wimblington had unprecedented flooding last year. There is no evidence to back up the claim the sequential test is completed.

There is no evidence the development provides the wider sustainability benefits claimed.

The applicant states that soft landscaping will be installed but high wooden fencing has been installed which is hazardous to visibility and out of character with the area.

The application for 5 mobile homes is more appropriate on its own merit but to include 9 touring caravans constantly using the narrow lane is inappropriate.

Reference policies LP1, LP5 Part D, LP14 Part B and LP16 (i) and (m)

5.2 CCC Highways – 20/05/2021 and 06/06/2022

No objections subject to conditions concerning the requirement to lay out and construct the access in accordance with the approved plans and provision of parking and turning spaces.

5.3 Environment Agency –

The site is located in flood zone 3 and normally , residential caravans are deemed inappropriate within flood zone 3 due to their high vulnerability to the impacts of flooding. However, this location is defended from flooding from both the River Nene and The Great Ouse. The Environment Agency has undertaken an assessment of the risk associated with the failure of the Middle Level Barrier Banks of the Ouse Washes and River Nene defences. These studies have identified that this site should not be flooded in the event of the failure of the defences.

We therefore do not consider it appropriate to refuse this development in principle as is normal practice for highly vulnerable developments in flood zone 3. We do

however, recommend that the LPA determine whether there are any other locations that this development can be placed within flood zone 1.

We consider that the main source of flood risk at this site is associated with the watercourses under jurisdiction of the relevant Internal Drainage Board (IDB). The IDB should be consulted with regard to flood risk associated with watercourses under their jurisdiction and surface water drainage proposals.

The LPA should be satisfied that the occupiers can reach safety in the event of a flood.

5.4 Middle Level Commissioners – No response received

5.5 FDC Traveller and Diversity Manager –

Confirms that the occupiers of the plots are ethnic gypsies and has provided confidential information concerning health and welfare of the occupiers of the site

5.6 Local Residents/Interested Parties

Objectors

No objections received

Supporters

11 comments of support have been received from 10 households. Six of these are from residents of Hook Drove, Horsemoor Road and Eastwood End. The comments are summarised as follows;

There has been a lot of development in the village in recent years that has put a strain on local infrastructure but this site would not have much impact. It is out of the way and when I go past, it is always clean and the people are friendly.

As neighbours to this site, my wife and I have no objections. All the families have settled and integrated into the community during the time they have occupied this site. They are friendly, polite and considerate. They have enrolled their children into the local schools and wish to integrate into the local community.

There are many people living and working in this area that has seen many large properties supported. Hopefully by welcoming these families the Parish and FDC will start to support these new and existing residents with maintenance of roads and services we severely lack compared to the rest of the Parish.

The following applications have been granted for dwellings at Eastwood End – F/YR19/0550/O (3 dwellings), F/YR21/0455/F (3 dwellings), F/YR20/0651/f (9 dwellings and recently F/YR22/0884/PIP has been approved for up to 9 dwellings. This would be a total of 24 new dwellings on Eastwood End therefore I see no reason why this site should not be developed for 5 families.

They have cleaned up a disused overgrown field.

With regard to the fencing, this offers protection to the fen blows that occur and other properties have fencing to this height. Surely if highways thought this was a

hazard on the corner they would have raised a concern but we not both highways and environmental health have no objections.

We live at The Spinney. The residents have never caused us any problems.

They are a nice family and good customers to us (resident of March)

5.7 **Other Correspondence**

Several letters from local Councillors expressing concerns regarding the development and the overall number of gypsy and traveller pitches in the vicinity were sent to Stephen Barclay MP and which were subsequently forwarded to the Council for comment.

6 **STATUTORY DUTY**

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).

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**

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

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.

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

Emerging Local Plan

The Draft Fenland Local Plan (2022) was published for consultation between 25th August 2022 and 19 October 2022, all comments received will be reviewed and any changes arising from the consultation will be made to the draft Local Plan. Given the very early stage which the Plan is therefore at, it is considered, in accordance with Paragraph 48 of the NPPF, that the policies of this should carry extremely limited weight in decision making. Of relevance to this application are policies:

LP1 – Settlement Hierarchy
LP4 – Securing Fenland's Future
LP7 – Design
LP14 – Gypsies and Travellers and Travelling Showpeople
LP20 – Accessibility and Transport
LP22 – Parking provision
LP24 – Natural Environment
LP25 – Biodiversity Net Gain
LP27 – Trees and Planting
LP28 – Landscape
LP32 – Flood and Water Management

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 This site is adjacent to other traveller sites. The Spinney site (not abutting but nearby to the west along Hook Road) has planning permission for 8 pitches. The Cedar Rose Stables site, immediately to the west, has recently been granted planning permission for 3 pitches (F/YR21/0713/F). There is also an authorised travelling show person's pitch to the south (other side of Hook Road) which has 1 pitch. There are therefore 12 authorised pitches for the groups considered by the PPTS adjoining or in the near vicinity of the application site. The two adjacent unauthorised sites (subject to pending applications to be considered later in the agenda) have 1 pitch each.

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, in excess of 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. *(Officer comment: The emerging policy LP14 is criteria based irrespective of whether there is a need, but this policy can, at this time, only be afforded limited weight).*
- 10.7 However, the recent Court of Appeal case [2022] EWCA Civ 1391 (Lisa Smith and Secretary of State for Levelling Up, Housing and Communities and NW Leics District Council) has found that at least in part the PPTS is discriminatory and therefore, the weight to be afforded to the parts of the PPTS which set out definitions of travellers will be, at the very least, diminished, as the Government has stated it does not intend to seek leave to appeal from the Supreme Court. This means that the PPTS will need to be amended. Although, not the central plank of the appellant's case, the Court of Appeal Decision appears to set out that ethnicity is a defining factor as to whether a gypsy/traveller is such.
- 10.8 The Council's Traveller and Diversity Manager has confirmed that the applicant and occupiers of all 5 plots are ethnic gypsies/travellers.
- 10.9 Policy LP5 of the Local Plan states that irrespective of whether an up-to-date need is identified or not, the Council will determine applications on a case-by-case basis and set out six criteria by which to assess new suitable gypsy/traveller and travelling showpeople sites. The policy goes on to say that the Council will grant permission for sites in the countryside provided there is evidence of need. Paragraph 11 of the PPTS states that criteria should be set to guide land supply allocations where there is an identified need and where there is no identified need, criteria based policies should provide a basis for decisions in case applications nevertheless come forward. Policy 25 of the PPTS states that LPAs should very strictly limit new traveller site development in the open countryside that is away from existing settlements but differs from policy LP5 in that it does not state development will only be permitted in the countryside where there is an identified need. However, despite this degree of tension between the Local Plan and the PPTS, both advocate the use of criteria to assess the suitability of sites; 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.

- 10.10 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 broadly acceptable, subject to compliance with the criteria in policy LP5 and other detailed considerations.

Character and Appearance

- 10.11 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

- 10.12 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.

- 10.13 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)

- 10.14 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

- 10.15 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
- 10.16 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.
- 10.17 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.
- 10.18 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.
- 10.19 In this instance, the site appears as part of the area of land located at the corner of Horsemoor Road and Hook Road which comprises the three pending planning applications for retrospective use as traveller sites. However, this site is in the main set in from the corner due to its relationship with the two other single plots that are pending determination. The three sites are however, viewed cumulatively and are located on or near the corner in a prominent location. Due to the very open nature of the surroundings and the number of caravans and paraphernalia that can be seen, the cumulation of the three sites appears cluttered and incongruous within the landscape setting. They cannot only be seen close up but also from quite a distance when approaching from the north along Horsemoor Road. This is not the case with regard to the recently approved site at Cedar Rose Stables, nor The Spinney site, as they are not so prominently located or visible from a distance. There are also public rights of way which approach the site from the east. Due to the nature of the flat landscape, these would give open views to the site from a distance away.

- 10.20 Retaining the close boarded fencing as it is to help screen the caravans is not an acceptable solution because this fencing in itself is incongruous although it is noted that a different method of screening the site entrance is proposed from the existing. The revised site plan shows 1100mm fencing along the front of the site but slightly set back to achieve visibility splays with laurel hedging to the rear of the fence. Internally, post and rail fencing is proposed rather than solid fencing. More open fencing would enable greater views of the caravans and solid fencing at this location will in itself appear incongruous. The individual and cumulative impact of each of the three unauthorised sites has an adverse impact on the character of the area although this could be improved (even if not resolved) by use of post and rail fencing with native hedgerows and complete removal of the solid fencing on all three sites.
- 10.21 The proposed development is therefore contrary to policy LP5 (a) and (e) due to the adverse impact on the open landscape character of the area and LP16(d) which aims to ensure that development makes a positive contribution to local distinctiveness and character of the area, enhancing the setting. It is also contrary to paragraph 26 (b) of the PPTS which require local authorities to attach weight to sites that are well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.

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 farmhouses at the edge of a 1km radius of the site.
- 10.25 There are 12 authorised pitches within the near vicinity of this site. This application would take that number to 17. Looking at the cumulative impact of all the unauthorised pitches at this corner location, the number of pitches could rise to 19. Whether looking at this proposal on its own merits or considering the cumulative impact with the other unauthorised pitches, the proposal extends the land in use for traveller sites further east from the Cedar Rose Stables site and infills the land up to Horsemoor Road. The scale and spread of the land in use for traveller sites coupled with the high visibility of this site and the other unauthorised sites at this corner location, give an impression of a cluster of sites that over dominate the settled community which in this vicinity comprises scattered dwellings. These sites have not been well planned and have expanded due to land being available to purchase rather than what is suitable for the countryside location and setting. It should be noted that no objections from third parties have been received to this application and 11 letters of support have been submitted.
- 10.26 It is considered that the proposal does lead to a domineering impact upon the settled community which is contrary to paragraph 14 in Policy C and paragraph 25 of Policy H of the PPTS which seek to ensure that sites are well planned and in rural areas respect the scale of, and do not dominate the nearest settled community.

Sustainability re transport, highway safety and utilities

- 10.27 The site is proposed to be served by a vehicular access off Hook Road. This access is approximately 50 metres west of the sharp bend in the road where Horsemoor Road becomes Hook Road. The surfaced access is shown on the submitted site plan to be 5.0 metres wide (measuring from plan) and served by a set of double five bar gates which are set in from the carriage way edge by 10 metres. The gate opening is just under 5.0 metres wide. Beyond this within the site the access continues in a straight line to the end (north) of the plot and each pitch is served off this access.
- 10.28 The speed limit in this location is 60mph although due to the bend in the road, and indeed the nature of the road itself, vehicles will be likely to be travelling significantly slower than this. The Highway Authority has raised no objections subject to conditions.
- 10.29 In terms of sustainability, the appeal Inspector in his decision to allow 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 application form states that surface water will be dealt with via a sustainable drainage system and foul drainage by a non mains wastewater treatment package plant. The MLC were consulted, and no response has been received. The applicant would need separate consent to discharge into a watercourse maintained by them. It is noted that in the appeal decision relating to The Spinney site, no details were known about utilities and the Inspector was content to deal with these matters by condition. The applicants have been living at the site for over a year and there have been no reported issues in connection with drainage and so it is reasonable to assume that by now, suitable drainage has been put in place. However, in the interests of public health and on-going prevention of contamination, it is prudent to condition that details of the foul drainage and its future maintenance be submitted for approval.
- 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. 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, leads 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 sets out that even in the event of a breach of flood defences, the site is unlikely to flood, and the EA acknowledge this. The proposed static homes would be raised off the ground by 450mm above existing ground level. This could be secured 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 states that the proposal does not affect any natural features where species might be present. The site is adjacent to a drainage ditch adjacent to the northern boundary but does not directly impact it and from site visits it is not evident that this ditch is permanently wet. From historical aerial photographs the site was used as grazing land and covered in grass. It is not clear whether hedgerows have been removed. As the development has largely taken place it is not possible to say with any certainty that no protected species were affected by the development, however, impacts can be limited in the future and biodiversity could be improved with native planting which could be conditioned. Similarly, external lighting details could be conditioned.

Contaminated Land

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

10.43 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

10.44 Under Section 149 of the Equality Act 2010, local authorities must have due regard to their public sector duty to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons with protected characteristics and those that do not share them.

10.45 Certain groups of ethnic gypsies and travellers have protected characteristics.

10.46 The Human Rights Act 1998 sets out various articles which deal with a different right. Of particular relevance are Article 14: Protection from discrimination in respect of the rights and freedoms and Article 8: Respect for your private and family life, home and correspondence and Protocol 1: Article 1 Right to Peaceful enjoyment of your property and Protocol 1: Article 2 Right to an education.

10.47 These rights do not necessarily carry more weight than established planning policies and planning for the public interest. Each case needs to be assessed on its merits.

10.48 Section 11 of the Children's Act 2004 (which gives effect to Article 3 of the United Nations Convention on the Rights of the Child) requires that the Council, in the discharge of its functions, is required to have regard to the need to safeguard and promote the welfare of children. The Courts have set out a number of principles to be followed when Section 11 (and Article 8) are engaged in planning applications; in summary the decision maker must identify the child's best interests, and such interests must be a primary consideration in determining the planning application.

- 10.49 Detailed information and evidence has been provided in respect of the inhabitants of the five plots at this site. This detailed information/evidence shows that there are persons at the site with various health requirements and there are several children living at the site some of whom have particular needs and many attending local schools. This information/evidence is a material consideration which must be weighed in the planning balance. In assessing this evidence, it is clear that if this application is refused it would likely cause a detrimental impact on the health of some of the occupiers of the site and it would also have an adverse impact on the welfare of the children if subsequent enforcement action were taken and the families were forced to vacate the site and move elsewhere. This could also result in some of the children having to potentially move schools. This is coupled with the fact that the Council does not have an available supply of sites. In this particular instance, the health and welfare of the occupants of the site, in particular the children, outweighs the planning policy objections to the proposal which are set out in the above report such that the application is recommended for approval subject to conditions. The visual appearance can be improved by removal of the solid fencing and use of post and rail fencing with native planting and this shall be conditioned to help reduce the impact on the character and appearance of the area.
- 10.50 A confidential report will be circulated to Members in advance of the Committee meeting setting out the personal circumstances of the occupiers of the site.

11 CONCLUSIONS

- 11.1 The development has an adverse impact on the character and appearance of the local area and landscape setting contrary to policy LP5 (a) and (e) and LP16(d) which aims to ensure that development makes a positive contribution to local distinctiveness and character of the area, enhancing the setting. It is also contrary to paragraph 26 (b) of the PPTS which require local authorities to attach weight to sites that are well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness. This impact could be reduced by imposition of conditions concerning fencing and landscaping.
- 11.2 The cumulative impact of this proposal for five pitches together with other nearby approved traveller pitches is considered to result in a domineering impact upon the settled community which is contrary to paragraph 14 in Policy C and paragraph 25 of Policy H of the PPTS which seek to ensure that sites are well planned and in rural areas respect the scale of, and do not dominate the nearest settled community.
- 11.3 The lack of an up-to-date gypsy and traveller needs assessment and lack of available pitches does not in itself outweigh the harm set out in the above two paragraphs. In other respects, e.g., access and flood risk, the proposal is acceptable. However, taking the development plan as the starting point for the determination of applications, the proposal is not acceptable on landscape and domineering impact grounds.
- 11.4 Personal information and evidence has been submitted with regards to the occupants of the site. The case officer has carefully considered this evidence and it is clear that if permission is refused and the occupiers of the site were forced to vacate the site, the welfare of several of the occupiers, in particular the children would be harmed, and their health and education would be likely set

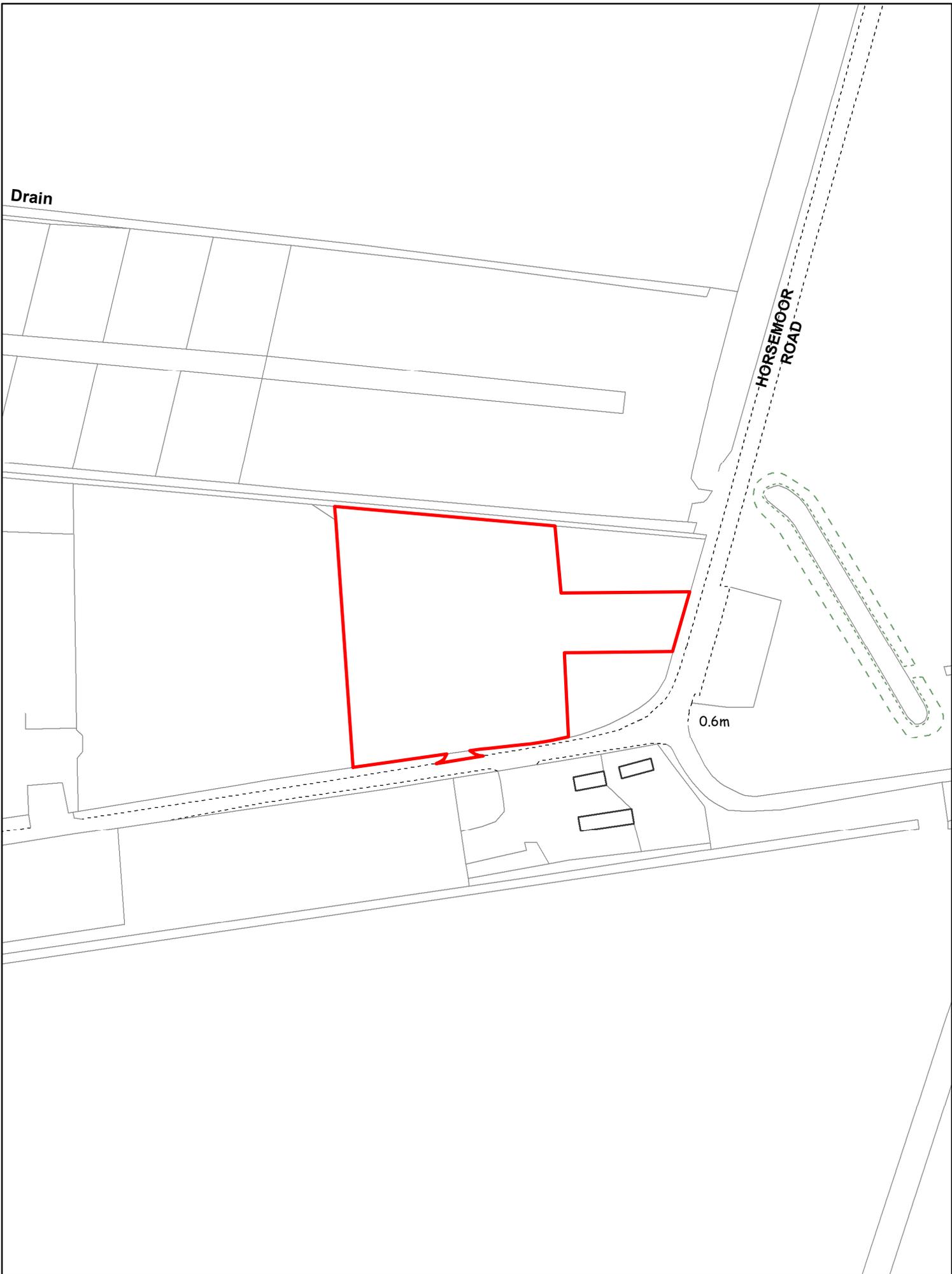
back. The welfare of children is of paramount importance. The weight attached to these considerations, in this instance, outweighs the policy objections to the proposed development in the planning balance, such that the application is recommended for approval subject to conditions.

12 RECOMMENDATION

GRANT; subject to the following conditions:

1	<p>The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites (DCLG 2015)</p> <p>Reason: The application is only approved due to the applicants meeting this definition and to clarify what is hereby approved.</p>
2	<p>No more than 10 caravans comprising up to 5 statics and up to 5 tourers, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at the site at any time.</p> <p>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.</p>
3	<p>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.</p> <p>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</p>
4	<p>No commercial activities shall take place on the land, including the storage of materials.</p> <p>Reason: In the interests of the visual appearance of the land and area in accordance with policy LP5 of the Fenland Local Plan.</p>
5	<p>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 site plan A – E (2). 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.</p> <p>Reason: In the interests of highway safety in accordance with policy LP5 of the Fenland Local Plan</p>
6	<p>Within 2 months of the date of this decision, the following information shall have been submitted to the Local Planning Authority for approval;</p> <p style="padding-left: 40px;">- Details of a scheme to plant a mixed native hedgerow with post and rail fence to all external site boundaries including the site frontage. This shall include a plan, fence details, planting specification, visibility splays and timetable for planting and the removal of any existing solid fencing and gates</p>

	<p>to the external boundaries. The approved scheme shall be implemented in full in accordance with the approved timetable. The solid fencing shall be permanently removed from the external boundaries. 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 and fencing shall be retained thereafter.</p> <p>- 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 external lighting which has not been approved shall be permanently removed from the site. Thereafter, only external lighting that accords with the approved lighting scheme shall be erected.</p> <p>Reason: In the interests of the visual appearance of the site and biodiversity in accordance with policy LP5 of the Fenland Local Plan.</p>
7	<p>With the exception of the fencing to be approved under Condition 6, 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, unless planning permission has first been obtained from the local planning authority.</p> <p>Reason: In the interests of the visual appearance of the site in accordance with policy LP5 of the Fenland Local Plan.</p>
8	<p>All floor levels to the static caravans shall be at least 450mm above the ground level and shall be retained as such.</p> <p>Reason: In the interests of the safety of the occupants in the event of flooding in accordance with policies LP5 and LP14 of the Fenland Local Plan.</p>
9	<p>Within 2 months of the date of this decision, full details of the foul drainage treatment and its on-going future maintenance shall be submitted to the local planning authority for approval. The foul drainage shall only be installed in complete accordance with the approved details and shall be maintained thereafter in complete accordance with the approved maintenance schedule.</p> <p>Reason: In the interests of public health and prevention of contamination to the environment in accordance with policies LP5 and LP14 of the Fenland Local Plan.</p>
10	Approved plans



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F/YR21/0356/F

Scale = 1:1,250



Agricultural Land

WPL Compact Sewage Treatment Tank
1 unit per PLOT (Underground)

Drainage Dyke - Mid Level

Equine Use Land

Empty Field
New Laurel Tree Planting

HORSEMOOR DR

PLOT B

PLOT C

PLOT D

PLOT E

PLOT A

APPEAL APP/DO515/C/3008998 & F/YR16/3080 APPROVED

New Laurel Tree Planting

Existing Verge
Visibility Splay 120m

NO PLANTING ABOVE
600mm IN THIS AREA
Visibility Splay 40m

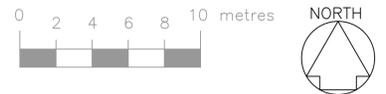
HOOK ROAD

New Entrance sealed and
drained 5m x 10m
Drain away from carriageway
Construction yard
/ Storage

SITE PLAN 1:200
SITE AREA 3433m² / 0.34 Hectare

Mobile Home Floor Area 36m² per unit
Total (180m²)

ALL FLOOR LEVELS OF UNITS TO
BE MINIMUM OF 450mm ABOVE GROUND LEVEL



Agricultural Land

Revision:	2: Fence and trees added & touring no. reduced
Project:	Hook Road HOOK
Description:	CHANGE OF USE SITE A-E
Date:	10-3-21
Scale & Sheet Size:	VARIOUS @ A1
Drawing Ref:	A-E (2)



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