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F/YR22/1084/F

**Applicant: Mrs Theresa Steer**

**Agent : Mr Ethan Giles  
Green Planning Studio Ltd**

**Land To The Land South West Of 92, High Street, Chatteris, Cambridgeshire**

**The siting of a mobile home for residential use and erection of an ancillary day room**

**Officer recommendation: REFUSE**

**Reason for Committee: Deferred by Committee at its meeting in August 2023 in order to obtain clarification regarding several matters including bin collection; legal opinion; whether there will be an intensification of the access and for an up to date site visit to be conducted.**

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## **1 EXECUTIVE SUMMARY**

- 1.1 This application has previously been referred to the Planning Committee for determination on 23<sup>rd</sup> August 2023 where it was agreed to defer the application for members to receive the information on personal circumstances and the Barrister's opinion on gypsy status together with a report from the Council's Traveller and Diversity Manager- whether there is further evidence that substantiates the applicant's claim; to resolve the issue around the bins; whether there will be intensification of the access and how long the applicant has lived on site to assess potential risk and clarification on where the applicant is currently living on site.
- 1.2 Following deferral, the case officer has been in correspondence with the agent and a further site visit has been conducted. Further to this, amended plans were submitted updating the existing arrangement on site. In situ, currently, there is a mobile home; dayroom extension; utility/wash room and storeroom. The originally submitted proposed plan demonstrates that the existing structures on site will be removed and replaced by a single dayroom with the mobile home re-positioned.
- 1.3 With regards to the privileged Legal Opinion, a copy has been presented as a separate confidential paper to Members along with the comments of the Council's Traveller and Diversity Manager.
- 1.4 In respect of bin collection, Waste Management have confirmed that bins from 84a High Street are presented at the top of the driveway with the High Street. 84b appears only to use the green general waste, again it is brought to the top of the driveway. They also state that 'from the application, there would be no additional properties and therefore no change to the current arrangements which appear to operate without issue for the residents and from a collection point of view'.
- 1.5 Further detailed correspondence took place with County Highways where it has been concluded that they are maintaining their objection

1.6 Consequently, the recommendation is to refuse the application, consistent with the previous recommendation.

## 2 UPDATE

2.1 This application has previously been referred to the Planning Committee for determination on 23<sup>rd</sup> August 2023 where it was agreed that the determination of the application be deferred for members to receive the information on personal circumstances and the Barrister's opinion on gypsy status together with a report from the Council's Traveller and Diversity Manager - whether there is further evidence that substantiates the applicant's claim; to resolve the issue around the bins; whether there will be intensification of the access and how long the applicant has lived on site to assess potential risk and clarification on where the applicant is currently living on site.

2.2 Contained within Appendix A is the original Officer's committee report.

## 3 CONSULTATIONS

### Waste management

3.1 *Bins from 84a High Street are presented at the top of the driveway as per pic attached from today's collections. 84b appears only to use the green general waste bin which again this is brought up to the top of the driveway when it requires collection.*

*From the application there would be no additional properties and therefore no change to the current arrangements which appear to operate without issue for the residents and from a collection point of view.*

### County Highways (14/11/23)

3.2 *Any new dwelling would typically result in an intensification when measured against a 'greenfield' baseline. A single dwelling (or mobile home in this case) would generally be expected to result in circa 2-3 two-way vehicle trips a day which is a relatively modest intensification but considering the limitations of the access onto High Street, it could still result in an adverse impact on pedestrian safety. For avoidance of doubt, the pertinent risks are:*

- Exiting vehicles don't have visibility of passing pedestrians until they have already crossed into their path.*
- By virtue of the limited access width, obstruction of the highway could occur, or vehicles could be required to exit the site in a reverse gear, which exacerbates the above issue relating to pedestrian visibility.*

*That being said, while this is detrimental to highway safety, the magnitude of the adverse impact is limited by the scale of development.*

*Has the applicant provided details as to how the land is currently being used? If they can demonstrate that vehicular trip rates associated with the proposed use are no greater than those associated with the current permitted use of the land, then there would be no grounds for objection.*

## County Highways (20/11/23)

*Up to date site photos were made available for the Highways Officer to review.*

*In consideration of the photos I think on balance I would maintain my objection as the development would intensify use of the sub-standard access by circa 25% (unless the applicant can demonstrate otherwise) thus introducing additional risk for road users along High Street. For avoidance of doubt, the pertinent risks are:*

- Due to the restrictive access width, two vehicles would be unable to pass, meaning that the development could lead to more frequent obstruction of the access which could result in vehicles reversing out of the site onto High Street where visibility is limited.*
- The lack of pedestrian visibility, particularly from the south, means that exiting vehicles have no forewarning of passing pedestrians until they are already crossing their path. While the proposals will result in an increase in domestic traffic, the remote nature of the dwelling from the highway also makes it more likely for delivery vehicles (e.g., parcel / grocery delivery) to utilise the access.*

*Agent direct Highways to the applications supplementary Access Review, whereby our stance on vehicle movements is stated.*

*I've had a read through the document, and it doesn't change my last response. My principal concern relates to the lack of pedestrian visibility, which hasn't been referred to in the document.*

## 4 ASSESSMENT AND CONCLUSIONS

### Legal opinion

4.1 Due to the sensitivity of the application, Members have been made aware of the privileged Legal Opinion as a separate confidential paper, as requested, along with comments from the Council's Traveller and Diversity Manager.

### Land Use/Intended occupiers

4.2 An up-to-date site visit was carried out on 21<sup>st</sup> September 2023 where it was confirmed there are several structures on site. In correspondence from the agent on 6<sup>th</sup> November, an updated 'Existing Site Plan' was received that confirms the current layout. A copy of this has been provided in the updated presentation. This includes:

- Existing mobile home unit
- Dayroom extension
- Utility/wash room (containing washing machine and tumble dryer)
- Storeroom (shed like structure used for storage)

For clarity, the proposed site plan originally submitted depicts how the single residential pitch will be arranged. All existing structures on site, aside from the mobile home, will be removed and replaced with a single dayroom. The mobile home will simply be re-positioned. Dayroom details are provided in drawing no.

21\_1189\_005.

4.3 The agent has also clarified the occupation and use of the site in correspondence received on 6<sup>th</sup> November:

*The application site was purchased by the applicant, Theresa Steer, on the 08th July 2019. From this date until August 2020 the site was used by the applicants son, Jack Steer, for storage; mainly of a vehicle and horses. In August 2020 (Bank Holiday weekend) a mobile home was brought onto site and positioned as shown on drawing no. 21\_1189\_002 P02. The intended occupants, Jack and his resident dependents, moved onto site and occupied the mobile home. In December 2020, the dayroom extension was erected.*

*The term "intended occupants" refers to those who will occupy the site should approval of this application be granted. In this situation, the intended occupants are already living on site and have done so since August 2020. They have lived on this site as a single family unit for the past 3 years and 2 months.*

The application form submitted in respect of this application states the existing use being 'residential curtilage and allotted land' as well as answering 'No' to the question, "Has the work or change of use already started". Further to this, it is to be noted that there is no lawful residential use of application site with two previous applications being refused with the existing use of the site in both cases being stated as 'grassland'.

### **Waste Management**

4.4 In correspondence received from Waste Management (2<sup>nd</sup> November 2023):

*Bins from 84a High Street are presented at the top of the driveway as per pic attached from todays collections. 84b appears only to uses the green general waste bin which again this is brought up to the top of the driveway when it requires collection.*

*From the application there would be no additional properties and therefore no change to the current arrangements which appear to operate without issue for the residents and from a collection point of view.*

4.5 As stated above, however, there is no consented residential use of the land. 84A lies to the immediate east of the site with no markings on the submitted 'Site Location Plan' referring to 84b, therefore it could be concluded that 84b relates to the application site. Given this, the Waste Management Team raise no issues in respect of this current arrangement and therefore the information is considered to address any potential reason for refusal in this regard.

### **Highway Safety**

4.6 The deferral of the application at committee in August requested further details in respect of that whether there will be intensification of the access. Correspondence has taken place with both the agent and Highways officer with highways comments detailed within Consultee responses referenced above.

4.7 A mobile home was sited on the land in question in 2020 with no legal planning use of the land having since been obtained. Prior to the siting of the mobile home, application forms submitted for the new dwelling state the use of the land to be 'grassland'.

4.8 Whilst there is a dwelling sited to the rear of the built form, no84a High Street, the use of the site for residential purposes regardless of permanence, sees the Highways officer maintain their objection as the development would intensify use of the sub-standard access by circa 25% therefore introducing additional risk for road users along High Street. For avoidance of doubt, the pertinent risks are:

- Due to the restrictive access width, two vehicles would be unable to pass, meaning that the development could lead to more frequent obstruction of the access which could result in vehicles reversing out of the site onto High Street where visibility is limited.
- The lack of pedestrian visibility, particularly from the south, means that exiting vehicles have no forewarning of passing pedestrians until they are already crossing their path. While the proposals will result in an increase in domestic traffic, the remote nature of the dwelling from the highway also makes it more likely for delivery vehicles (e.g., parcel / grocery delivery) to utilise the access.

4.9 Given the above, the information is not considered to overcome the first reason for refusal.

### **Heritage Assets**

4.10 The original committee report referred to the proposal further eroding the legibility and significance of the mediaeval burgage feature and that consequently it would fail to meet the desirable outcome of preserving or enhancing the character or appearance of the Chatteris Conservation Area. A reason for refusal on heritage grounds was listed. However, it is noted that whilst two previous applications for a dwelling on the site were refused, there was no reason to refuse included on the grounds of impacting upon the character or appearance of the Conservation Area. Given the development in question is of a smaller scale and less permanent in nature than those refused, it is considered that this will not impact on the character or appearance of the Conservation Area and therefore recommends that reason for refusal 2 be removed due to the oversight by the case officer as referenced above.

## **5. Conclusion**

5.1 The additional information submitted in respect of the application is not considered to overcome refusal reason 1 in relation to highway/pedestrian safety issues and as such the conclusions and recommendations in the original report to committee, contained within Appendix A remain unchanged in this regard and the Officer recommendation for refusal on highway/pedestrian safety grounds remains.

## **5 RECOMMENDATION:**

**Refuse;** for the following reason:

1	Policy LP15 of the Fenland Local Plan 2014 requires development schemes to demonstrate that they have had regard to several criteria, including providing a well-designed, safe and convenient access for all. The NPPF states (at paragraph 111) that developments should ensure that safe and suitable access to the site can be achieved for all users and development should create places that are safe, secure and attractive which minimise the scope for conflicts between pedestrians, cyclists, and vehicles. The existing shared driveway is considered to be inadequate to
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	<p>serve the proposed development by reason of its restricted width along its length which could result in conflict between pedestrians and vehicles together with the lack of passing places and restricted visibility at its junction with High Street. As a result, safe and suitable access to the site for all people as required in the NPPF would not be achieved. Policy LP15 (c) is consistent with the NPPF in requiring well designed, convenient and safe access for all. The proposal would conflict with Policy LP15 (c) of the Fenland Local Plan 2014, and paragraph 111 of the NPPF.</p>
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**Land South West Of 92, High Street, Chatteris, Cambridgeshire**

**The siting of a mobile home for residential use and erection of an ancillary day room**

**Officer recommendation: Refuse**

**Reason for Committee: Number of representations contrary to Officer recommendation**

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## **1 EXECUTIVE SUMMARY**

- 1.1 The application proposes the siting of a mobile home for residential use and erection of an ancillary day room. It was confirmed by the agent in the early stages of the application through correspondence that the application was made on the basis to provide accommodation for a gypsy/traveller. This argument has been assessed and barrister opinion sought, with the conclusion being that the applicant is not considered to be a Gypsy Traveller for the purposes of the policy definition
- 1.2 The development would impact adversely on the character of the Conservation Area by further eroding the settlement morphology of the area and would be contrary to policy LP18 which seeks to protect, conserve and seek opportunities to enhance the historic environment.
- 1.3 The site is proposed to be served by an existing vehicular access from the High Street. The change of a permanent dwelling to a mobile home makes no difference in terms of highway impacts at the access. The existing access lacks sufficient visibility and whilst the intensification is modest, it will result in an increased risk of collision particularly with passing pedestrians and therefore contrary to policy LP and paragraph 111 of the NPPF
- 1.4 In summary, there is insufficient evidence to satisfy that the intended occupier meets the definition referenced above. Given this, any personal circumstances cannot be used to 'tip the balance' in favour. The application is therefore recommended for refusal.

## **2 SITE DESCRIPTION**

- 2.1 The site lies within the settlement of Chatteris and within the Chatteris Conservation Area. The site is accessed via High Street, through a shared

driveway positioned between 86 High Street and 84 High Street, a Grade II listed dwelling, leading to 84a High Street and beyond to the site itself. The access opens up beyond a 5-bar gate into an area of grassland and compacted gravel hardstanding. At the time of site inspection, there was evidence of a large area of scrap metal stockpiling near the eastern boundary, various rubble and refuse heaps, and vehicles parked in the area.

- 2.2 The site is bounded by a high brick wall to the south side, 1.8m high close boarded timber fencing to the west, panelled fencing to the east (which forms the boundary with the garden area of 84a), and is currently open to the north, adjacent on this side to an established yard area situated behind the dwellings of 86-92 High Street. The site is flat throughout and is within Flood Zone 1, area at lowest risk of flooding.

### **3 PROPOSAL**

- 3.1 The application seeks full planning permission for the use of the land for residential use and ancillary day room. It was confirmed by the agent in the early stages of the application through correspondence that that application was made on the basis to provide accommodation for a gypsy/traveller.
- 3.2 The structures are to be located to the rear of 92 High Street with the mobile home lying parallel with boundary to no84A High Street and the day room offset to the south-west. The latter will house a day room, bathroom and kitchen facility and is to measure 3.4 x 6.5m with a shallow pitched roof. Timber cladding is proposed with a clay tiled roof.
- 3.3 The agents Planning Statement states that 'The proposed caravans will conform to the definition within Section 29(1) of the Caravan Sites and Control of Development Act 1960 and Section 13(1) of the Caravan Sites Act 1968 and therefore plans and elevations of individual units are not required.'
- 3.4 The submitted site plan also indicates provision for two vehicles with a turning area to the south-western corner of the site and the installation a bin store adjacent to the boundary with no84A High Street. An existing close boarded timber fence is in existence to the northern and southern boundaries with proposed root protection areas to the existing trees that are to be retained.
- 3.5 Full plans and associated documents for this application can be found at:

<https://www.publicaccess.fenland.gov.uk/publicaccess/applicationDetails.do?keyVal=RILTJKHE06P00&activeTab=summary>

### **4 SITE PLANNING HISTORY**

- 4.1 F/YR20/0119/F | Erect single-storey 3-bed dwelling - Refused
- 4.2 F/YR20/0581/F | Erect single-storey 3-bed dwelling - Refused



## 5 CONSULTATIONS

- 5.1 **County Archaeology** – *No objections or requirements for the proposed development*
- 5.2 **Chatteris Town Council** – *Recommend refusal. Access is unsuitable. Poor visibility for vehicles leaving the site as opening is too narrow and is on a bend in the road*
- 5.3 **County Highways** - *There are two recently refused planning applications for a dwelling in the same location (ref: F/YR20/0119/F and F/YR20/0581/F). Both applications were refused on highway safety grounds, amongst other considerations.*

*The change of a permanent dwelling to a mobile home makes no difference in terms of highways impacts at the access. As such, the previous comments remain valid. The existing access lacks sufficient visibility for use by a single access and if it were proposed today, it would be refused. The intensification, while modest, arising from an additional dwelling will result in increased risk of collision, particularly with passing pedestrians. As such, I object to the application.*

*For context, a shared use access should meet the following criteria: Standard requirement Proposed 5m wide for at least the first 8m to allow two domestic vehicles to pass and mitigate the risk of reversing onto the highway 3.3m at access. Note Building Regulations Part B5 state for fire tender access, a minimum of 3.1m at gates is permitted but 3.7m is the recommended minimum width of roads kerb to kerb (or in this case building to building). 2m x 2m pedestrian visibility splays, measured to the nearside footway edge. The splays must be kept clear from a height of at least 600mm and be contained within the application boundary and / or the highway boundary. There is zero pedestrian visibility, meaning there is a risk that exiting vehicle will collide with passing pedestrians. 2.4m x 4.3m inter-vehicular visibility splays, measured to the nearside carriageway edge. Visibility splays to the centreline (to the left on exit) are only accepted where vehicles cannot overtake. A reduction will be accepted proportional to the 85th percentile observed vehicle speeds. 2.4m x 4.5m / 2.4m x 4.3m. A reduction in the x-distance (2.4m) is not accepted as this is to account for vehicle bonnet length. To reduce this, risk clipping of the bonnet by passing vehicles. Within the site, parking and turning arrangements are acceptable, but I do note that the location of the proposed parking clashes with a tree protection fence. I recommend that you consult with FDC's waste collection team as I note the bin store is remote from the highway, presumably the collection point.*

- 5.4 **Conservation Officer** - *This application concerns the siting of a mobile home for residential use and erection of an ancillary day room on land to the southwest of 92 High Street, Chatteris. The site lies within Chatteris Conservation Area and in close proximity to No. 84 High Street, Chatteris which is Grade II listed.*

*Consideration is given to the impact of the proposal on the architectural and historic interests of an adjacent listed building with special regard paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses according to the duty in law under S66 Planning (Listed Buildings and Conservation Areas) Act 1990.*

*Consideration is given to the impact of this proposal on the character and appearance of Chatteris Conservation Area with special attention paid to the desirability of preserving or enhancing the character or appearance of that area according to the duty in law under S72 Planning (Listed Buildings and Conservation Areas) Act 1990.*

*Relevant planning history associated with the site is under planning ref: F/YR20/0119/F for the erection of a 3 bed dwelling bungalow which was refused on a number of grounds pertaining to access and occupier amenity. Also, an application for 2 bungalows on a site to the rear of No. 94 High Street has been previously refused (F/0834/88/O) on the grounds that piecemeal development on backland would be out of character with this part of the town, to the detriment of adjacent residents and that the access would have a detrimental impact upon the attractiveness and future well-being of the listed building at No. 94 High Street.*

*The proposal put forward is not acceptable. The following comments are made: Historically this area was dominated and characterised by mediaeval burgage plots. These are still readable in plan form and maps, though many buildings along the frontage have been altered, enlarged or rebuilt.*

*It lies immediately adjacent to a listed building, which turns its back on the plot and is bounded by a high garden wall. It is felt therefore that this proposal will not affect the setting of the listed building. Though some adjacent development has taken place nearby at Ash Grove and Quaker Way, a large number of plots remain recognisable as burgage plots. It is within this context that this proposal is considered.*

*Development in this area would impact on the character of the conservation area by further eroding the settlement morphology of the area. The refusal of this application would be consistent with the refusal of the application referenced above and in line with a recent appeal against refusal to grant planning permission at land to the rear of No. 107 High Street, Chatteris. The appeal was dismissed by the Inspector on grounds that “the proposal would further erode the legibility and significance of the mediaeval burgage feature” and that consequently it would fail to meet “desirable outcome of preserving or enhancing the character or appearance of a conservation area”. This accords with the NPPF paragraph 193, which states that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset’s conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance (REF: APP/D0515/W/W19/3221692).*

*These comments apply equally to this case, despite the proposal changing from a bungalow to a mobile home the issues are the same and are in line with the comments made for the refused 3 bed bungalow that preceded this application (planning ref: F/YR20/0119/F). I therefore recommend that this application is refused.*

## **5.5 Local Residents/Interested Parties**

*Objectors – 6no letters of objection from residents within Chatteris. Points summarised below:*

- Access issues

- Antisocial behaviour
- Density/Overdevelopment
- Devalue property
- Not policy compliant
- Drainage issues
- Environmental concerns
- Flooding
- Loss of view/outlook
- Noise
- Parking arrangements
- Proximity to property
- Shadowing/loss of light
- Traffic impact
- Visual impact
- Waste/litter
- Wildlife concerns
- Question their gypsy status

*Supporters* – 34 letters of support from residents within Chatteris; 9 letters of support from residents outside the settlement of Chatteris (Sutton, March, Huntingdon, Ely)

- Add more to the High Street
- Great to see area being developed
- No detrimental issues
- Provides housing for a small family
- No concerns sharing an access
- Prefer the land to be used for residential than any other use
- Would support a young, hard working family
- Safe environment

## **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**

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

Policy B – Planning for traveller sites

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 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.

Para 193: Considering the impact of a proposed development on the significance of a heritage asset

### **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

LP23 – Historic Environment

LP24 – Natural Environment

LP25 – Biodiversity Net Gain

LP27 – Trees and Planting

LP28 – Landscape

LP32 – Flood and Water Management

## **8 KEY ISSUES**

- Principle of Development
- PPTS
- Character and Appearance/Impact upon Heritage Assets
- Highway safety
- Other Issues

## 9 BACKGROUND

9.1 An initial application for the erection of a 3 bed detached dwelling was refused for the following reasons:

*1. 'Policy LP15 of the Fenland Local Plan 2014 requires development schemes to demonstrate that they have had regard to several criteria, including providing a well-designed, safe and convenient access for all. The NPPF states (at paragraphs 108 and 110) that developments should ensure that safe and suitable access to the site can be achieved for all users and development should create places that are safe, secure and attractive which minimise the scope for conflicts between pedestrians, cyclists, and vehicles. The existing shared driveway is considered to be inadequate to serve the proposed development by reason of its restricted width along its length which could result in conflict between pedestrians and vehicles together with the lack of passing places and restricted visibility at its junction with High Street. As a result, safe and suitable access to the site for all people as required in the NPPF would not be achieved. Policy LP15 (c) is consistent with the NPPF in requiring well designed, convenient and safe access for all. The proposal would conflict with Policy LP15 (c) of the Fenland Local Plan 2014, and paragraphs 108 and 110 of NPPF.*

*2. The Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste and Management Design Guide SPD, Policy DM4 of the Delivering and Protecting High Quality Environments in Fenland - SPD - July 2014 and Policy LP16 of the Fenland Local Plan 2014 seek to ensure that adequate, well designed bin facilities are conveniently located with easy access for users. In view of the site location and relationship with the adopted highway the proposal will result in bins being carried over 45m from the storage area to a required collection point within 10 metres (maximum) of the highway, which is in excess of the recommended distance of 30m, as such the development is considered to be contrary to Policy LP16 (f) of the Fenland Local Plan 2014 and Policy DM4 of the Delivering and Protecting High Quality Environments in Fenland - SPD - July 2014.*

*3. Policies LP2 and LP16 of the Fenland Local Plan 2014 seeks to achieve high quality environments for existing and future residents in Fenland with high standards of residential amenity. The position of the dwelling will result in a detrimental impact on neighbouring dwellings and their amenities, and due to the close proximity of the dwelling to the north and east boundary fences will also result in a poor form of habitable accommodation with low levels of amenity to the detriment of future occupiers. The proposal is therefore considered contrary to Policies LP2 and LP16 (d) and (e) of the Fenland Local Plan 2014 and C1 of the National Design Guide 2019.'*

9.2 Subsequent application F/YR20/0581/F proposed a single storey, 3 bed detached dwelling. This was refused for the same reasons as those referenced above.

## 10 ASSESSMENT

## **Principle of Development**

- 10.1 The proposal is for the provision of a mobile home and day room for residential use. The application site is located within the Market Town of Chatteris which is one of four settlements within which the majority of the district's new housing, employment growth, retail, growth and wider service provision should take place.
- 10.2 Alongside LP3, Policy LP10 focuses on Chatteris as being an area for some growth, with development contributing to retaining its character. There are some examples of backland development in the vicinity of the site, in particular 82 and 84A High Street to the east. There are no specific policies that oppose the principle of backland development within the local plan.
- 10.2 Policy LP5 (Part D) relates to Gypsy and Travellers and advises on the criteria used to assess suitable new site and associated facilities, inter alia, (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.
- 10.3 Para 26 of the PPTS states that when considering applications, local planning authorities should attach weight to certain criteria, inter alia, (a) effective use of previously developed (brownfield), untidy or derelict land.
- 10.3 The site is located within the Market Town of Chatteris, as such, the overall principle of the provision of a Traveller site is supported subject to consideration of all other matters addressed below.

## **Planning Policy for Traveller Sites- Policies and criteria**

- 10.4 Limited information was submitted with the application upfront with regards to intended occupier. In correspondence with the agent, it was subsequently confirmed that the application had been made to provide accommodation for a gypsy/traveller.
- 10.5 Annex 1 of the PPTS sets out the clear definition of "gypsies and travellers":

*'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such'.*

- 10.6 It further states that:

*'In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters: 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'.*

- 10.7 The PPTS definition was successfully challenged in the Court of Appeal in October 2022 in respect of the removal of the phrase "or permanently" from the

above definition in respect of persons who have ceased to travel when the definition was updated with the 2015 version.

- 10.8 The Council need to be satisfied that it is likely that the intended occupier meets the definition as referenced above. Given the complexities of such determination barrister opinion was sought in December 2022.
- 10.9 The status of the intended occupier is highly relevant to the determination of the application, and, in summary, the legal opinion concludes that there is insufficient evidence to satisfy the Council that the intended occupier meets the definition referenced above. Given this, any personal circumstances cannot be used to 'tip the balance' and therefore application of the PPTS and Policy LP5, Part D is not therefore required.

### **Character and Appearance/Impact upon Heritage Assets**

- 10.10 Policy LP16 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 whilst Policy LP18 seeks to protect, conserve and seek opportunities to enhance the historic environment throughout the Authority.
- 10.11 The proposed mobile home and utility/day room are single storey in height and would be positioned approximately 61 metres away from the High Street and behind existing built form, therefore, in essence, is backland development. 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.
- 10.12 It is proposed that the timber cladding, slate roof and timber window and door frame would be used in the construction of the utility room/day room. The external materials proposed are considered sympathetic and given that the site is enclosed by built form and would be tucked around the back of such, there will be minimal visual impact from a street scene perspective.
- 10.13 Notwithstanding the above, however, the site lies within the Chatteris Conservation Area and in close proximity to No. 84 High Street, Chatteris which is Grade II listed. Consideration is given to the impact of the proposal on the architectural and historic interests of an adjacent listed building with special regard paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses according to the duty in law under S66 Planning (Listed Buildings and Conservation Areas) Act 1990.
- 10.14 Consideration is given to the impact of this proposal on the character and appearance of Chatteris Conservation Area with special attention paid to the desirability of preserving or enhancing the character or appearance of that area according to the duty in law under S72 Planning (Listed Buildings and Conservation Areas) Act 1990.

- 10.15 Relevant planning history associated with the site is under planning ref: F/YR20/0119/F for the erection of a 3 bed dwelling bungalow which was refused on a number of grounds pertaining to access and occupier amenity. Also, an application for 2 bungalows on a site to the rear of No. 94 High Street has been previously refused (F/0834/88/O) on the grounds that piecemeal development on backland would be out of character with this part of the town, to the detriment of adjacent residents and that the access would have a detrimental impact upon the attractiveness and future well-being of the listed building at No. 94 High Street.
- 10.16 Historically this area was dominated and characterised by mediaeval burgage plots. These are still readable in plan form and maps, though many buildings along the frontage have been altered, enlarged or rebuilt. It lies immediately adjacent to a listed building, which turns its back on the plot and is bounded by a high garden wall. It is felt therefore that this proposal will not affect the setting of the listed building. Though some adjacent development has taken place nearby at Ash Grove and Quaker Way, a large number of plots remain recognisable as burgage plots. It is within this context that this proposal is considered.
- 10.17 Development in this area would impact on the character of the conservation area by further eroding the settlement morphology of the area. The refusal of this application would be consistent with the refusal of the application referenced above and in line with a recent appeal against refusal to grant planning permission at land to the rear of No. 107 High Street, Chatteris. The appeal was dismissed by the Inspector on grounds that “the proposal would further erode the legibility and significance of the mediaeval burgage feature” and that consequently it would fail to meet “desirable outcome of preserving or enhancing the character or appearance of a conservation area”. This accords with the NPPF paragraph 193, which states that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset’s conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance (REF: APP/D0515/W/W19/3221692).
- 10.18 The Councils Conservation Officer raises an objection and states that the comments within the appeal decision are given weight and apply equally to this case, despite the proposal changing from a bungalow to a mobile home. The issues are the same and are in line with the comments made for the refused 3 bed bungalow that preceded this applications (planning ref: F/YR20/0119/F and F/YR20/0581/F).

### **Highway Safety**

- 10.19 The site is proposed to be served by the existing vehicular access from the High Street. The Local Highway Authority were consulted and cite the two recently refused planning applications for a permanent dwelling in the same location (ref: F/YR20/0119/F and F/YR20/0581/F). Both applications were refused on highway safety grounds, amongst other considerations.
- 10.20 From a Highways perspective, the change of a permanent dwelling to a mobile home makes no difference in terms of highways impacts at the access. As such, comments made for the previous applications remain valid. The existing access lacks sufficient visibility for use by a single access and, if this was proposed today, it would be refused. The intensification, while modest, arising from an



additional dwelling will result in increased risk of collision, particularly with passing pedestrians.

- 10.21 For context, and as referenced in the Consultees section, Highways have stated the criteria that should be adhered to in respect of the width of the access and visibility splays.
- 10.22 Within the site, parking and turning arrangements are acceptable, but it is noted that the location of the proposed parking clashes with a tree protection fence. Further to this, it is to be noted that the bin store is remote from the highway, which presumably would be the collection point.
- 10.23 Given the comments from Highways, and the planning history to the site in this regard, an objection has been raised with the proposal failing to comply with LP15 of the Fenland Local Plan 2014.

### **Residential Amenity**

- 10.24 As a backland development site, there is the potential for the proposal to adversely impact upon neighbouring residential amenity. The nearest properties to the development site are along Quaker Way to the west and 84A to the east.
- 10.25 The rear elevations on Quaker Way are set approximately 8m from the boundary with the development site. The limitation of the proposed mobile home as single storey does ensure that any significant overlooking is avoided due to the existing 1.8m fencing and brick wall around the site.
- 10.26 84A High Street lies to the east of the site. The site plan shows a distance of 3m will be retained to the common boundary and a distance of approximately 25m to the rear elevation of the dwelling. There is an intervening close boarded fence 1.8m in height.
- 10.27 Site history is such that two previous applications were refused for the erection of a bungalow on the site. Both these refusals included a residential amenity reason referring to the close relationship of the proposed dwelling with the boundaries which would lead to an adverse impact upon the amenity of residents adjacent. Further to this, and given the proximity to the boundaries, the plans failed to demonstrate sufficient private occupant amenity space. This application sees the provision of a mobile home set in 3m from both the north-west and north-eastern boundaries and proposes this to be reoriented from the previous refusals therefore alleviating the concerns raised previously in respect of impact upon the neighbours amenity. There also proposes the provision of a dayroom sited at right angles and to the south-west of the mobile home with occupants private amenity space provided to the rear of the dayroom which equates to approximately 65 sq m and considered sufficient in this regard factoring in the footprint of the mobile home and the requirement to provide sufficient parking and turning space within the site. Given the above, it is considered that these overcome the previous residential amenity concerns.

### **Bin Collection**

- 10.28 The existing dwellings along High Street currently utilise the access road between 84 and 86 High Street to provide access and egress for their refuse collection bins from their rear gardens to kerbside along High Street. Any future

development would be required to present their bins for collection kerbside on High Street, or have a bin collection point sited no further than 10m down a shared driveway with a drag distance of no more than 30m.

- 10.29 It is noted that a bin storage area is located adjacent to the access road on the eastern boundary of the site and that the proposed bin collection point is located along the access driveway. This bin collection point is shown positioned approximately 25m from kerbside on High Street, and approximately 30m from the bin storage area at the development site. However, within the above guidelines, the collection point should be sited no more than 10m from the highway, yet repositioning of this collection point will mean the overall drag distance from the proposed development will be more than 30m, in excess of the recommended drag distance contained within the RECAP guidance. Therefore, the issue of refuse collection is unable to be reconciled as it presents an unacceptable solution outside reasonable guidelines, resulting in poor residential amenity for future occupiers of the proposed dwelling contrary to Policy DM4 of the SPD July 2014.

### **Personal Circumstances**

- 10.30 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 characteristic and those that do not share them.
- 10.31 Certain groups of ethnic gypsies and travellers have protected characteristics.
- 10.32 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.
- 10.33 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.
- 10.34 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.
- 10.35 Information was provided during the course of the application and a legal opinion sought which concludes that there is insufficient evidence to satisfy the Council that the intended occupier meets the definition referenced above. Given this, any personal circumstances cannot be used to 'tip the balance' in favour.

## 11 CONCLUSIONS

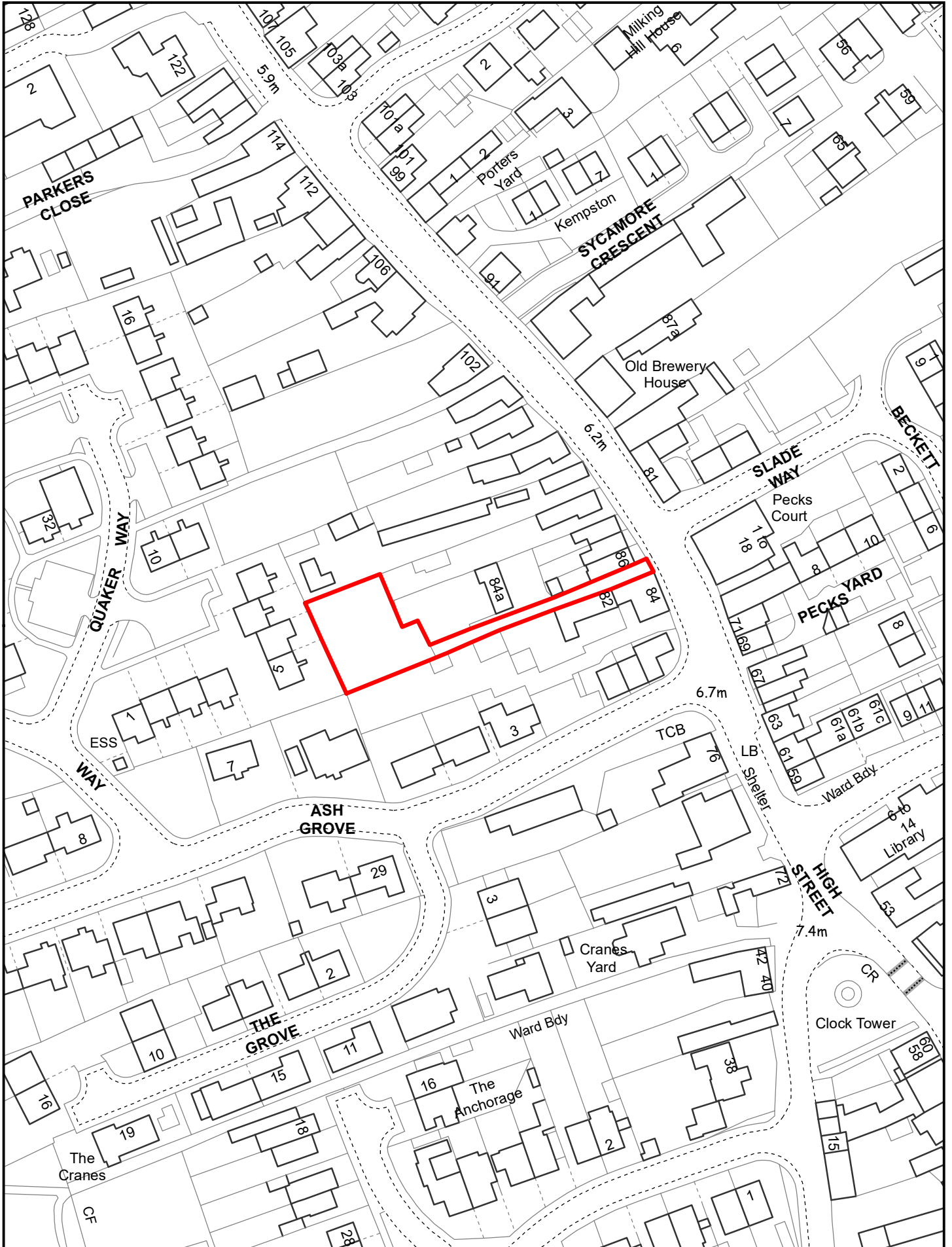
- 11.1 The existing shared driveway is considered to be inadequate to serve the proposed development by reason of its restricted width along its length which could result in conflict between pedestrians and vehicles together with the lack of passing places and restricted visibility at its junction with High Street. As a result, safe and suitable access to the site for all people as required in the NPPF would not be achieved. Policy LP15 (c) is consistent with the NPPF in requiring well designed, convenient and safe access for all. The proposal would conflict with Policy LP15 (c) of the Fenland Local Plan 2014, and paragraph 111 of the NPPF.
- 11.2 The proposal would further erode the legibility and significance of the mediaeval burgrave feature and that consequently it would fail to meet the desirable outcome of preserving or enhancing the character or appearance of the Chatteris Conservation Area. The proposed development would therefore be contrary to Policies LP16 and LP18 of the Fenland Local Plan 2014, Sections 66 and 72 Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 16 of the NPPF.
- 11.3 In view of the site location and relationship with the adopted highway the proposal will result in bins being carried over 45m from the storage area to a required collection point within 10 metres (maximum) of the highway, which is in excess of the recommended distance of 30m, as such the development is considered to be contrary to Policy LP16 (f) of the Fenland Local Plan 2014 and Policy DM4 of the Delivering and Protecting High Quality Environments in Fenland - SPD - July 2014.
- 11.4 Personal information and evidence has been submitted with regards to the intended occupiers of the site. The case officer has carefully considered this evidence and sought a legal opinion which concludes there is insufficient evidence to satisfy the Council that the intended occupier meets the definition referenced above. Given this, any personal circumstances cannot be used to 'tip the balance' and therefore application of the PPTS and policy LP5, Part D is not therefore required.

## 11 RECOMMENDATION:

**Refuse;** for the following reasons

1	Policy LP15 of the Fenland Local Plan 2014 requires development schemes to demonstrate that they have had regard to several criteria, including providing a well-designed, safe and convenient access for all. The NPPF states (at paragraph 111) that developments should ensure that safe and suitable access to the site can be achieved for all users and development should create places that are safe, secure and attractive which minimise the scope for conflicts between pedestrians, cyclists, and vehicles. The existing shared driveway is considered to be inadequate to serve the proposed development by reason of its restricted width along its length which could result in conflict between pedestrians and vehicles together with the lack of passing places and restricted visibility at its junction with High Street. As a result, safe and suitable access to the site for all people as required in the NPPF would not be achieved. Policy LP15 (c) is consistent with the NPPF in requiring well designed, convenient and
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	safe access for all. The proposal would conflict with Policy LP15 (c) of the Fenland Local Plan 2014, and paragraph 111 of the NPPF.
2	Policy LP18 seeks to protect, conserve and seek opportunities to enhance the historic environment throughout the Authority. The proposal would further erode the legibility and significance of the mediaeval burgage feature and that consequently it would fail to meet the desirable outcome of preserving or enhancing the character or appearance of the Chatteris Conservation Area. The proposed development would therefore be contrary to Policies LP16 and LP18 of the Fenland Local Plan 2014, Sections 66 and 72 Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 16 of the NPPF.
3	The Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste and Management Design Guide SPD, Policy DM4 of the Delivering and Protecting High Quality Environments in Fenland - SPD - July 2014 and Policy LP16 of the Fenland Local Plan 2014 seek to ensure that adequate, well designed bin facilities are conveniently located with easy access for users. In view of the site location and relationship with the adopted highway the proposal will result in bins being carried over 45m from the storage area to a required collection point within 10 metres (maximum) of the highway, which is in excess of the recommended distance of 30m, as such the development is considered to be contrary to Policy LP16 (f) of the Fenland Local Plan 2014 and Policy DM4 of the Delivering and Protecting High Quality Environments in Fenland - SPD - July 2014.



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**F/YR22/1084/F**

Scale = 1:1,250





Site Plan Key/Legend	
	Residential gardens
	Grassed area
	Existing buildings/structures
	Existing caravan
	Existing hardstanding
	Existing hedge/grow
	Existing trees
	Existing Watercourse
	Existing post & rail timber fence
	Existing close boarded timber fence
	Existing gate
	Existing overgrown hardstanding

Issue ID	Issue Name	Current Revision	Initials	Date
P03	Initial Transmittal	P03		02/11/2023
P02	Initial Transmittal	P02	EG	22/09/2022
P01	Initial Transmittal	P01	EG	15/09/2022

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Client  
**Theresa Steer**

Project  
**21\_1189 84B Highstreet - Single gypsy/traveler pitch with dayroom.**  
 84B, Highstreet, Chatteris, Cambridgeshire, PE16 6NN

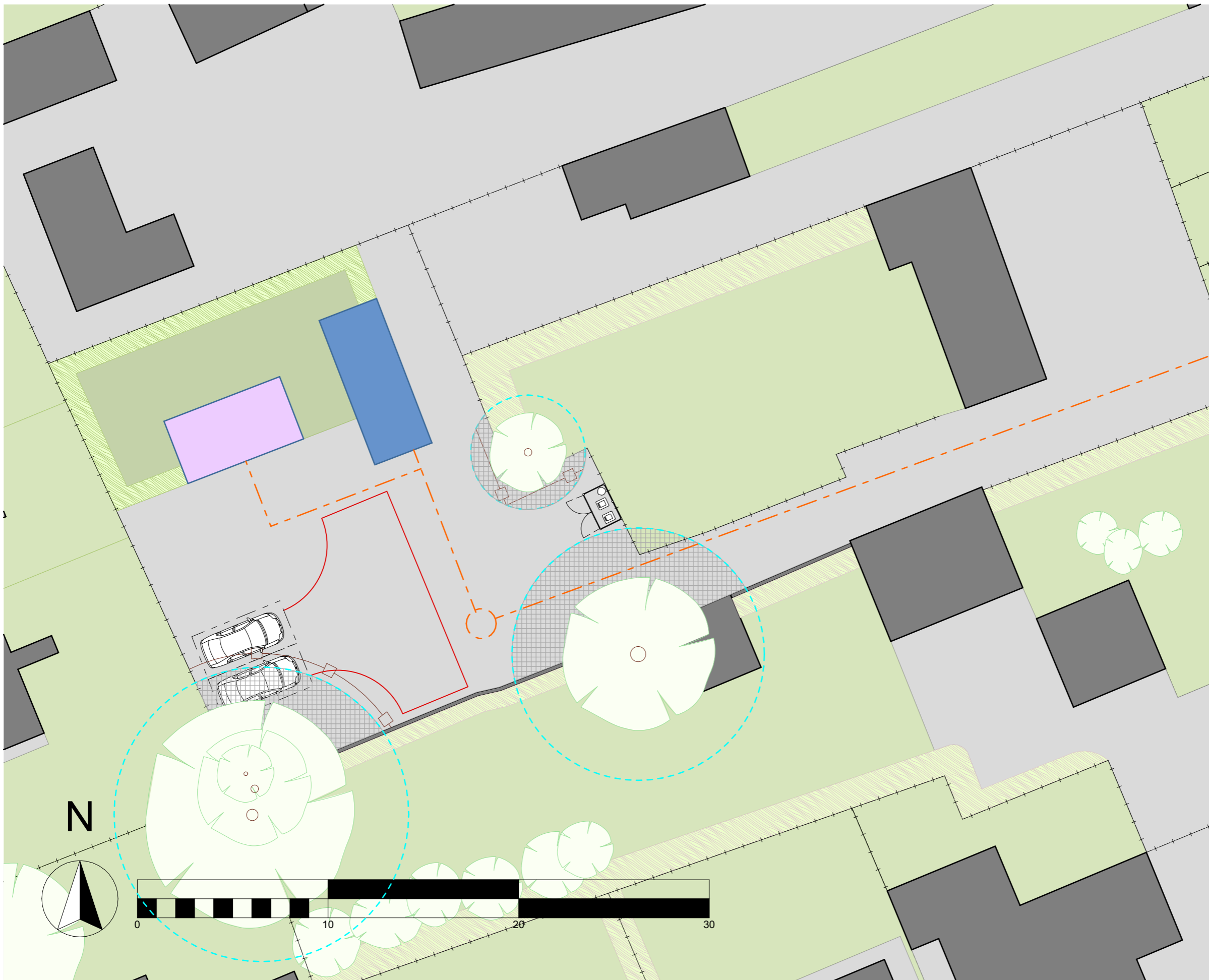
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Scale @A2 1:500	Date 02/11/2023	Drawn EG
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Case No <b>21_1189</b>	Status Initial Status
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Drg No <b>002</b>	Rev <b>P03</b>
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ISO 19650 No:  
 21\_1189-GPS-ZZ-GF-DR-A-002



Site Plan Key/Legend	
	Residential gardens
	Grassed area
	Existing buildings/structures
	Existing hardstanding
	Existing hedgerow
	Existing trees
	Existing post & rail timber fence
	Existing close boarded timber fence
	Proposed mobile home
	Proposed utility/day room
	Proposed loose bound permeable hardstanding
	Proposed native hedge & tree planting
	Proposed root protection area (RPA)
	Proposed protective barrier
	Proposed hardstanding to be lifted and replaced/top-dressed
	Existing Manhole
	Proposed Foul drainage
	Indicative turning head
	Indicative parking space
	Proposed bin storage

Issue ID	Issue Name	Current Revision	Initials	Date
P02	Initial Transmittal	P02	EG	22/09/2022
P01	Initial Transmittal	P01	EG	15/09/2022

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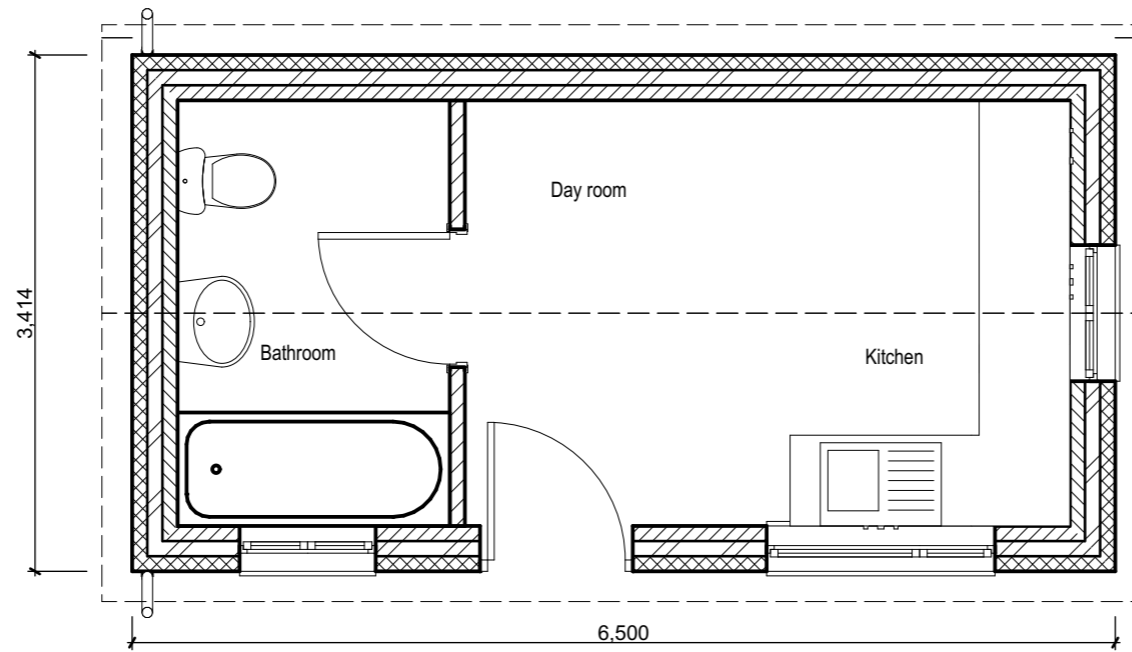
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Scale @A3 1:200	Date 22/09/2022	Drawn EG
Case No <b>21_1189</b>	Status Initial Status	
Dwg No <b>003</b>	Rev <b>P02</b>	

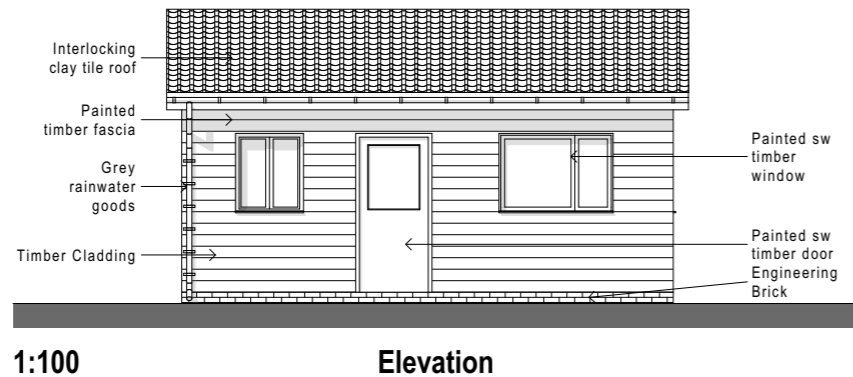
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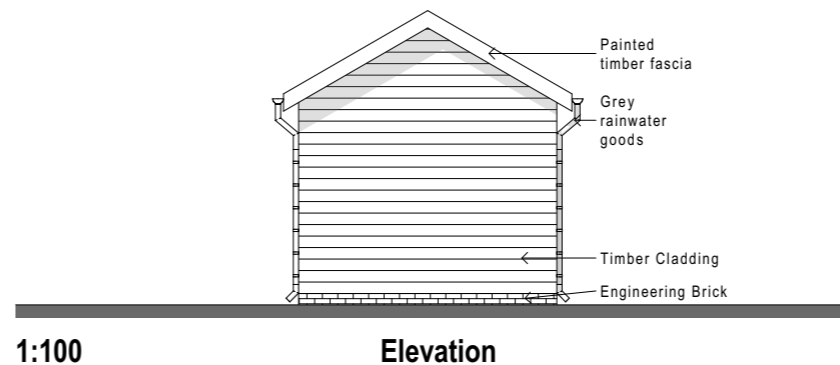
**RIBA**   
 Chartered Practice



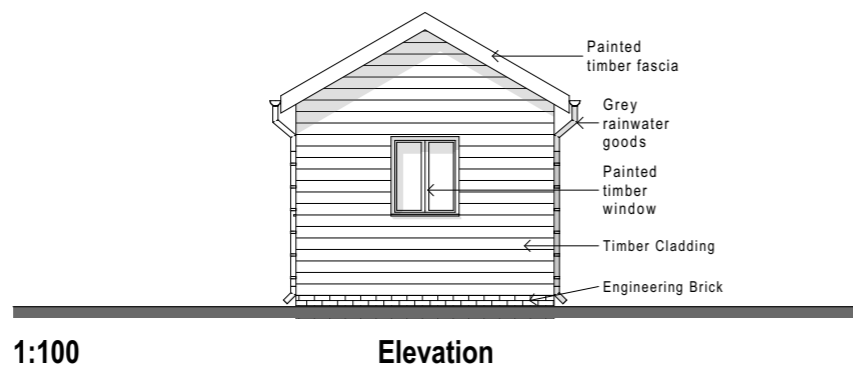
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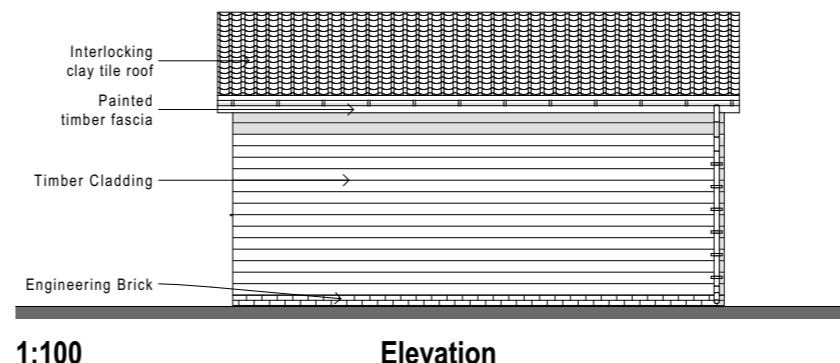
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**1:100** Elevation



**1:100** Elevation



**1:100** Elevation

Issue ID	Issue Name	Current Revision	Initials	Date
P02	Initial Transmittal	P02	EG	22/09/2022
P01	Initial Transmittal	P01	EG	15/09/2022

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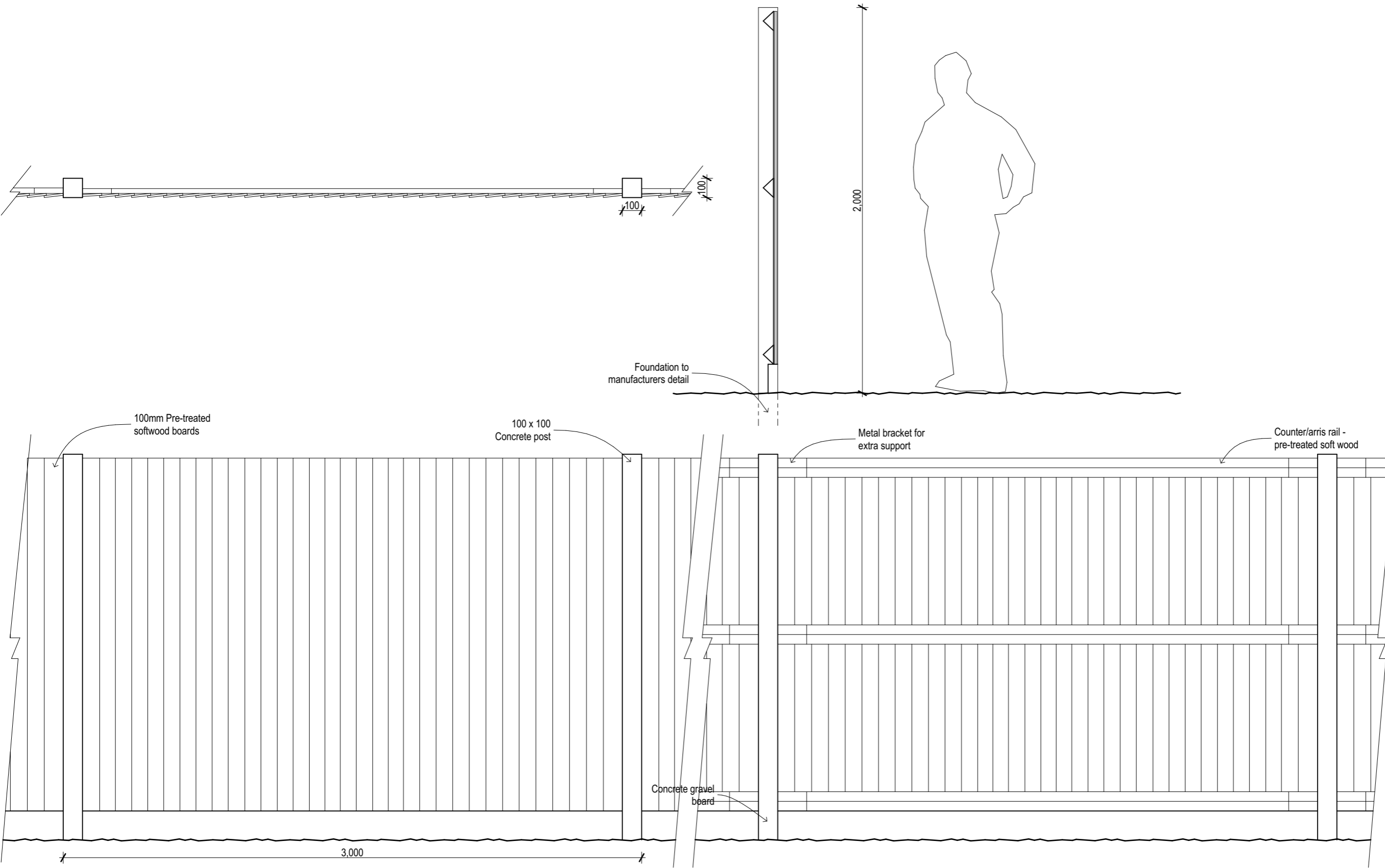
Proposed Dwelling/Dayroom/Building* - Plans and Elevations		
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Case No	Status	
<b>21_1189</b>	Initial Status	
Dwg No	Rev	
<b>005</b>	<b>P02</b>	

ISO 19650 No:  
21\_1189-GPS-ZZ-ZZ-DR-A-005

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Issue ID	Issue Name	Current Revision	Initials	Date
P02	Initial Transmittal	P01	EG	22/09/2022

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 Drawing Title  
**Proposed Fence Details**

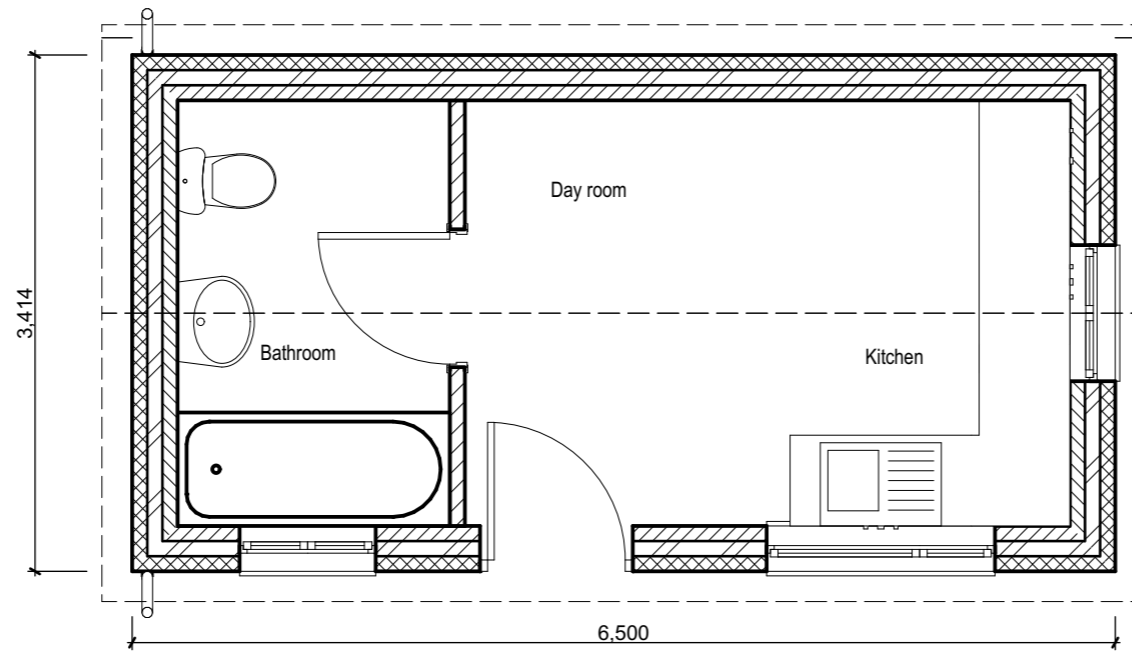
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21_1189	Initial Status	
Dwg No	Rev	
006	P01	

ISO 19650 No:  
 21\_1189-GPS-ZZ-ZZ-DR-A-006

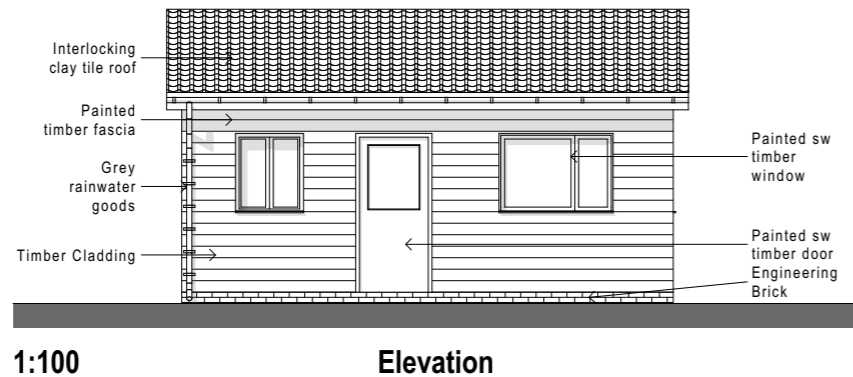
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Typical close boarded fence panel details

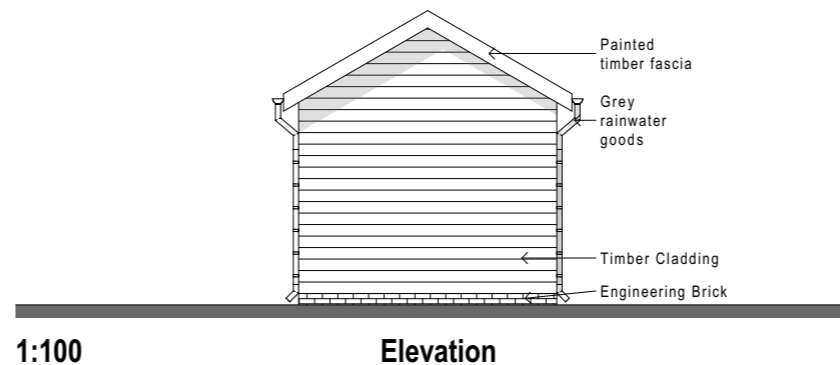
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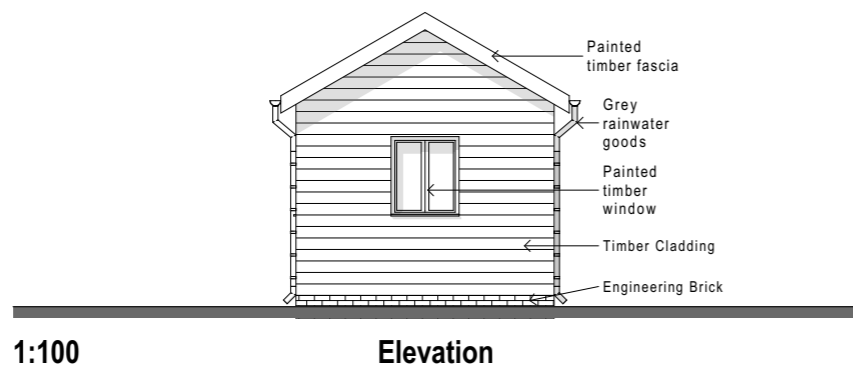
**1:50** Utility/Day Room - Indicative layout



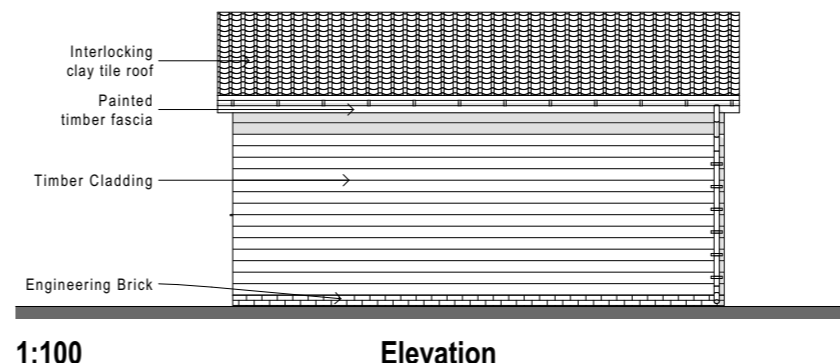
**1:100** Elevation



**1:100** Elevation



**1:100** Elevation



**1:100** Elevation

Issue ID	Issue Name	Current Revision	Initials	Date
P02	Initial Transmittal	P02	EG	22/09/2022
P01	Initial Transmittal	P01	EG	15/09/2022

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Proposed Dwelling/Dayroom/Building* - Plans and Elevations		
Scale @A3	Date	Drawn
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Case No	21_1189	Status
Dwg No	005	Initial Status
		Rev
		P02

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