

Applicant: Mr Andrew Connors

**Agent : Mr P Brown
Philip Brown Associates**

The Spinney, Horsemoor Road, Wimblington, March

Variation of conditions 2 and 3 of appeal reference APP/D0515/C/15/3008989 relating to planning permission F/YR14/0854/F to increase the number of static caravans from 5 to 8 and touring caravans from 1 to 5 (to be used by the occupiers of the static caravans only), and to allow each residential pitch to have one associated commercial vehicle not exceeding 3.5 tonnes in weight.

Officer Recommendation: Grant

Reason for Committee: Parish Council's comments contrary to Officer recommendation

1 EXECUTIVE SUMMARY

- 1.1 This application seeks to regularise the use of this Gypsy and Traveller site by varying and clarifying two of the planning conditions set out in the appeal decision letter issued by the Planning Inspectorate in May 2016, specifically in relation to the number of pitches, touring caravans and commercial vehicles allowed on site.
- 1.2 The appeal granted permission for a Gypsy and Traveller site consisting of 6 x pitches. The appeal decision included a planning condition (condition 5) which required the applicant to submit further details with regard to the site layout and site drainage, as well as for example, access, lighting, hardstanding areas, landscaping and a Flood Plan. These details were approved in August 2019 (F/YR16/3080/COND).
- 1.3 Condition 2 restricted the number of caravans to six. This application (in part retrospective) seeks to allow for 8 static caravans on the site. It also seeks to allow up to 5 touring vans on site. The touring vans are only to be used by the occupiers of the static caravans. In addition, the application seeks to clarify the condition regarding commercial vehicles (condition 3). The proposal is to allow for one commercial vehicle (not exceeding 3.5 tonnes) to be kept on the land for use by the occupiers of each caravan, therefore up to 8 commercial vehicles in total.
- 1.4 The proposal is considered against the appeal decision alongside Policy LP5 Part D regarding Gypsy and Traveller sites, and other relevant policies within the Local Plan. In doing so it is considered that the addition of 2 pitches and 5 touring vans, would not impact significantly on visual amenity, the general character of the area or residential amenity. Permitting one commercial vehicle per caravan is also deemed acceptable. Any additional traffic generated by the 2 additional pitches and vehicles is not considered likely to result in any significant impact on highway safety. The proposal is therefore recommended for approval subject to the planning conditions set out in Section 12 below.

2 SITE DESCRIPTION

- 2.1 This application relates to a 0.34 hectare rectangular site located on the northern side of Horsemoor Road within the open countryside to the north east of Eastwood End and Wimblington. The site is currently in use as a static and mobile caravan park for Gypsies and Travellers having been granted permission on appeal by the Planning Inspectorate (F/YR14/ 0854/F).
- 2.2 The site has a wide brick paving access with boundary wall and railing gates set back approximately 9.5 metres from the carriageway. There are gravelled parking areas, a conifer hedge to the southern and eastern boundaries with 1.8m high fencing to the western and laurel hedging to the northern boundaries. An area is laid to grass, surrounded by 1.8m high close boarded fencing, to the north. These details were approved as part of a condition discharge application. Plan H5996/00 formalises these aspects of the site (F/YR16/3080/COND). The plan shows a proposed day room. This does not form part of this application.
- 2.3 In August 2019 permission was granted for the erection of a stable block with tack room and 1.0 metre high gate and fence within the adjacent field (F/YR19/0497/F).

3 PROPOSAL

- 3.1 The application has been amended during processing and now seeks to vary the planning conditions to enable 8 static caravans be sited and up to 5 touring caravans but these are to be used only by the occupiers of the static vans. The applicant's original statement referred to the need to accommodate three extra families from the 5 originally permitted. However, the Inspector's wording of Condition 2 allowed potentially for 6 families to occupy the site.
- 3.2 The application is partly retrospective as 8 static caravans have been in situ for some months. The total number of families occupying the site would not exceed 8.
- 3.3 The total number of commercial vehicles proposed is one per static caravan and therefore would not exceed 8.
- 3.4 Further consultation was undertaken in June 2019 following the amendment to the description of development set out above.

Full plans and associated documents for this application can be found at:
<https://www.fenland.gov.uk/publicaccess/applicationDetails.do?activeTab=documents&keyVal=OP2FO2HE01U00>

4 SITE PLANNING HISTORY

F/YR16/3080/COND	Details reserved by condition 5 of planning application F/YR14/0854/F and Appeal Decision APP/D0515/W/15/3008987 (Change of use of land to residential caravan site for an extended traveller family.....)	Approved	Aug 2019
F/YR14/0854/F	Change of use of land to residential caravan site for an extended traveller family; siting of 5 mobile homes and 1 touring caravan involving formation of hardstanding erection of amenity building and use of existing barn as ancillary storage The Spinney Horsemoor Road Wimblington	Refused Allowed on Appeal APP/D0515/ W/15/3008987	10/12/2014
F/YR13/0711/F	Change of use of land for the siting of 4no mobile homes and 4no touring caravans for 4no traveller families to include the laying of hardstanding The Spinney Horsemoor Road Wimblington March Cambridge	Refused	14/11/2013
F/YR00/1084/F	Use of land for the siting of 1 no. mobile home cedar Cottage The Spinney Horsemoor Road Wimblington Ca	Refused	05/04/2001
F/96/0652/F	Stationing of 1 no. mobile home; formation of vehicular access and use of land for light haulage the Spinney Horsemoor Road Wimblington Cambs	Refused	29/01/1997
F/93/0834/F	Use of land for the stationing of a residential caravan North Of Horsemoor Road The Hook Horsemoor Road Wimbli	Refused	31/08/1994
F/92/0498/F	Erection of boarding kennels Part OS Parcel 215 The Hook Horsemoor Road Wimblington	Refused	25/11/1992

5 CONSULTATIONS

Wimblington Parish Council

5.1 May 2017. The Parish Council objected for the following reasons:

- The front hedgerow is on highway land which is likely to cause damage to the highway; and
- The highway is inadequate to cope with the additional number of vehicles generated from the proposal.

19 July 2019. *The Parish Council objects to this planning application. Reasons for objection are the increased volume of traffic on an unsuitable road. Safety hazard to other local residents. Planning reasons relevant to the local plan: LP12 (c); LP12 (d); LP12 (J); LP12 (k); LP16 (d); and LP16 (e).*

CCC Highways

5.2 17 May 2017. *The Planning Inspectorate ignored the LHA's recommendation for the provision of vehicle to vehicle visibility splays to be detailed at the proposed site access (appeal ref: APP/D0515/C/15/3008989). The absence of appropriate sightlines at the access will become more of a safety problem with an intensification movements at the access. I therefore request the applicant details vehicle to vehicle visibility splays commensurate with the 85%ile speeds for the access intersection with the Highway.*

The site layout plan includes planting and development works that encroach within the Highway. Please provide amended plans that detailed this removed from the Highway reserve.

21 June 2019. *The site is an already established site with access onto the public highway. The proposal will not result to any material impact to the highway network. In light of the site growing in scale, FDC should consider the unsustainable location and whether the site continues to be policy compliant. No highways objections.*

Local Residents/Interested Parties

Objectors

- 5.3 An objection received from a property approximately 1700metres from the site referred to the following:
- The site is already very busy and would lead to overcrowding,
 - The request for each caravan to have a commercial vehicle would mean a further 10 vehicles.
 - The access to the highway has restricted visibility to the west and the single track road is already unable to cope with the present volume of traffic, proof of which can be seen by the torn up verges where vehicles try to pass each other due to the lack of passing places.
 - The site plan doesn't appear to be to scale so the size of the parking bays shown give a false impression of how traffic management on the site could work. The original conditions were put in place for a reason and nothing has changed to warrant a variation of those conditions.
- 5.4 A representation received from a nearby resident on Hook Road was concerned regarding the following:
- *I am concerned about the extra amount of traffic there is no speed limit down this road and there are children and horses in frequent use of the road, my house is only a pavements width from the road and I am constantly splashed with mud. Chapel Cottage Plants across the road from me are ever expanding and there is a stream of HGV traffic throughout the day. As it is only a single track road there are constant hold ups when vehicles approach in opposite directions directly under my bedroom window, human rights should have some bearing on this case.*
- Further comments received 21.06.2019:
- *I strongly object to any further increase the amount of traffic down the Hook Road as I live only a pavements width from the Road, as things stand my house is constantly covered in mud which I have to clean and there is a danger of physical damage to anyone who should step out into the road, Furthermore the speed limit is 60mph which is far too fast for this area, the road has no proper foundation and is totally unsuitable for HGV or any other kind of traffic, the pavement is being used continuously to allow traffic to pass each other.*
- 5.5 A further objection was received from Stonea Grange (approximately 700m from the site). Concerns include: increase in traffic along the single track road which is already difficult to navigate will add to the problem.

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

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Fenland Local Plan 2014
LP2, LP3, LP5, LP12, LP14, LP15, LP16

8 KEY ISSUES

- **Principle of Development**
- **Appropriateness of S73 Application**
- **Impact on the Character of the Area**
- **Impact on Residential Amenity**
- **The Need for Gypsy and Traveller pitches**
- **Highway Safety**
- **Other considerations.**

9 BACKGROUND

- 9.1 Application ref F/YR14/0854/F was allowed by the Inspectorate on appeal. The Inspector considered the following:
- The site was in a sustainable location in terms of serving a Gypsy and Travellers site;
 - The application demonstrated a need and there was weight given to personal circumstances for the evidence submitted;
 - It was not consider that there was overriding evidence contrary to the need argued by the appellant;
 - The impact on the character of the area could be mitigated by planting on the eastern boundary; and
 - The flood and drainage issues could be dealt with by planning condition (these were discharged by application F/YR16/3080/COND)

- 9.2 The existing planning conditions are:

1	The site shall not be occupied by any persons other than gypsies and travellers as defined in annex 1 of Planning policy for traveller sites (DCLG August 2015).
2	No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan) shall be stationed on the site at any time.
3	No more than one commercial vehicle shall be kept on the land for use by the

	occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.
4	No commercial activities shall take place on the land, including the storage of materials.
5	<p>The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:</p> <p>i) within 3 months of the date of this decision a scheme for: the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; site access; the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities; and a Flood Plan for the evacuation of the site in the event of an extreme flood event, (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.</p> <p>ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.</p> <p>iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.</p> <p>iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.</p>

10 ASSESSMENT

Principle of Development

- 10.1 Policy LP5 Part D of the Fenland Local Plan provides advice and criteria for determining Gypsy and Traveller applications. The Planning Inspector examined these criteria as part of the allowed appeal in 2015. The principle of the use of the site as a Gypsy and Traveller site is already established. Therefore the issues for consideration here are: the additional caravans proposed; and the clarification regarding the allowance of 1 commercial vehicle per caravan, and what impact these would have on: the character of the area; and highway safety. Whether there is a need for the additional caravans will also have to be considered.

Appropriateness of S73 Application

- 10.2 Section 73 of the Town and Country Planning Act 1990 allows some or all of the planning conditions to be removed or changed by making an application. In deciding an application under S73, the NPPG states that the local planning authority must only consider the disputed conditions that are subject of the application – it is not a complete re-consideration of the application.
- 10.3 It should be noted that the original planning permission will continue to exist whatever the outcome of the application under S73. The NPPG advises that to assist with clarity, decision notices for the grant of planning permission under S73 should also repeat the relevant conditions from the original permission unless they have already been discharged.

- 10.4 In granting permission under S73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier permission.
- 10.5 Where an application under S73 is granted, the effect is the issue of a new permission, sitting alongside the original permission, which remains intact and amended. For this reason the time limits on this permission will reflect the deadline imposed originally, and any conditions already discharged amended accordingly.

Impact on the Character of the Area

- 10.6 Policies LP12 (c), LP16 (d) and LP5 (a) are relevant and seek to protect the character of the area. The site area is the same as previously approved, the additional caravans being accommodated within the existing layout. This layout was approved as part of the discharge of condition application (F/YR16/3080/COND). The boundary hedges have addressed any potential visual impact of the site, especially from the east, as raised by the Inspector in the appeal decision. It is also considered that the site has a well-managed appearance. The Inspector concluded that the site sits comfortably within the landscape, given the immediate surroundings. It is considered that the proposed additional structures and vehicles would not result in a different conclusion. Therefore, the proposal is considered to accord with Policy LP16 (d) and criteria LP5 (a).

Highway Safety

- 10.7 The site is some distance from the nearest dwelling (Sycamore House is over 50m to the west). As such residential amenity is not considered to be directly affected by the proposed changes. However, the Parish Council and three residents have concerns regarding the likelihood of additional traffic from the site causing disturbance or impacting on highway safety.
- 10.8 The proposal is in part retrospective and the 8 static caravans are already in situ and occupied. The proposal would allow for an additional 4 touring caravans but only in association with the static caravans. It is unlikely that the Planning Inspector would have restricted the number of commercial vehicles to only one in total on the site. But rather that the condition should be interpreted as “*only one commercial vehicle per caravan (6 in total)*”. It is considered that a limit of one commercial vehicle on the above site would have been unreasonable and not typical of this nature of site. Therefore the proposal would result in a net increase of 2 commercial vehicles, 8 in total. This is summarised in the table below:

Existing Permitted Use	Proposed Permitted Use
6 caravans (5 static and one tourer)	8 static caravans with 5 tourers (only to be used in association with the statics)
Number of pitches = 6	Number of pitches = 8
6 commercial vehicles not exceeding 3.5 tonnes in weight.	8 commercial vehicles not exceeding 3.5 tonnes in weight.

- 10.9 As stated earlier, the Planning Inspector has already considered the quality of the highway and site location and deemed the site and highway to be acceptable to serve as a Gypsy and Traveller site. Therefore, with regard to the impact on the highway, it is only appropriate to consider what additional traffic is likely to be generated by the site and whether this would have a significant and detrimental impact on highway safety.

- 10.10 The traffic likely to be generated by the two additional commercial vehicles associated with the two new pitches has therefore been carefully considered. When compared to the permitted use of the site (6 vehicles), the additional traffic likely to be generated by 8 vehicles is not considered to be significantly different and therefore for this reason, would not have a significant and detrimental impact on highway safety.
- 10.11 Similarly, the touring vans will either be parked on site or taken off site when the owner is travelling for work. Therefore any impact on the highway is likely to be minimal.
- 10.12 Since raising concerns in May 2017, the Local Highway Authority (LHA) became involved in the discharge of condition 5 which included details of the access. The LHA's subsequent comments in June 2019 accept that the site is established with access onto the public highway. Importantly, the LHA consider that the 2 additional pitches, associated touring vans and commercial vehicles would not result to any material impact to the highway network.
- 10.13 Concerns have been raised by an objector with regard to poor visibility to the western side of the access. The wide nature of the access will enable exiting vehicles to achieve reasonable visibility to the west for vehicles leaving the site. However, a condition is attached seeking a reduction to the conifers at the western corner of the access fronting the highway and requiring regular maintenance of this hedge at the front of the site.
- 10.14 The objectors raised concerns regarding lack of pedestrian facilities. However, the Planning Inspector's decision, regarding the sustainability of the site, did not consider poor pedestrian access to Gypsy or Traveller sites to be critical in the planning balance.
- 10.15 In conclusion, paragraph 109 of the NPPF states the following: *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.* It is not considered that the proposed variation of conditions would result in severe or cumulative danger to the safe use of the public highway network in the immediate vicinity of the site. It is therefore considered that the proposal accords with Paragraph 109 of the NPPF and Policy LP15 of the Fenland Local Plan.

Need for Gypsy and Traveller pitches.

- 10.16 The Council's most recent 5-year Housing Land Supply Assessment identifies a current need for 3 Gypsy and Traveller pitches. This does not take into account under-occupancy on existing sites, however occupancy can fluctuate.
- 10.17 Of note are recent relevant appeal decisions which have considered the issue of need for Gypsy pitches (including one in Peterborough). Whilst the issue of need was given some weight, whether or not there was need it was not the determining factor in the appeals. Policy LP5 also states that irrespective of whether an up to date need is identified or not, the Council will still determine applications on a case by case basis.

Other Considerations

- 10.18 The Parish Council has concerns that planting has taken place on highway land. However, on inspection of the rest of this part of Horsemoor Lane shrubs, fencing and hedges appear to be located on similar or identical setbacks from the highway. Furthermore, if planting has occurred on highway land, that itself would be a matter between the applicant and the Highway Authority as landowner.
- 10.19 Given the screening that the planting provides, the planning authority is unlikely to consider seeking the general removal of the conifers. Elsewhere on Horsemoor Lane and Hook Lane there are larger sites where the absence of such planting results in a somewhat more stark visual impact on the street scene. Therefore the concern raised by the Parish is not considered a reason on which to refuse the application.

11 CONCLUSIONS

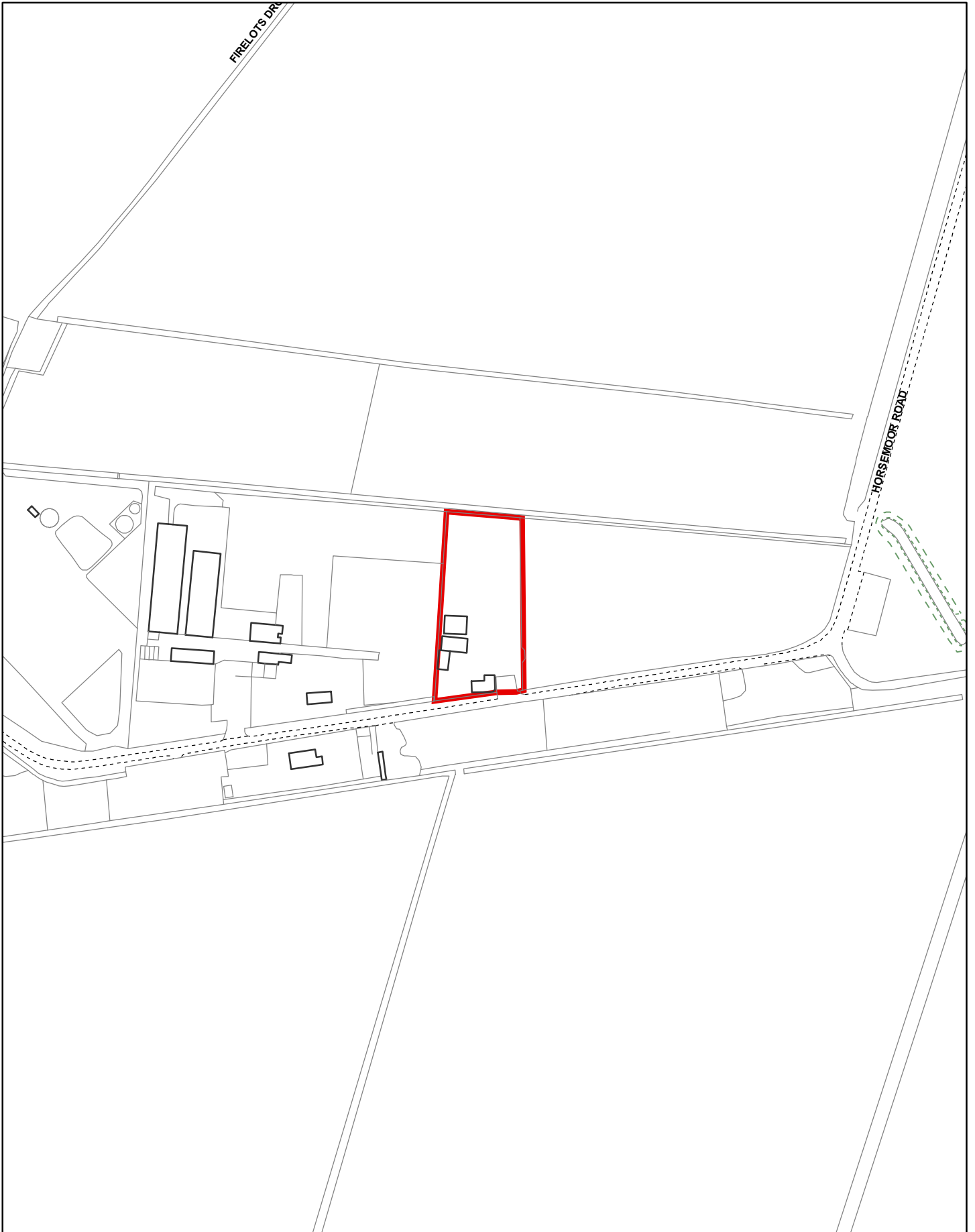
- 11.1 This application seeks to regularise the use of this Gypsy and Traveller site by varying and clarifying two of the planning conditions set out in the appeal decision letter issued by the Planning Inspectorate in May 2016, specifically in relation to the number of pitches, touring caravans and commercial vehicles allowed on site.
- 11.2 The appeal granted permission for a Gypsy and Traveller site consisting of 6 x pitches. The appeal decision included a planning condition (condition 5) which required the applicant to submit further details with regard to the site layout and site drainage, as well as for example, access, lighting, hardstanding areas, landscaping and a Flood Plan. These details were approved in August 2019 (F/YR16/3080/COND).
- 11.3 Condition 2 restricted the number of caravans/pitches to 6. This application (in part retrospective) seeks to allow for 8 static caravans on the site. It also seeks to allow up to 5 touring vans on site. The touring vans are only to be used by the occupiers of the static caravans. In addition, the application seeks to clarify the condition regarding commercial vehicles (condition 3). The proposal is to allow for one commercial vehicle (not exceeding 3.5 tonnes) to be kept on the land for use by the occupiers of each caravan, therefore up to 8 commercial vehicles in total.
- 11.4 The proposal is considered against the appeal decision alongside Policy LP5 Part D regarding Gypsy and Traveller sites, and other relevant policies within the Local Plan. In doing so it is considered that the addition of 2 pitches and 5 touring vans, would not impact significantly on visual amenity, the general character of the area or residential amenity. Permitting one commercial vehicle per caravan is also deemed acceptable. Any additional traffic generated by the 2 additional pitches and vehicles is not considered likely to result in any significant impact on highway safety. The proposal is therefore recommended for approval subject to the planning conditions set out below.

12 RECOMMENDATION

Grant subject to the following conditions:

1	The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of Planning Policy for Traveller sites
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	<p>(DCLG August 2015).</p> <p>Reason- In accordance with Policy LP5 of the Fenland Local Plan 2014</p>
2	<p>No more than 8 static caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 8 shall be a static caravan) shall be stationed on the site at any time. No more than 5 touring caravans shall be present on the site at any one time and each one shall only be used in association with the occupation of one of the static caravans.</p> <p>Reason- In order to control the impact of the proposal on visual amenity and highway safety in accordance with LP15 and LP16 of the Fenland Local Plan 2014.</p>
3	<p>No more than one commercial vehicle shall be kept on the land for use by the occupiers of each static caravan hereby permitted up to a maximum of 8 vehicles. Each vehicle shall not exceed 3.5 tonnes in weight.</p> <p>Reason- In order to control the impact of the proposal on visual amenity and highway safety in accordance with Policies LP15 and LP16 of the Fenland Local Plan 2014.</p>
4	<p>No commercial activities shall take place on the land, including the storage of materials.</p> <p>Reason- In order to control the impact of the proposal on visual amenity and highway safety in accordance with Policies LP15 and LP16 of the Fenland Local Plan 2014.</p>
5	<p>The details approved under planning reference F/YR16/3080/COND shall be retained and maintained in perpetuity in accordance with the approved plans and details. The approved foul and surface water drainage schemes shall be completed before 31 December 2019.</p> <p>Reason- In order to control the impact of the proposal on visual amenity and highway safety in accordance with Policies LP15 and LP16 of the Fenland Local Plan 2014; and to ensure satisfactory drainage in accordance with Policy LP14 of the Fenland Local Plan 2014.</p>
6	<p>The front boundary hedge shall be maintained to a maximum height of 3metres only and shall not impede the safe use of the highway or visibility into the site access.</p> <p>Reason- In accordance with Policy LP15 of the Fenland Local Plan 2014.</p>
7	<p>The development hereby permitted shall be carried out in accordance with the following approved plans and documents</p>



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F/YR17/0349/VOC

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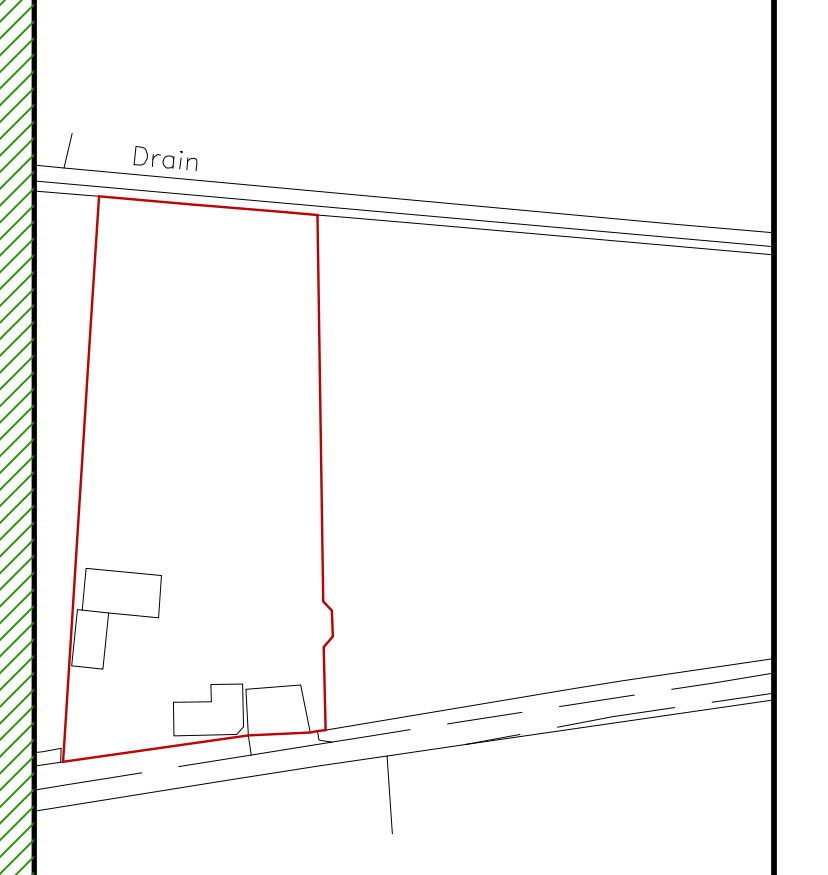
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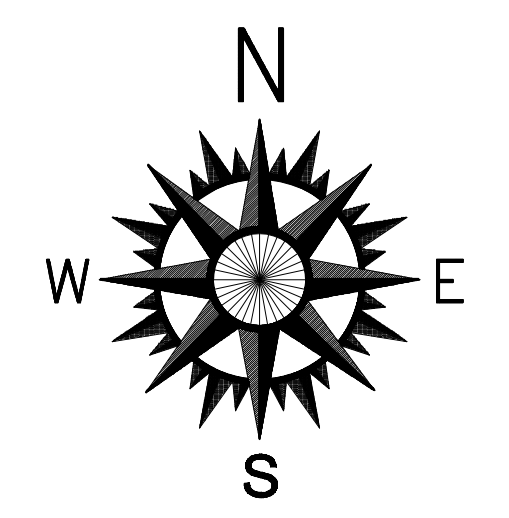
LEGEND
 ○ TP = TELEGRAPH POLE
 ○ LP = LAMP POST
 ○ IC = INSPECTION CHAMBER

SITE PLAN
(1:200)

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 Contractor to check all dimensions on site before work starts or materials are ordered. Do not scale, if in doubt ask. All dimensions are in mm unless stated otherwise.
 Where materials, products and workmanship are not fully specified they are to be of the standard appropriate to the works and suitable for the purpose stated in or reasonably to be inferred from the drawings and specification. All work to be in accordance with good building practice and BS 8000 to the extent that the recommendations define the quality of the finished work. Materials products and workmanship to comply with all British Standards and EOTA standards with, where appropriate, BS or EC marks.
 All products and materials to be handled, stored, prepared and used or fixed in accordance with the manufacturers current recommendations.
 The contractor is to arrange inspections of the works by the BCO (or NHBC) as required by the Building Regulations and is to obtain completion certificate and forward to the Engineer.
 All finishes, insulation and damp-proofing to architect's details



LOCATION PLAN
(1:1250)
 LICENCE NUMBER 100022432



REVISIONS	DATE

MORTON & HALL CONSULTING LIMITED
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Fenland District Council
 Building Design Awards
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CLIENT
 Mr A Connors

PROJECT
 The Spinney
 Hook Road
 Wimblington
 PE15 0QL

TITLE
 Site Plan

DRAWN R.Papworth	DATE OF ISSUE
CHECKED	
DATE Feb 2019	DRAWING NUMBER H5996/00
SCALE 1:200	