F/YR19/1082/F

Applicant: Mr L Upton

Agent : Dr Simon Ruston Ruston Planning Limited

Land South Of Harolds Bank, Sealey's Lane, Parson Drove, Cambridgeshire

Change of use of land to a traveller's site involving the siting of 2no mobile homes, 2no tourer vans; erection of 2no day rooms, 1.8 metre high fence and 1.2 metre high post and rail fencing (part retrospective)

Officer recommendation: Approve

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

1 EXECUTIVE SUMMARY

- 1.1 The site is situated within the open countryside approximately 0.8 kilometres from the settlement of Parson Drove. The site has been divided into 2 pitches which are currently occupied although do not reflect the plans as proposed.
- 1.2 The proposal has previously been refused on flood risk and visual harm. However, recent appeal decisions have indicated that the flood risk modelling data provided would be sufficient to allow highly vulnerable development such as this to proceed despite the high flood risk category of the site - in that the residual risks of flooding are very low. Furthermore, due to recent approvals for expansion of existing developments along Sealey's Lane, the issue of visual harm is not considered to be so significant as to warrant a refusal on these grounds.
- 1.3 Having regard to the inability of the Council to demonstrate a sufficient supply of gypsy traveller pitches, and the limited harm the development would result in, on balance the development is considered to be acceptable subject to conditions controlling access and highway impacts, landscaping and future use of the site.
- 1.4 The recommendation is to approve the application.

2 SITE DESCRIPTION

- 2.1 The site is situated within the open countryside approximately 0.8 kilometres from the settlement of Parson Drove. The site is classed as agricultural land with close boarded fencing erected around the perimeter and through the middle to form 2 enclosed areas (pitches). Each enclosure is accessed via wooden gates with access directly off Sealey's Lane and incorporates habitable structures in the form of a mobile home and utility building/ day room.
- 2.2 A belt of dense hedgerow extends for c.300m southwards from the site adjacent to the highway and terminates at the nearest residential property; Celia House. Continuing southwards from this point is a row of residential properties which lead

out onto Main Road. Approximately 250m north of the site is an existing Horticultural business which has recently expanded.

- 2.3 The site lies approximately 80m south of a national high pressure gas pipeline (High Pressure Transco 1723 CIS Location 7464) and within Flood Zone 3 (high risk). Sealy's Lane is a 'C' classified road.
- 2.4 The site lies adjacent to a cold war observer corps bunker which was built in the 1960's during the Cold War and sealed off in the early 1990's. A majority of the structure is underground with access hatch and ventilation shafts visible above ground.

3 PROPOSAL

- 3.1 The application seeks full planning permission for the residential use of the land for traveller's. Having regard to the proposed layout; 2 pitches are proposed each served by a day room with an area for the siting of a mobile home and a touring caravan. Pitch 1 (south) is the larger of the 2 and includes a considerable area of green space which is proposed to be planted with trees and incorporates a foul drainage tank.
- 3.2 The existing 1.8 high perimeter fencing is proposed to be retained but with a soft landscape buffer planted externally and along the boundary with the highway. The 1.2m high post and rail fencing and gates across the front of the site are proposed to be retained.
- 3.3 The dayrooms will each measure 7 x 6 metres externally, with rooflines at 4.1 metres. They will be roofed with cement fibre slates, and external walls will be clad with dark brown painted timber.
- 3.3 It is important to note that what currently exists at the site is not what is being sought for permission. For example the large, timber building within the northernmost pitch does not form part of the proposal and the layout of the mobile homes also differ.
- 3.4 Full plans and associated documents for this application can be found at: <u>https://www.fenland.gov.uk/publicaccess/</u>

4 SITE PLANNING HISTORY

Reference	Description	Decision
F/YR19/0540/F	Change of use of land to a traveller's site	Refused
	involving the siting of 2No mobile homes, 2No tourer vans; erection of 2No day rooms, 1.8 metre high fence and 1.2 metre high post and rail fencing (part retrospective)	19.08.2019

F/YR17/1047/F	Change of use of land to a traveller's site involving the siting of 2No mobile homes, 2No tourer vans; erection of 2No day rooms, 1.8 metre high fence and 1.2 metre high post and rail fencing (part retrospective)	
F/YR17/0212/F	Change of use of land to a traveller's site involving the siting of 3No mobile homes, 3No tourer vans; erection of 2No day rooms, 1.8 metre high fence and 1.2 metre high post and rail fencing (part retrospective)	

5 CONSULTATIONS

5.1 Parson Drove Parish Council

Advises that "Members noted that this application was brought forward again because FDC had lost an appeal on a similar application elsewhere. Members agreed to refuse the application on the same grounds as the previous application on the site, and to add that the Parish Council is disappointed that this application has been brought forward a third time, noting that the normal cut-off is after the second refusal."

Previously objected for the following reasons;

- The site is too far from the centre of the village and is not sustainable
- The site is not located for easy access to services and facilities in the village including the primary school, post office, shops and Doctors Surgery as it is more than a mile away from the primary school and the centre of the village.
- It should be noted that this site was previously put forward as an exception site for consideration by the Parish Council, a Housing Association and Fenland District Council's Planning Department. This site was not pursued at that time as it was deemed by the District Council and the Parish Council to be unsuitable given the distance from the centre of the village located in the open countryside and concerns over highway safety issues due to the narrowness of the road, lack of footways and street lights. Believe that this conflicts with the provision of the Children's Act 2004 given the highway safety issues.
- Parson Drove is a Limited Growth Village as specified in Policy LP3 but has already had several planning applications approved bringing our growth target close to the limit of 10%.
- We note the level of objections lodged to this and previous application and therefore believe it does not pass Policy LP12 Part A (i).
- The location the proposed traveller's site would have an adverse impact on the character and appearance of the surrounding open countryside and farmland and is therefore contrary to Policy LP 12(c).
- The location is not in keeping with the core shape and form of the village and will adversely harm the character and appearance of the village and is therefore contrary to Policy LP12(d).
- The application does not pay due regard to the local ecology and heritage of adjoining land that contains the observer corps bunker, which should be protected as part of the local history. Therefore development of this site would harm the local heritage and be contrary to policy LP12 (g).
- The site falls within Flood Zone 3 and is therefore at risk of flooding and we consider that an alternative site, if needed, could be found. This is contrary to

policy LP14 Part (B) as it does not conform to the sequential test or the exception test. We note that the agent states this site passes the sequential test for placement of additional traveller pitches, however we strongly refute this fact as this is located in flood zone 3 and considering the district as a whole there will be numerous other sites in flood zones 1 and 2 that would be more acceptable in planning terms. Therefore this application quite clearly fails the sequential test. We also note the lack of evidence supplied to support this claim under item 45 of the agent's letter demonstrating other sites have been considered.

- The road at this end of Sealy's Lane is narrow, has no footpaths or street lighting and would put people in danger on the public highway and is therefore contrary to Policy LP12(j).
- Given the nature of the issues highlighted then it is considered that the culmination of these issues would result in the application being in breach of policy LP 12 (k), which requires sites to be served by the local infrastructure such as waste water drainage and suitable highway provision.
- There are several traveller sites in Fenland, one being the District Councils travellers site at Turf Fen Bridge, Murrow where there are currently vacant pitches. We therefore question the need for additional pitches at this current time as confirmed in Policy LP5 Part D.
- The site and its proposed use will conflict with other development plan policies relating to flood risk, landscape character, and protection of the natural environment as stated in LP5 Part D (a).
- The site does not enable safe and convenient pedestrian access to the main road as stated in Policy LP5 Part D (d) and will have an unacceptable adverse impact on the occupiers of nearby properties, the health and wellbeing of the occupiers of the site and the appearance and character of the area, therefore it does not comply with LP5 Part D (e).
- This application is not supported by the local community. This would therefore indicate that this is contrary to policy LP 12 (i).

5.2 **Cambridgeshire County Council Local Highways Authority (LHA)**

Raises no objection subject to conditions securing;

- Visibility splays
- Gate positioning
- Access provision

5.3 Cadent Gas

[Following confirmation of specific site location] Raises no objection.

5.4 Environment Agency

Object in principle; the proposed development within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The development is classed as highly vulnerable (caravans and tourers intended for permanent residential uses), in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance.

5.5 North Level internal Drainage Board (IDB)

Advises they have no comments to make

5.6 Local Residents/Interested Parties

13 letters of objection received from 12 households raising the following comments;

- Environmental Concerns
- Noise
- Local services/schools unable to cope
- Would set a precedent
- Out of character/not in keep with area
- Outside the village boundary
- Grounds of ethnicity should not justify the development
- Alternative sites are available
- No need for this development
- Access
- Waste and litter
- Does not comply with policy
- It is not discriminatory to refuse this application
- Devaluing property
- Flood risk and Drainage
- Untidy land
- No services to the site
- Highways safety concerns narrow road, lack of passing places, increased traffic
- Lack of street lighting and footpath
- Assumes lighting will be installed which may be a distraction for drivers
- Close to a mains gas line
- Visual impact
- Wildlife Concerns
- Planning permission for traveller pitches and affordable housing schemes previously rejected
- Parson Drove near to its 10% village threshold limit
- The funds available for this development could be better spent improving/expanding one of the existing traveller sites in the region
- Why have the works been allowed to happen?
- Why is the application allowed to proceed?
- The grounds for refusal of the previous application are still relevant. This application does not adequately address these.
- Likely that pitches will increase

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).

The Council has a duty Under the Equality Act 2010, Section 149, to have due regard to the need to:

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

• foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7 POLICY FRAMEWORK

- 7.1 **National Planning Policy Framework (NPPF)**
- 7.2 National Planning Practice Guidance (NPPG)
- 7.3 Planning Policy for Traveller Sites (PPTS)
- 7.4 National Design Guide, 2019 (NDG)
 - Context Identity Built Form Movement

7.5 Fenland Local Plan, 2014 (FLP)

- LP2: Facilitating Health and Wellbeing of Fenland Residents
- LP3: Spatial Strategy, the Settlement Hierarchy and the Countryside
- LP5: Meeting Housing Need
- LP12: (Part D) Mobile Homes
- LP14: Flood Risk
- LP15: Transport Network
- LP16: Delivering and Protecting High Quality Environments
- LP18: Historic Environment
- LP19: Natural Environment

7.6 Parson Drove Neighbourhood Plan (PDNP)

Section 3.2 of the plan reads;

"The Parson Drove Neighbourhood Development Plan is in general conformity with the strategic policies of the Local Plan. The Neighbourhood Development Plan policies should be read alongside the Local Plan policies as complimentary parts of the Development Plan, providing the framework for local expectations of development."

Policy 5: Road and pedestrian safety

7.7 Supplementary Planning Documents/ Guidance:

- Delivering & Protecting High Quality Environments in Fenland SPD (2014)
- Cambridgeshire Flood & Water SPD (2016)
- The Cambridgeshire and Peterborough Minerals and Waste Core Strategy (2011) which includes the RECAP CCC Waste Management Design Guide SPD (2012)
- Fenland Gypsy and Traveller Accommodation Needs Assessment (GTANA) Update 2013

8 KEY ISSUES

- Principle of Development
- PPTS policies and criteria
- Impact on the character and appearance of the area
- Impact on the amenity of neighbours and dominance of the nearest settled community
- Access and Highways
- Access to services/ facilities

- Heritage
- Ecology
- Flood risk & Drainage
- Other Considerations

9 BACKGROUND

- 9.1 Planning permission for the same development was previously refused under F/YR19/0540/F for the following reasons;
 - 1. The site lies in Flood Zone 3 (high risk) and the development comprises the stationing of caravans for permanent residential occupation. Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG) categorises caravans, mobile homes and park homes as highly vulnerable forms of development. Table 3: Flood Risk Vulnerability Classification of the PPG states that highly vulnerable development should not be permitted in this location. Accordingly the proposal would result in an inappropriate form of development having regard to the flood risk constraints of the site which would place people and property at an unacceptable risk of flooding contrary to policies LP2, LP5 (Part D) and LP16(m) of the Fenland Local Plan and policy 13(g) of the Planning Policy for Traveller Sites, 2015 (Department for Communities and Local Government)
 - 2. The proposed development due to its prominent location in an area of open countryside would urbanise this part of Sealey's Lane and could not be adequately mitigated through landscaping. The development would therefore demonstrably detract from the rural and open character of the countryside contrary to Policy LP5 (e) and LP16 (d) of the Fenland Local Plan, 2014.
- 9.2 Planning permission for a similar scheme was also previously refused under F/YR171047/F for the following reasons;
 - 1. Policy LP14 Part B of the Fenland Local Plan (2014) and Paragraphs 100 and 101 of the National Planning Policy Framework seek to direct development to areas of lowest flood risk. The development is located within Flood Zone 3, the area of highest flood risk and therefore would result in highly vulnerable development being located in the area of highest flood risk. The application is required to pass a sequential test to demonstrate there are no sequentially preferable sites reasonably available that can meet the development's need. Guidance on the application of the sequential test is given in ' The Cambridgeshire Flood and Water Supplementary Planning Document' adopted by the Local Planning Authority on the 15th December 2016. The application failed to demonstrate that there are no reasonably available sites in sequentially preferable locations which could meet the needs of the development. Therefore, the sequential test is contrary to Paragraphs 100 and 101 of the National Planning Policy Framework 2012, and Policy LP14 Part B of the Fenland Local Plan 2014 as well as the guidance in the adopted Cambridgeshire Flood and Water Supplementary Planning Document 2016.

2. Policy LP5 Part D (e) and LP16 (d) of the Fenland Local Plan 2014 seek to ensure new developments do not adversely harm the appearance or character of the local area. The proposed development visual intrudes into the open countryside and demonstrably detracts from its openness character. As such, the proposed development fails to comply with Policy LP5 Part D (e) and LP16 (d) of the Fenland Local Plan 2014.

10 ASSESSMENT

Principle of Development

- 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 As such, the principle of traveller sites in the countryside is supported. The means by which new traveller development is to be controlled are set out in further policies in the PPTS and in local policies, and these are considered below.
- 10.4 Whilst the comments from the Parish Council and residents in respect of village thresholds and identified harm under policy LP12 (Part A) are noted, the development is considered to be located outside of the village where these considerations are not applicable. The application stands to be determined in accordance with the polices listed above i.e. FLP policy LP5 in respect of specific traveller development and including the PPTS and NPPF as well as more general policies in respect of environmental concerns.

PPTS policies and criteria

- 10.5 Under PPTS Policy B planning authorities should, amongst other things, set pitch targets for gypsies and travellers which address likely needs in their area, working collaboratively with neighbouring local planning authorities. In producing their local plans they should amongst other things:
 - a) identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets;
 - b) identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15.
 - d) relate the number of pitches to the circumstances of the specific size or location of the site and the surrounding population's size and density;
 - e) protect local amenity and environment.

- 10.6 Policy H, paragraph 22 of the PPTS notes that planning law requires applications for planning permission to be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise. Applications should also be assessed and determined in accordance with the presumption in favour of sustainable development in the NPPF and the PPTS. It says that local planning authorities should consider the following issues, amongst other relevant matters, when considering planning applications:
 - a) the existing level of local provision and need for sites,
 - b) the availability (or lack) of alternative accommodation for the applicants,
 - c) other personal circumstances of the applicant,
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches should be used to assess applications that may come forward on unallocated sites,
 - e) that they should determine applications for sites from any travellers and not just those with local connections.

As such, in respect of Policy H the following is considered;

- 10.7 (a) The existing level of provision and need for traveller pitches
 - Policy LP5 Part D states there is no need for new pitches as per the findings of the Fenland Gypsy and Traveller Accommodation Needs Assessment (GTANA) update 2013. However, an appeal decision received in April (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. The GTANA is due to be reviewed later this year and until this time, Officers are unable to accurately assert what the District's need is or how this will be met.
- 10.8 (b) the availability (or lack) of alternative accommodation for the applicants Based on the current status of the GTANA, it is concluded that the Council is unable to adequately demonstrate that they have a 5 year supply of traveller pitches at present. Therefore it can be reasonably concluded that the Council would be unable to confirm the availability of alternative accommodation for the applicants as per part (b) of the PPTS. Policy H states that where an authority cannot demonstrate an up-to-date five year supply this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
- 10.9 c) other personal circumstances of the applicant The applicant in their Planning Statement advises that a separate document concerning their personal circumstances and demonstration of Gypsy status would be submitted. The applicant has provided a confidential statement from a support worker clarifying the applicant's personal circumstances and providing some detail as to why the applicant should be accommodated at this location. This accounts for only one occupant against an application for 2 pitches.
- 10.10 Initially however, the assessment is carried out on the basis that the application would meet the accommodation need of persons of Gyspy Traveller status. In essence therefore given that the evidence of the current, personal circumstances of the current occupants are limited, this application is to be considered as an application for 2 pitches for Gypsy Travellers against an unmet need which also captures criteria (c) and (d) of paragraph H of the PPTS. Should it be necessary to take into account the personal circumstances, these are to be considered separately but nonetheless added to the planning balance.

Impact on the character and appearance of the area

- 10.11 As noted in the site description, the site is in the open countryside with no built form directly adjacent the nearest being c.250m to the north, with the main housing along Sealey's Lane c.300m south. In this regard, the site would be prominent particularly when approaching from the north or along Harrolds Bank which runs perpendicular to the north of Sealey's Lane. Due to the low lying land in the area, the site would be highly visible from these vantage points.
- 10.12 The proposed development would therefore urbanise this immediate part of Sealey's Lane which would be difficult to fully mitigate through soft landscaping which could only reasonably be retained through planning condition in the short term. That said, it is acknowledged that recent planning approvals for expansion of the horticultural business to the north which includes erection of polytunnels and an expanse of 2m high fencing along the highway boundary has altered the openness of this side of Sealey's Lane. As such wider views of this road from a distance are interrupted, to a degree by built form and in this regard, the proposed site would not appear overly isolated or wholly out of character.
- 10.13 For gypsy and traveller accommodation FLP Policy LP5 Part D sets out criteria as to a site's suitability for occupation by those who meet the planning definition set out in Planning Policy for Traveller Sites 2015 (PPTS). Decisions are made on a "case by case" basis subject to: no conflict with national planning policy; a peaceful and integrated coexistence with the local settled community; and no unacceptably adverse impact on local character or appearance. PPTS, Policy H also sets out similar criteria for determining planning applications for traveller sites.
- 10.14 PPTS does to a degree expect sites to be found in the countryside outside the Green Belt since Paragraph 25 advises Councils to "very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan".
- 10.15 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 latest PPTS (post Local Plan adoption) Paragraphs 11 and 24, which endorse criteriabased policies where there is no such need, and Paragraph 25 which expects sites to be located in the countryside, albeit with restrictions, but without any precondition of evidence of need.
- 10.16 In conclusion, the development would demonstrably detract from the rural and open character of the site and immediate surroundings contrary to Policy LP5 (e) and LP16 (d) of the FLP. However, it is acknowledged that the principle of such development in the open countryside is accepted which does, to a certain extent accept that some harm will accrue to the countryside through this type of development. Additionally, it is also acknowledged that the open character of Sealey's Lane has altered through the expansion of the Horticultural business to the north which does to a degree reduce the rural open characteristics of the countryside. This harm therefore needs to be weighed against the benefits of the proposal.

Impact on the amenity of neighbours and dominance of the nearest settled community

10.17 The development is considered to be relatively small scale providing accommodation needs for 2 households. Furthermore, the site is set a notable distance away from the nearest settled community at Sealey's Lane (south). In

this regard the development would not dominate the nearest settled community and would be unlikely to give rise to any obvious amenity harm, certainly which could not otherwise be controlled though Environmental Protection legislation e.g. noise, odour or pollution should it arise.

Access and Highways

10.18 The LHA has been consulted on the proposal and note that the layout of the development could be made acceptable through the imposition of planning conditions e.g. securing adequate visibility. They have raised no objection to the principle of the residential use of the site in respect of cumulative transport impacts. Whilst it is noted that this part of Sealey's Lane is single track and offers limited places to pass, the scale of the development is not considered to give rise to significant highways conflicts.

Access to services/ facilities

- 10.19 The site is approximately 900m north of Main Road, Parson Drove. Parson Drove includes a primary school, doctors' surgery a shop and public house and is therefore generally well supported with amenities within 1 to 1.5 miles from the site. It is acknowledged that there are currently no opportunities to safely access Main Road from Sealey's Lane due to a lack of footpath and with street lighting only extending as far as No. 5 Sealey's Lane – 450m from the application site. Sealey's Lane already supports over 30 dwellings, none of which have access via footpath to Main Road Parson Drove, albeit they are generally closer to this junction. In this regard, it would not be considered reasonable to conclude that the site has insufficient access to local services. Notwithstanding this, there would likely be a reliance on private motor car to access such services which weighs against the scheme having regard to the aims of national and local policy to encourage more sustainable means of transport. However, it is recognised that the PPTS identifies that traveller sites in the countryside are acceptable and it can be reasonably assumed therefore that a reliance on private motor car to access services would be common in these instances.
- 10.20 In respect of concerns raised over pressure on local services; Parson Drove is anticipated for some growth over the plan period. The Parson Drove Neighbourhood Plan projects greater growth (20%) than that set out under the Fenland Local Plan (10%). This anticipated growth indicates that the local facilities and services would be able to sustainably accommodate an increased population of Parson Drove which is contrary to the concerns raised.

Heritage

- 10.21 The site lies adjacent to a cold war observer corps bunker which was built in the 1960's during the Cold War and sealed off in the early 1990's. A majority of the structure is underground with access hatch and ventilation shafts visible above ground.
- 10.22 The development is unlikely to affect this structure given its distance away and minimal ground intrusion, particularly with the permanent structures located away from this area. The bunker lies in an area of undeveloped paddock land which is privately owned. The bunker is not listed and is afforded no statutory protection and therefore notwithstanding that the development proposed is not considered to adversely affect this structure, it would not be reasonable to refuse the development on grounds of unacceptable heritage impacts.

Ecology

10.23 The site has been cleared and fencing erected and therefore it is not possible to determine whether any protected species have been affected through the works to date. The site in its current condition is unlikely to provide any decent habitat for any protected species at present. However, the landscaping proposed may provide some vegetation for foraging and nesting and biodiversity enhancements could be reasonably secured through planning condition in accordance with Policies LP16 and LP18 of the FLP.

Flood risk & Drainage

- 10.24 The site is recognised as lying within Flood Zone 3a in accordance with the EA's latest planning flood mapping and therefore at a high probability of flooding.
- 10.25 Policy LP14 as well as Paragraph 101 of the NPPF requires proposals to adopt a sequential approach to flood risk, where new developments are steered to areas with the lowest possibility of flooding. Paragraph 101 states development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
- 10.26 In this regard it is recognised that the Council has an unmet need for traveller pitches. This would infer that there are no sites available to accommodate the 2 pitches proposed at this time. Having regard to recently permitted sites, the Council at the Bar Drove Appeal (APP/D0515/C/19/3226096 planning ref: F/YR18/0821/F) concluded that any recently permitted pitches were already occupied or had occupants ready to accommodate the sites and therefore agreed that there were no sites reasonably available to accommodate the appellant. Having regard to planning permissions for pitches since the appeal, of which there are none, it can reasonably be concluded that the situation is the same as during the appeal and as such, the sequential test has been met in that there are no other reasonably available sites to accommodate the development proposal in a lower area of flood risk.
- 10.27 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').

Wider community sustainability benefits

10.28 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.

Flood risk management

10.29 The applicant has submitted an FRA in which it concurs that the application site is within Flood Zone 3 but considers the residual risk to be low due to the existing maintenance of current flood defences by the IDB. The FRA also includes flood modelling taken from the EA's hazard mapping which indicates that in the event of a failure of EA infrastructure resulting in overtopping of the river Nene, flood waters would be unlikely to inundate the site.

- 10.30 The FRA proposes to set floor levels of the caravans at 300mm above the level of the adjacent highway and that occupiers would be signed up to the EA's flood warning service.
- 10.31 The EA considers that the main source of flood risk at the location is associated with watercourses under the jurisdiction of the IDB. The FRA is accompanied by a document entitled "sensitivity on reduced pumping capacity. 100 year peak water levels" produced by Royal Haskoning DHV on behalf of the IDB which details maximum flood outline including with reduced pump efficiency as low as 60% and which denotes that the site would not experience any flood water inundation. No objection has been raised by the IDB and the EA has confirmed that the site would not be affected by any breach of tidal defences.
- 10.32 It is recognised through the scenarios presented within the FRA that it is unlikely that flood waters would seriously affect the site in a major event in respect of overtopping of the tidal defences. However, there is a reliance on flood defences, particularly IDB infrastructure to perform in flood events. The FRA notes for example that the risks to flooding include local blockages to riparian drains. It is uncertain how this could effectively be managed over the lifetime of the development to ensure that water could flow effectively through the riparian watercourses. Whilst mitigation in the event of pump failure is addressed, the long term management and maintenance of riparian drains is not.
- 10.33 The EA has considered the proposal and the accompanying FRA which includes their modelling and maintain that caravans for permanent occupation in Flood Zone 3 are not appropriate.
- 10.34 The applicant has re-submitted this application in light of a recent appeal decision for a single traveller pitch in Bevis Lane, Wisbech St Mary APP/D0515/C/18/3196061, enforcement ref: ENF/183/17/UW. The applicant considers that the flood risk assessment and findings of the Planning Inspector are relevant to the application site.
- 10.35 The flood risk element centred on the fact that the hazard mapping produced by the EA indicated that in the event of a breach of river flood defences, any inundation of the site would be at low velocity and at a depth of around 100mm and that in the event of overtopping, the site would not be affected. The Inspector concluded that in light of the modelling information, the site could be made safe from flooding and proceeded to allow the development despite PPG guidance that caravans in food zone 3 are not appropriate, concluding that "there can be circumstances where development in Flood Zone 3 can be permitted." (para 23)
- 10.36 The appeal site sits notably closer to the main river than this site and the EA mapping supporting this application indicates that in the case of a breach of defences, the site and indeed the roads which could achieve safe passage to a place of safe refuge would not be affected. In addition, the applicant has provided scenario modelling commissioned by North Level Drainage Board which demonstrates that during a major event, when pumps may need to be throttled back allowing for some overland flooding, the site would still not be affected by flood waters.
- 10.37 Therefore, taking a strict approach to PPG guidance which indicates that caravans in FZ3 should not be permitted, the actual residual impacts of a major flood event have been demonstrated to have a neutral effect of the site i.e. the site would be safe from flooding in extreme events, with a breach of tidal flood

defences. It is not unreasonable to assume that the same conclusions would be drawn by the Planning Inspectorate as at the Bevis Lane appeal should this application be refused on flood risk grounds as before. This is a material consideration to which weight is afforded.

10.38 In respect of drainage it is understood that a sceptic tank has already been installed within the pitches although no further details of this have been provided e.g. if/ where this drains to and how it will be managed. Furthermore, whilst the proposal to utilise soakaways for surface water drainage, again there is no further information to establish whether ground conditions are conducive to this method of drainage or how effective it will be. It is considered that should the application be looked upon favourably, appropriate methods of drainage could be secured via planning condition.

Other considerations

10.39 Whilst most concerns raised by the Parish Council and residents have already been addressed above, the following matters are considered as follows;

Would set a precedent

10.40 All applications are to be considered against the development plan as required by law (unless material considerations dictate otherwise). As such, should any future development proposals come forward, these would be dealt with on a case by case basis in accordance with the development plan having regard to the overall sustainability of the proposal.

Devaluing property

10.41 The planning system does not exist to protect private interests such as value of land or property and as such no weight can be afforded to this concern.

Untidy land

10.42 Waste produced and removed off-site during the construction of the development would be controlled under license through the Environment Agency. Furthermore, the District Council has a statutory duty to collect household waste and already operates in the area. The ability to store, sort and have household waste collected is not anticipated to be an issue with this development.

No services to the site

10.43 The site is already served by water and a foul treatment vessel has already been installed. It is also noted the housing development to the south and the business horticultural business to the north is served by electricity and future occupiers would be able to incorporate gas or oil for heating. In this regard the ability to access services is not anticipated to be an issue.

Grounds of ethnicity should not justify the development

- 10.44 The rationale for considering gypsy status in a planning application is that their nomadic lifestyle brings with it special needs that render them more vulnerable to homelessness if subject to the normal regime of planning control.
- 10.45 Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998, imposes a positive obligation to facilitate the gypsy way of life in that the vulnerable position of gypsies as a minority group means that some special consideration should be given to their needs and lifestyle in reaching planning decisions in particular cases. This provides some justification for a bespoke policy document addressing gypsy traveller developments the PPTS.

Why have the works been allowed to happen/ Why is the application allowed to proceed?

- 10.46 The Council has a statutory duty to consider all planning applications. In light of the aforementioned recent appeal decisions, it was considered prudent to consider this planning application again, rather than to refuse to determine it which would have likely led to the Council being involved at an appeal for non-determination and the potential claims for costs against them for failing/ declining to determine the application.
- 10.47 The applicant has proceeded with some works at their own risk as has been explained by the Council's Planning Enforcement Team. The Enforcement Team will await the conclusion of the planning application process before determining what next steps are required which is standard in such cases.

Assumes lighting will be installed which may be a distraction for drivers

10.48 The application does not propose any lighting at this time but this detail can be reasonably controlled through a planning condition should the proposal be approved.

The funds available for this development could be better spent improving/expanding one of the existing traveller sites in the region

10.49 There are no 'funds' available for this privately owned development which could otherwise be spent on existing/ future provision. Council tax is applicable to occupants of the pitches and fees generated may be put toward existing/ future provision and services as is standard.

Planning balance and conclusion

- 10.50 The development would assist in meeting an identified accommodation need for travellers where the Council is currently unable to meet this need. The site is located within reasonable proximity to essential services and amenities and could likely meet the day to day needs for 2 families. These benefits weigh substantially in favour of the proposal.
- 10.51 The development would result in some erosion of open countryside and would be visible from surrounding roads. This harm could not be fully mitigated but the enclosing fence could be softened over time through a robust landscaping scheme.
- 10.52 The site lies in Flood Zone 3 and current government guidance advises that the permanent siting of caravans in high risk flood areas is not acceptable and this is endorsed by the Environment Agency. However, detailed modelling provided by the applicant in respect of flood risks arising through tidal and fluvial flooding appear to demonstrate that the site would not be affected in respect of a major flood event. Having regard to a recent appeal decision which relied on similar EA modelling, assessing the same defences that this site would rely upon, it is reasonable to assume that the same conclusion would be drawn by the Planning Inspectorate were this application advanced to an appeal due to a refusal on this ground.
- 10.53 PPTS Policy H states that where an Authority cannot demonstrate an up-to-date five year supply this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. A grant of temporary planning permission would limit the long-term character harm identified albeit this harm, given recent

approvals for expansion of the business to the north along with existing built form along this side of Sealey's Lane would in any case be relatively limited.

- 10.54 Furthermore, a temporary permission would limit any long-term exposure to flood risk, although, as found within the enhanced modelling provided, the residual risk of a flood incident appears to be nil.
- 10.55 Whilst a temporary permission would reduce some longer term impacts, it would not address the long-term accommodation needs of the applicant and the Council is unable to say with any certainty at this point that these needs would be addressed through future provision. Given the limited harm identified, there would be insufficient justification for a temporary permission in this instance
- 10.56 Therefore, given the limited visual harm and negligible flood risk harm through this development and the significant benefits of addressing an identified immediate need of providing long-term accommodation where the Council is unable to demonstrate provision of such accommodation elsewhere, the recommendation is to approve permanent permission for the proposal subject to conditions controlling access, lighting, development and future occupancy of the pitches and measures to limit and or mitigate the visual impacts arising through the development.
- 10.57 Given that the scheme is considered to be acceptable in its own right, it is not necessary to explore the personal circumstances of the applicant or to restrict occupation to the applicant and their dependants. It is necessary however to restrict future occupancy to persons meeting the Gyspy traveller definition of the PPTS given the nature of the development and the PPTS policy specific justification for it.

11 **RECOMMENDATION**

- 11.1 Grant subject to the following conditions;
- 1. The site shall be limited to two pitches each containing no more than two caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. At any one time only one of the caravans on each pitch shall be static caravans.

Reason: In order that the Local Planning Authority can control the impact of the use of the site on the locality, in accordance with Policy LP2, LP15 and LP16 of Fenland Local Plan 2014.

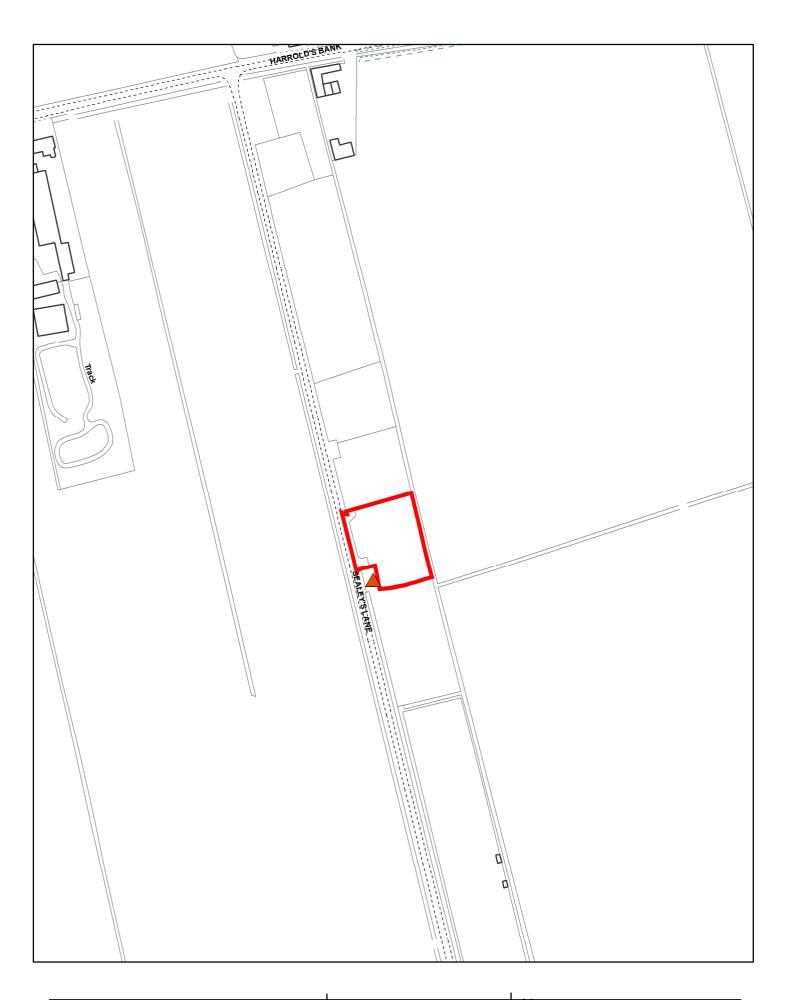
2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to 'Planning policy for traveller sites' (Department for Communities and Local Government, August 2015), namely "Persons of nomadic habit of life whatever their race or origin, including such persons 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".

Reason: The site is in an area where residential development other than in particular circumstances would be contrary to policy LP3 of the Fenland Local Plan, 2014. Planning permission has only been granted in order to provide accommodation for occupation by gypsies and travellers having regard to the

	specific policies for development of this nature in place at this time.
3.	 The use hereby permitted shall cease and all caravans, structures, equipment and materials (including hardcore and hardstandings) 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 of the requirement set out in (i) to (iv) below: (i) Within 2 months of the date of this decision, notwithstanding the details approved a scheme detailing the access configuration for each pitch shall have been submitted for the written approval of the local planning authority. The scheme shall provide construction specification for the access providing a sealed surface (which is drained away from the highway) for a minimum length of 5m from the back edge of the existing carriageway and a timetable for the implementation of the works.
	(ii) If within 4 months of the date of this decision the site development scheme has not 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.
	 (iii) The scheme shall have been completed fully in accordance with the details as submitted and approved under step (i).
	(iv) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
	Reason: To ensure safe access to the site in accordance with the provisions of Policy LP15 of the Fenland Local Plan 2014.
4.	Within 1 month of the date of this decision, visibility splays shall be provided each side of the vehicular access. Minimum dimensions to secure the required splays shall be 2.4m, measured along the centre line of the proposed accesses from its junction with the channel line of the highway carriageway, and 215m, measured along the channel line of the highway carriageway from the centre line of the proposed access. The splays shall be thereafter maintained free from any obstruction exceeding 0.6m above the level of the highway carriageway.
	Reason - To ensure safe access to the site in accordance with the provisions of Policy LP15 of the Fenland Local Plan 2014.
5.	 The use hereby permitted shall cease and all caravans, structures, boundary treatments, equipment and materials (including hardcore and hardstandings) 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 of the requirements set out in (i) to (iv) below: (i) Within 2 months of the date of this decision a scheme for the means of foul and surface water drainage of the site shall have been submitted for the written approval of the local planning authority and the said scheme shall
	 include a timetable for its implementation. (ii) If within 6 months of the date of this decision the site development scheme has not 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.

	(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.(iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
	Reason: In order to ensure a safe and effective means of drainage within the site in the interests of flood risk, contamination and biodiversity in accordance with LP16 of the Fenland Local Plan, 2014
6.	Within 6 months of the date of this decision, the formation of the hardstanding to support each pitch shall be implemented in accordance with the details as approved on plan ref: TDA.2453.03 (dated February 2019) and the Local Planning Authority shall be provided with written confirmation within 30 days of the implementation.
	Reason: Given the part retrospective nature of the development and the current site layout and structures which does not reflect the approved plans, the LPA require certainty that the development has been implemented as approved in order to the control the development through the listed conditions for its lifetime in order to ensure that it satisfies the relevant policy requirements of the Fenland Local Plan, 2014 and the Planning Policy for Traveller Sites, 2015.
7.	No commercial activities shall take place on the land, including the storage of materials.
	Reason: To protect the general amenity and character of the area in accordance with policy LP16 of the Fenland Local Plan, 2014 and Policy B and H of the Planning Policy for Traveller Sites, 2015.
8.	No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight. No person other than a permanent resident of the pitch to which this planning permission relates shall bring a laden commercial vehicle to the site, or park, or keep laden commercial vehicles on the site.
	Reason: To protect the general amenity and character of the area in accordance with policy LP16 of the Fenland Local Plan, 2014 and Policy B and H of the Planning Policy for Traveller Sites, 2015.
9.	The floor levels of any habitable structure shall be 300mm above the level of the adjacent highway.
	Reason: In order to safeguard future occupiers and possessions in the event of flooding in accordance with LP14 of the Fenland Local Plan, 2014.
10.	Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re- enacting that Order with or without modification) no development covered by Class A to Part 2 of Schedule 2 to that Order (the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure) shall be carried out without planning permission granted by the Local Planning Authority.
	Reason: To protect the general amenity and character of the area in accordance

	with policy LP16 of the Fenland Local Plan, 2014 and Policy B and H of the Planning Policy for Traveller Sites, 2015.
11.	Space shall be made available at all times to enable the turning and parking of all vehicles calling at the site.
	Reason: In order to ensure the free flow of traffic along Sealey's Lane in the interests of highway safety in accordance with policy LP15 of the Fenland Local Plan, 2014.
12.	On not more than 28 days in any calendar year, of which no more than 14 shall be consecutive days, not more than 1 additional caravan which is capable of being lawfully moved on the public highway without division into separate parts may be stationed on each pitch.
	Reason: To protect the general amenity and character of the area in accordance with policy LP16 of the Fenland Local Plan, 2014 and Policy H of the Planning Policy for Traveller Sites, 2015.
13.	All hard and soft landscape works shall be carried out in accordance with the approved detailed with the exception of the access surfacing details which are to be agreed via condition 03. All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased (except those contained in enclosed rear gardens to individual dwellings) shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.
	interest of the amenity value of the development in accordance with Policy LP16 of the Fenland Local Plan 2014.
14.	The development shall be carried out in accordance with the following approved plans;

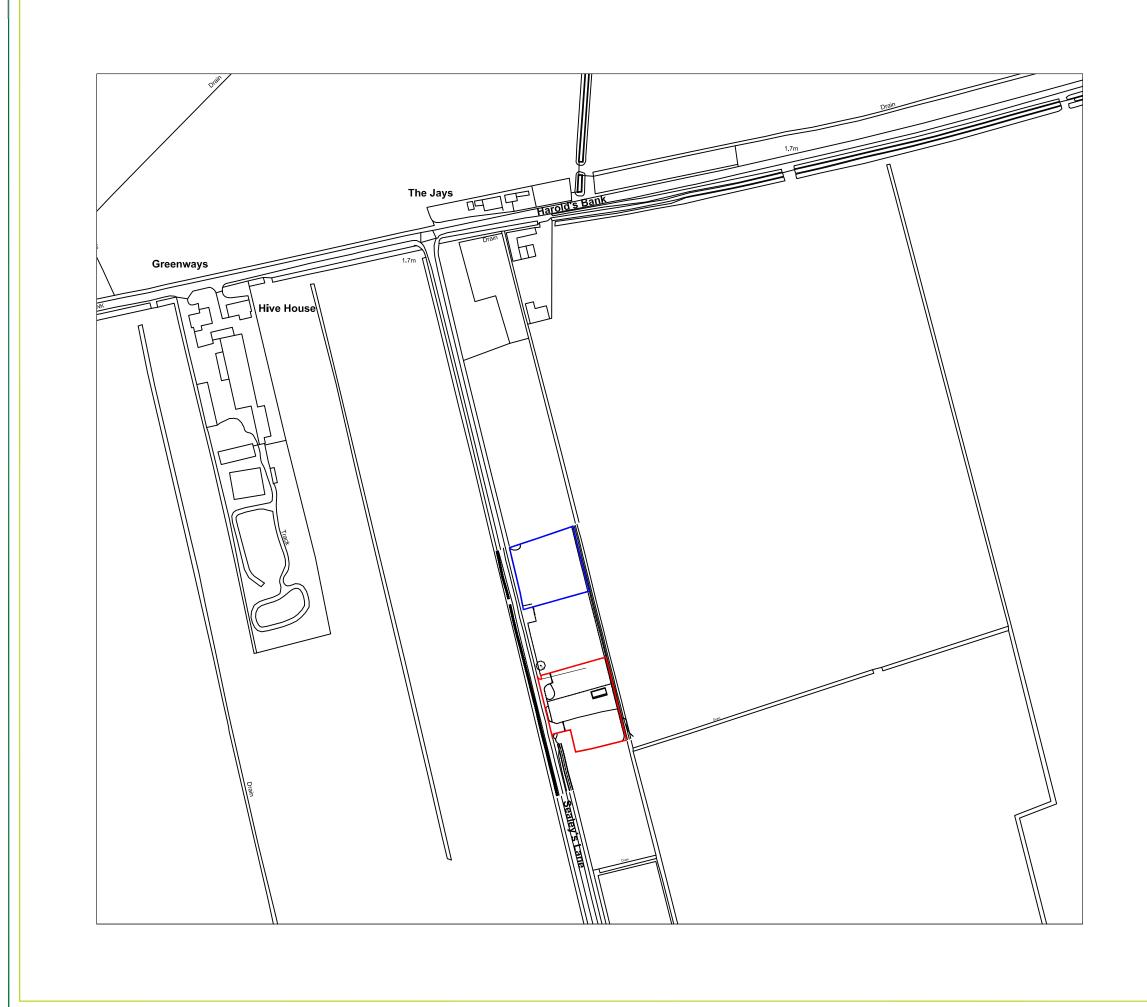


Created on: 20/12/2019	
------------------------	--

F/YR19/1082/F Scale = 1:2,500

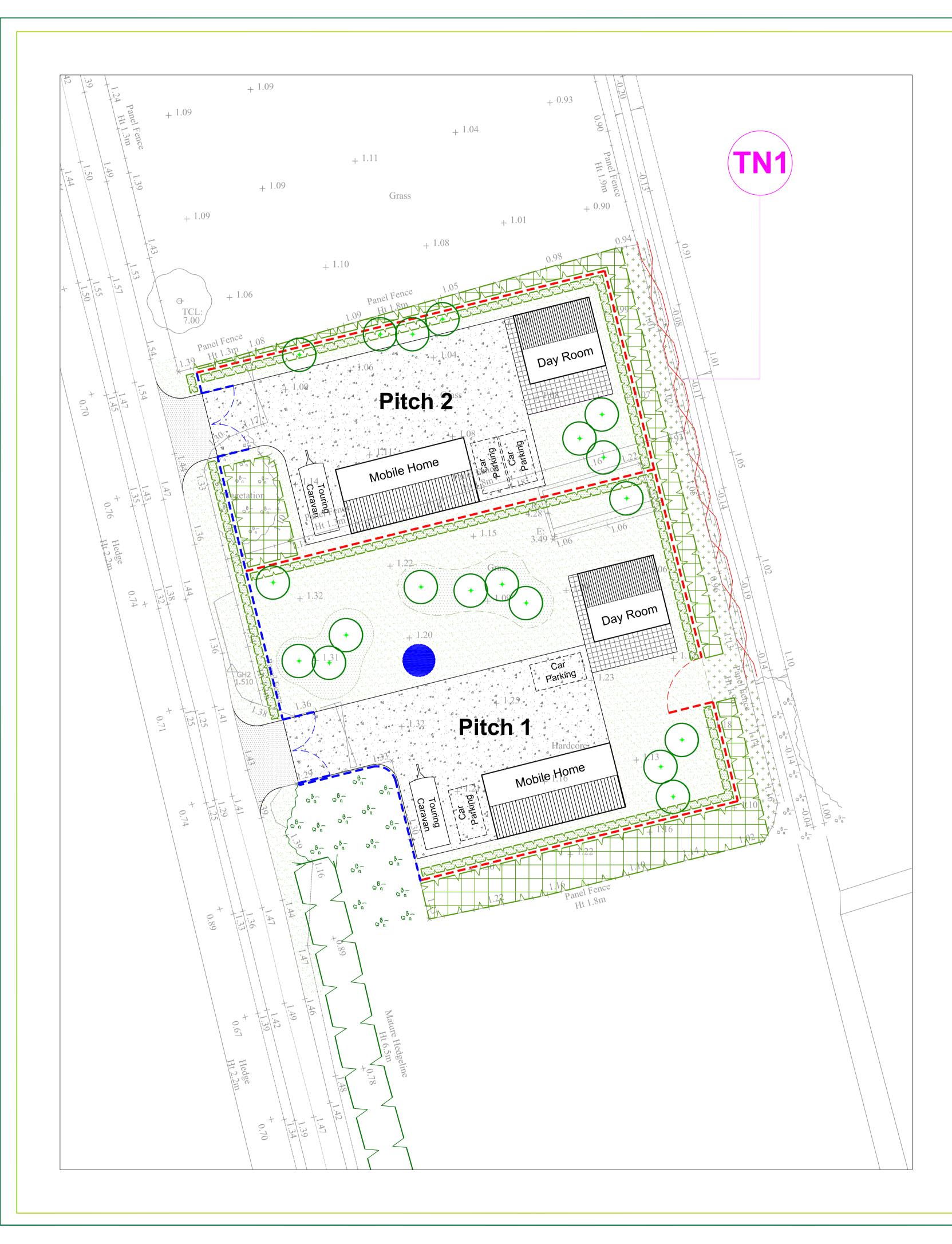


© Crown Copyright and database rights 2019 Ordnance Survey 10023778



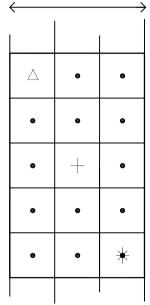






NATIVE WOODLAND BUFFER

3M WIDE WOODLAND MIX



KEY TO PLANTING MODULE: (TYPICAL 3.0m x 5.0m MODULE BASED ON 1.0m GRID)

(TYPICAL 3.0m x 5.0m MODULE BASED ON 1.0m GRID)

1 no/module	Alnus glutinosa (Feathered) 200-250 (h) BR
1 no/module	Acer campestre (Standard) 10 - 12 (g) CON
1 no/module	Betula pendula (Feathered) 200 - 250 (h) Bł
12 no/module	Cornus sanguinea 60-80 (h) BR (30%) Cratagus monogyna 60-80 BR(h) (25%) Prunus spinosa 60-80(h) BR (25%) Salix caprea 60-80(h) BR (30%)

GENERALLY:-

•

Existing hardcore to be removed and 600mm topsoil imported and spread over all areas to be planted with native woodland buffers. Topsoil to be cultivated and organic material incorporated (50mm well spent mushroom compost or similar approved).

Trees to be planted as diagram and firmly staked. Transplants planted in random groups of three, five or seven of single species and pruned back by one third.

Plantations to be maintained weed free for minimum of 2 years. All plants dying of natural causes during this period to be replaced.

PLANT SCHEDULE

TREE	PLANTING						
ABBRV	SPECIES - FORM & (% IN MIX)	DENSITY	HEIGHT/GIRTH (cm)	ROOT COND.	POT SIZE	TOTAL	
Ac	Acer campestre - Std (25%)		12-14 (h)	ROOTBALLED			
Ag	Alnus glutinosa - Fthd (25%)	As Plan	200-250 (h)	ROOTBALLED			
Вр	Betula pendula - Fthd (25%)		200-250 (h)	ROOTBALLED			
Qr	Quercus robur - Std (25%)		12-14 (h)	ROOTBALLED			
ΝΑΤΙΝ	E HEDGEROWS						
ABBRV	SPECIES	DENSITY	HEIGHT (cm)	ROOT COND.	POT SIZE	TOTAL	
	Acer campestre (20%)		60-80 (h)	BARE ROOT			
	Corylus avellana (10%)		60-80 (h)	BARE ROOT			
As Key	Crataegus monogyna (30%)	5 lin/m	60-80 (h)	BARE ROOT			
	llex aquifolium (10%)			_	CON-P9		
	Prunus spinosa (30%)		60 - 80 (h)	BARE ROOT			
ΝΑΤΙΝ	E BULB PLANTING	;					
ABBRV	SPECIES	DENSITY	HEIGHT (cm)	ROOT COND.	POT SIZE	TOTAL	
	Anemone nemorosa (20%)			BULB			
	Eranthis hyemalis (10%)			BULB			
As Key	Galanthus nivalis (20%)	30 Sq/m		BULB			
	Hyacinthoides non-scripta (20%)			BULB			
	Narcissus pseudonarcissus (20%)			BULB			
	Viola riviniana (10%)			BULB			

TARGET NOTES

TN1

Existing conifer hedgerow to be removed and 1.8m high panel fence re-located to establish maintenance easement adjacent to existing ditch.

Maintenance easement to be seeded with a wildflower grass mix and access to be retained in perpetuity via a vehicular gate to the rear of Pitch 1

KEY:

HARD LANDSCAPE KEY:

1		*		•		•											
	•		٠		•												
•		•		٠		•											
	•						•										
								•		•		•		•			
•				•				•		•		•	•	•	•		

PROPOSED ENTRANCE THRESHOLDS (Threshold to be surfaced with concrete to stop gravel ingress into highway. Concrete to be brush finished with smooth floated curved edges.)

(Areas to be surfaced with gravel laid on a weed suppressing membrane over

DRIVEWAY, PARKING & COURTYARD AREAS

a compacted 'open' sub grade to allow for surface water percolation.)



 ∇

PROPOSED PATIOS (Patios to be paved with 450x450mm PCC slabs. Type and colour to be agreed with client)



EXISTING 1.8 M HIGH PANEL FENCES

RE-LOCATED AS SHOWN

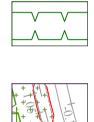


PROPOSED 1.2M HIGH POST AND RAIL TIMBER FENCES WITH MATCHING GATES



PROPOSED LOCATION FOR CESS PIT

SOFT LANDSCAPE KEY:

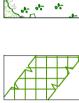


EXISTING HEDGEROW RETAINED



EXISTING VEGETATION RETAINED

EXISTING HEDGEROW REMOVED



PROPOSED NATIVE WOOLDAND BUFFERS (Refer to planting module for species/densities)

(Refer to Target Note 1)



PROPOSED NATIVE TREE PLANTING (Refer to plant schedule for species/densities)



PROPOSED NATIVE HEDGEROWS (Refer to plant schedule for species/densities)



PROPOSED LAWN AREAS

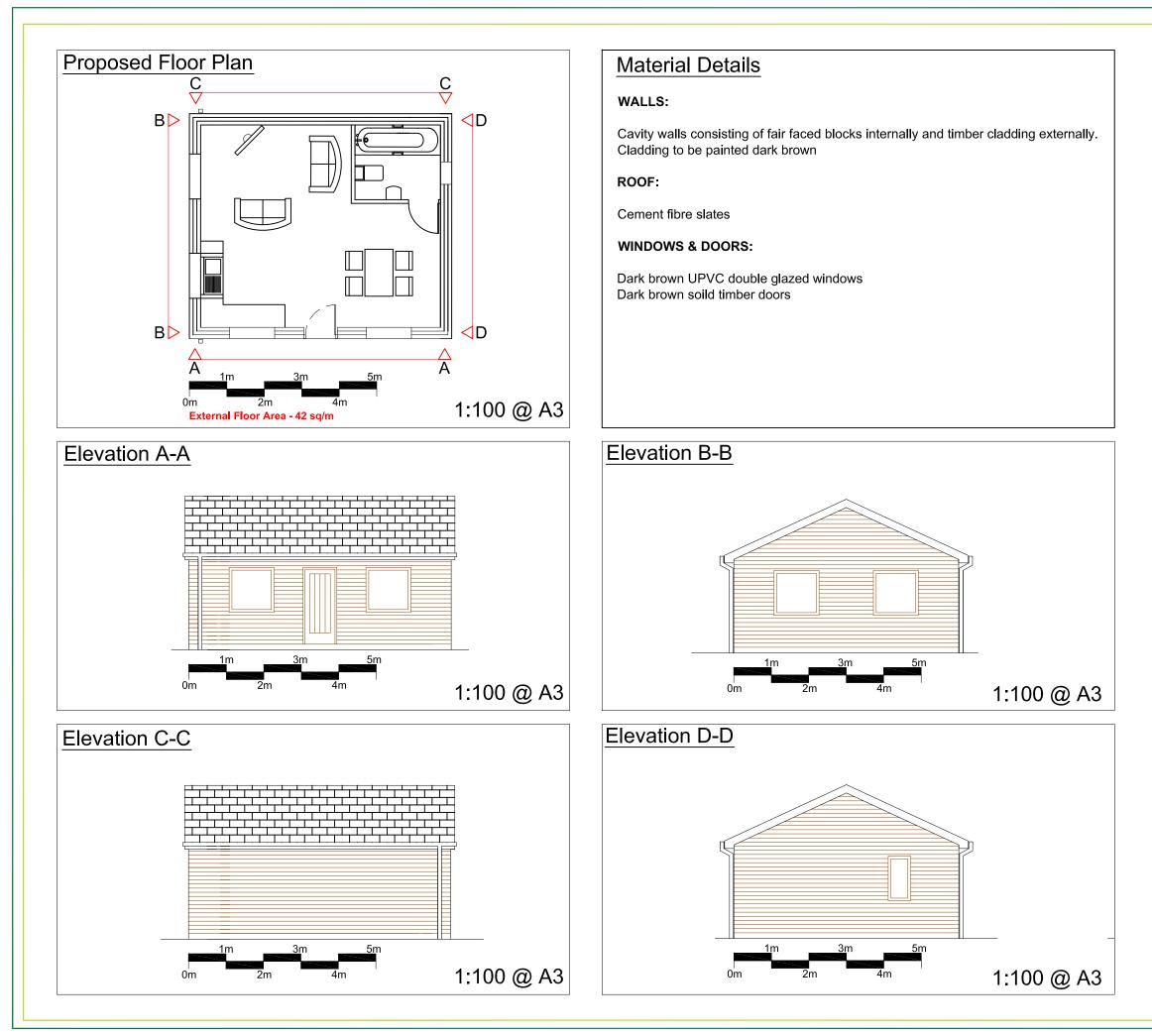


PROPOSED WILDFLOWER AREAS

(Refer to plant schedule for species/densities)

PROPOSED NATIVE BULB PLANTING





-				_
Nc	ote:			
	limensions s ed otherwise	shown in millimetres unl e	ess	
			1	
A REV	External floor area	and scale bars added to drawing NOTES	RhC BY	18.02.19 DATE
T	DA			
TI N	HE GRANARY EWLAND FAWR I LANGAN	FARM		
С	F35 5DN EL: 01446 789367	Environment i Land	İscape ı De	sign
CLIENT	Μ	IR. LEVI UPTON		
DRAWING	NUMBER 4.2453.04	SCALE 1:100 @ A3		
DRAWN	RhC	DATE FEBRUARY 2019		
	SEALEY	SY & TRAVELLER SITE O 'S LANE, PARSON DROV		ND AT
DRAWING	PROPOSE	D DAY ROOM - PITCHES PLAN & ELEVATIONS)	61&2	2