

Applicant: Mr M Codona

Agent :

Land North West Of Nemphlar, Begdale Road, Elm, Cambridgeshire

Change of use of land to a 6no pitched travellers site involving the siting of 6 x mobile homes and 8 x touring caravans and 6 x utility buildings with associated works (part retrospective)

Officer recommendation: Grant subject to conditions

Reason for Committee: Parish Council comments contrary to Officer recommendation

1 EXECUTIVE SUMMARY

- 1.1 This application seeks planning permission for the change of use of land to deliver 6 no.pitches for occupation by those who meet the definition of gypsy and travellers' as specified within the Planning Policy for Traveller Sites (August 2015).
- 1.2 The site is located outside of the main settlement of Elm and as such the location is considered to be open countryside.
- 1.3 Recent appeal decisions have indicated that flood risk modelling data would be sufficient to allow highly vulnerable development to proceed despite the high flood risk category of the site, given that the residual risks of flooding are very low. It is apparent in this case that such a stance is also appropriate in this instance having given due regard to the site specific situation. Furthermore the applicant has submitted a sequential test document which demonstrates that there is no land available which could accommodate their proposals having due regard to their specific health needs, local connections and settled existence.
- 1.4 Similarly earlier appeal decisions have highlighted that there is nothing within either the National Planning Policy Framework (NPPF) or PPTS to suggest that traveller sites have to be accessible by means other than by private car. In fact both recognise that the lifestyle of travellers must be factored into the planning balance as such the more general sustainability issues would not be rigidly defended in this instance having due regard to the form of development proposed.
- 1.5 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.
- 1.6 The ultimate delivery of the scheme is however dependant on the applicant ensuring that matters arising with regard to legal access to the site being

resolved within the timeframes indicated. It should be noted that safeguarding conditions form part of the recommendation to ensure that no further works are undertaken in advance of this being achieved; thereby protecting the LPA position regarding the ability to take enforcement action should this be deemed necessary.

2 SITE DESCRIPTION

- 2.1 The site is an area of land of circa 8000 square metres situated to the west of Newbridge Lane, formerly open agricultural land with intermittent landscaping to the frontage. The site now features a 2 metre high close boarded fence situated behind the existing grass verge which runs along the frontage of the site alongside Newbridge Lane. There is further fencing along the south-eastern and north-western boundaries and evidence of a further intention to reinforce the north-western boundary with fencing, with posts evident, which also comprises an established hedgerow.
- 2.2 Elsewhere within the site is low-level paddock fencing and access is derived from the track that is situated to the south-east of the site which runs along the side boundary. There is a further gap in the fencing along the Newbridge Lane frontage which corresponds with a further access point shown on the submitted drawings. Individual plots are demarcated with fencing although the development is at its initial stages and the layout is in no way finalised in terms of the ultimate intended layout. At the time of site inspection there were a number of caravans and vehicles on the site.
- 2.3 To the south and south-west of the site is an approved solar farm and the Fenland Livery and Equestrian Centre is situated to the south-west, this facility which is accessed from Redmoor Lane is circa 450 metres distant.
- 2.4 To the north of the site on the opposite side of the road adjacent to the A47 is an established caravan site, 360 metres distant as the crow flies, and immediately to the south is a recently approved site for 'change of use of land to a traveller's site including the formation of 7 x static caravan pitches for the siting of 7 x mobile homes, 7 x touring caravans involving the formation of a bridge for a new vehicular access.
- 2.5 The site is within a location which encompasses Flood zones 1, 2 and 3.

3 PROPOSAL

- 3.1 This application seeks full planning permission for the laying out of the site as a 6 no. pitch traveller site which will involve the siting of 6 mobile homes and 8 touring caravans and 6 utility buildings with associated works which will include
 - 6 No. mobile homes; it is noted that the details of these units have not been specified however it is confirmed within the submission that these units will meet the definition of a caravan as prescribed by the Caravan Sites Act 1968.
 - 6 No. Utility/day buildings - these will comprise 2 buildings compatible for use by the disabled with overall dimensions of 13 metres long x 6 metres deep, with an eaves height of 2.2 metres and a ridge height of 3.4 metres. the remaining 4 utility/ day buildings will have overall dimensions of 10 metres long x 6 metres

deep again with an eaves height of 2.2 metres and a ridge height of 3.4 metres. Each of these units will comprise a kitchen/utility room, family sitting room and bathroom. These buildings will be constructed from brick and tile to match the local area, however precise details have not been specified.

- Each pitch will also make provision for the stationing of a touring caravan with two of the intended pitches making provision for a further touring caravan, making a total of 8 touring caravan pitches.
- There will be an access road formed just off centre of the site which will run at a slight diagonal to the rear boundary of the application site, along with access being derived from the existing access track which runs along the southern boundary of the site.
- An area of land is detailed within each plot for parking and turning, these are specified within the application to be formed from gravel. A grassed area and block paved patio is also proposed to feature on each pitch.
- Drainage will be derived from two existing septic tanks on the site which are indicated on the submitted site layout drawing.

3.2 It is further proposed to reinforce the existing boundary hedges and to create a landscape screen to the site alongside Newbridge Lane.

3.3 Whilst it is noted that a change of use has occurred, the site layout does not correspond with the layout shown on the submitted drawings except with regard to the fencing to the site frontage and alongside the southern boundary. A large static caravan has been stationed within the area shown as Plot 2 along with a touring caravan, two temporary utility buildings and two garden sheds; these are at variance to the positions shown on the layout drawing. The boundaries of this pitch have close boarded fencing to the north and east boundaries and post and rail fencing to the west and south. Hardstanding covers circa 60% of the pitch to the north and the rest of the pitch is laid to grass.

3.4 Similarly at plot 1 there is one static caravan, two touring caravans evident along with two temporary buildings, and has close boarded fencing to all boundaries (excepting at the access point which is gated. In addition the site is mainly laid to hardstanding with an area of grass in the north west-corner. Again this does not reflect the layout drawing.

3.5 There is hardstanding to the road leading from Newbridge Lane to the end of pitch 2 and the central access road shown on the layout has not been formed, nor has any hardstanding been formed on pitches 3 - 6, although there are motorised caravans at pitch 3 and 5. Close boarded fencing has been installed along the northern boundaries of pitches 3 & 4. There is an area of grass between pitch 1 & 2 which is part of pitch 1, this has two temporary storage containers stationed on it.

3.6 Full plans and associated documents for this application can be found at:
<https://www.fenland.gov.uk/publicaccess/simpleSearchResults.do?action=firstPage>

4 SITE PLANNING HISTORY

- 4.1 No planning history relating to the site

5 CONSULTATIONS

5.1 Parish Council

'The Parish Council considered this application at their June meeting and resolved not to support it. The proposed development extends the proliferation of traveller sites in an unsustainable location. Begdale Road is a rat-run used by inconsiderate drivers at excessive speed and the junction with New Bridge Lane is on a blind bend. New Bridge Lane is a narrow and poorly maintained highway not suitable for any additional traffic. The remote location offers no access to local facilities or amenities and this application appears to be the first stage of a much larger proposal using the remainder of the site to the west. Much of the site lies within flood zone 3, making it unsuitable for this type of development'.

5.2 Cambridgeshire County Council Highways Authority

Originally commented that *'Incremental traveller site development along this road will result in more traffic using the A47 junction'* and queried the views of Highway England in this regard. It was noted that *'this application will result in a significant length of New Bridge Lane being opened up to traffic again. Vehicles will need to be able to turn around in the laneway at the application site, so a suitable turning head will need to be provided that allows all vehicle types to turn around.*

The no entry traffic order is likely to require amendment. This will need to be done in consultation with CCC Policy and Regulation team. Successful amendment of this order is likely to be dependent upon the feedback from Highways England/affected land owners.'

Further queried how the site will be accessed and identified that *'if access is allowed from either the north or south only, then some form of Highway adopted turning head will be required so traffic can turn around without being reliant upon third party land. The no entry signage will then need to be relocated accordingly'*, subject to the TRO process. A site meeting attended by the Highways Officer and Development Officer was held with the applicant where these issues were discussed.

Following this up Officers sought a formal recommendation from CCC Highways with regard to the proposal, who subsequently agreed that subject to matters relating to the TRO being satisfactorily addressed, which would include an independent turning area suitable for a large scale vehicle being provided as an integral part of such a proposal there would be no objections from a highways perspective.

It was further accepted that should any permission be granted it would be on the proviso that the TRO amendment would be secured within 6-months of any decision being issued and that no additional development, as allowed for under any permission (if granted) would not take place until the physical works to effect the revised TRO (again if permitted) had been agreed and delivered. In this regard the Highways Officer highlights that *'the trouble with the TRO is this is a retrospective application with the applicant already accessing the site and in breach of the current TRO. Strictly speaking they should regularise the TRO before the planning application is determined or we need to advise them that the site*

cannot be accessed by motor vehicle until the no entry TRO is amended along New Bridge Lane.

Suggested condition wording

Within 6 months of the date of this permission the No Entry Traffic Regulation Order along New Bridge Lane is amended/relocated in accordance with a scheme to have previously been submitted to and approved in writing by the Local Planning Authority.

Reason - In the interests of highway safety and to ensure compliance with Policies LP2, LP15 and LP16 of the Fenland Local Plan 2014.

IN ORDER TO DISCHARGE THIS CONDITION REFER TO ADVISORY NOTE 1

Advisory

You are advised that the site cannot be accessed by motor vehicle until such time the no entry TRO is relocated to a position north of the development access on New Bridge Lane.

You are advised that a Traffic Regulation Order (TRO) is required. You must submit a plan to a scale of 1:1000 of an indicative scheme for a TRO, along with timescales for commencement and completion of the development. Please be aware that the statutory TRO process is not straightforward; involving the public advertisement of the proposal(s) and the resolution of any objections.

You should expect a minimum of six months to elapse between the Highway Authority's TRO Team confirming that it has all the information necessary to enable it to proceed and the TRO being advertised. You will not be permitted to implement the TRO measures until the TRO has been sealed, and we cannot always guarantee the outcome of the process.

We cannot begin the TRO process until the appropriate fee has been received. To arrange for a TRO to be processed contact the Cambridgeshire County Council Transport Development Management Team.

N.B. The cost of implementing any lining, signing or resurfacing required by the TRO is separate to the TRO fees, which solely cover the administration required to prepare, consult, amend and seal the TRO.

5.3 CCC (Lead Local Flood Authority)

'Whilst the development does not appear to constitute major development we have reviewed the drainage statement. The statement advises that the site is located within an IDB area and drainage charges are already paid to the IDB to drain the site. Based on this we don't have an objection to the proposed development'.

5.4 Traveller And Diversity Manager (Mr David Bailey FDC)

'The proposal is for a family site to accommodate the extended Codona family. I have asked for a family tree to be put together and submitted as a supplementary document to the planning service to clarify everyone's relationship. I understand that this is being produced and will be with you shortly.

Personal Circumstances: Due to the complexity of the personal health & welfare circumstances of the applicant I had to refer this matter to [...] the Gypsy Traveller Lead Health Nurse for Cambridgeshire. I understand that this assessment has

been completed for each of the intended occupants and that this has been sent in a confidential letter to the planning service.

This should cover all but if you require any further information then let me know and I'll obtain this on behalf of the Council.

Gypsy Status: All those living on the proposed site are recognised as ethnic Gypsy Travellers. Some continue the traditional lifestyle and are therefore recognised under the PPTS Traveller definition and those that have stopped traveling for either health reasons or to be educated would also be recognised as such if they resumed a nomadic lifestyle in the future. From my conversations with the Codona's this seems to confirm what has previously been stated to me.

I, therefore, believe that the proposal is for a site that will be occupied by Gypsy Travellers.'

5.5 Private Sector Housing Team (FDC)

'The Private Sector Housing team have no objections to this application'.

5.6 Cambridgeshire Fire & Rescue Service

'With regard to the above application, should the Planning Authority be minded to grant approval, the Fire Authority would ask that adequate provision be made for fire hydrants, which may be by way of Section 106 agreement or a planning condition.'

5.7 Environment Agency

'We have no objection to the proposed development but wish to make the following comments.

[...] In accordance with the National Planning Policy Framework (NPPF) paragraph 158, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is for the Local Planning Authority to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk as required by the Sequential Test in the NPPF. Our flood risk standing advice reminds you of this and provides advice on how to do this.

By consulting us on this planning application we assume that your Authority has applied and deemed the site to have passed the NPPF Sequential Test. Please be aware that although we have raised no objection to this planning application on flood risk grounds this should not be taken to mean that we consider the proposal to have passed the Sequential Test.

Review of Flood Risk Assessment (FRA)

We have no objection to this application, but strongly recommend that the mitigation measures proposed in the submitted Flood Risk Assessment (FRA) by Geoff Beel Consultancy ref: GCB/Codona dated February 2020 are adhered to.

The FRA states:

□ Finished floor levels shall be set a minimum of 400mm above existing ground level at 3.1mAOD.

Advice to the Applicant Flood Warning

We support the recommendation in the FRA that the occupiers of the site sign up to Floodline Warnings Direct to receive advance warning of flooding.

Flood Resilient Measures

Any proposed flood resilient measures should follow current Government Guidance. For more information on flood resilient techniques, please see the Department for Communities and Local Government (DCLG) guidance document "Improving the Flood Performance of New Buildings – Flood Resilient Construction", which can be downloaded from the following website: <https://www.gov.uk/government/publications/flood-resilient-construction-of-newbuildings>

Foul Drainage

The site is located in an area which is not served by the public foul sewer. Accordingly, the proposal will need to be served by a non-mains drainage system.

In addition to planning permission you may also require an Environmental Permit from the Environment Agency. Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or from a treatment plant at 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone. Discharges from septic tanks directly to a surface water are not allowed under the general binding rules.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.'

5.8 Local Residents/Interested Parties

None received

6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan

for the purposes of this application comprises the adopted Fenland Local Plan (2014).

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

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

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF)

Para 11 – Presumption in favour of sustainable development

Para 47 – Decisions should accord with the development plan

Para 91 – Promoting health and safe communities

Para 102 – Promoting sustainable transport

Para 127 – Good design

Para 170 – Conserving and enhancing the natural environment

7.2 National Design Guide

Context: C1 - Relationship with local and wider context

Identity: I1 - Respond to existing local character and identity

Built Form B1- Compact form of development

Movement: M3 - Well-considered parking, servicing and utilities infrastructure for all users

Uses: U1 - A mix of uses, U2 - A mix of home tenures, types and sizes, U3 - Socially Inclusive

Homes and Buildings: H1 - Healthy, comfortable and safe internal and external environment and H3 - Attention to detail: storage, waste, servicing and facilities

7.3 Fenland Local Plan 2014 (FLP)

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside

LP14 – Flood Risk

LP15 – Sustainable Transport

LP16 – Delivering and Protecting High Quality Environments

LP19 – The Natural Environment

7.4 Planning Policy for Traveller Sites 2015 (PPTS)

Policy B - Planning for traveller sites

Policy C - Sites in rural areas and the countryside

Policy H – Determine planning application for traveller sites

Policy I – Implementation

8 KEY ISSUES

- Principle of Development
- Gypsy & Traveller Status
- Need for Pitches
- Availability (or lack) of alternative accommodation for the applicants

- Personal Circumstances of the applicant
- Character and Appearance
- Impact on the amenity of neighbours and dominance of the nearest settled community
- Access, sustainability and highway considerations
- Flood risk and drainage
- Human Rights considerations

9 BACKGROUND

- 9.1 It is noted that the Codona family took up residence on the site during September 2019; the submitted planning statement summarises that there is one large static caravan, two motorised caravans, seven touring caravans and two temporary utility buildings on the site. It is noted from the submitted documents that there are two existing sealed septic tanks on the site the installation of which is attributed to a previous occupant of the land. As indicated under Paras. 3.3 and 3.4 above the site is not laid out as per the submitted drawings.

10 ASSESSMENT

Principle of Development

- 10.1 The site is deemed to be in the countryside being as it is on the periphery of Elm. The principle of gypsy and traveller sites within the open countryside is supported by Part D of Policy LP5 subject to the following criteria being met:
- a) The site and its proposed use should not conflict with other development plan policies or national planning policy relating to issues such as flood risk, contamination, landscape character, protection of the natural and built environment, heritage assets or agricultural land quality; and
 - b) The site should provide a settled base and be located within reasonable travelling distance of a settlement which offers local services and community facilities, including a primary school; and
 - c) The location, size, extent, access and boundary treatment of the site should allow for peaceful and integrated coexistence with the occupiers of the site and the local settled community; and
 - d) The site should enable safe and convenient pedestrian and vehicle access to and from the public highway, and adequate space for vehicle parking, turning and servicing; and
 - e) The site should enable development which would not have any unacceptable adverse impact on the amenities of occupiers of nearby properties, the health and well-being of any occupiers on site, or the appearance or character of the area in which it would be situated; and
 - f) The site should be served by, or be capable of being served by, appropriate water, waste water and refuse facilities whilst not resulting in undue pressure on local infrastructure and services.

Consideration of these issues will form part of the evaluation of the scheme below.

- 10.2 Policy LP5 further states that the Council will be prepared to grant permission for sites in the countryside provided that there is evidence of a need (identified in the local assessment), that the intended occupants meet the definition of Gypsy and Traveller and provided that listed criteria outlined above are met.
- 10.3 The Planning Policy for Traveller Sites 2015 (PPTS) also offers a policy framework specifically with regard to the consideration of applications of this nature and relevant policies are also considered in the evaluation below.
- 10.4 In this event, any permission granted will restrict the construction of permanent built structures to small amenity blocks associated with each pitch, and the Council will ensure, by means of a condition or planning obligation, that the site shall be retained for use as a Traveller site in perpetuity. Therefore, the principle of development is considered to be acceptable subject to compliance with the policy considerations below.

Gypsy & Traveller Status

- 10.5 The planning definition of 'gypsy and travellers' is specified within the PPTS, as follows:

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

- 10.6 The PPTS states in determining whether persons are gypsy and travellers, consideration should be given to the following issues amongst other relevant matters:
- a) Whether they previously led a nomadic habit of life.
 - b) The reasons ceasing their nomadic habit of life.
 - c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.
- 10.7 Confidential personal information accompanies the application, which has been accepted by the Council's Traveller and Diversity Manager. This supporting information includes an independent review of the extended family group and their particular health needs together with a family tree document which outlines the relationships between the intended residents of each pitch.
- 10.8 It is considered that the applicants and extended family meet the definition of gypsy and travellers as specified within the PPTS and the consideration of the application proceeds on this basis.

Need for Pitches

- 10.9 The PPTS states that the Local Planning Authority should set pitch targets for gypsies and travellers that address the likely permanent and transit site accommodation needs and have an up-to-date 5 year land supply. This is also echoed within Policy LP5 Part D.
- 10.10 Policy LP5 Part D indicates 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 2020 (PINS reference: APP/D0515/C/19/3226096) identified that there was an unmet need

within Fenland - this being a matter of common ground between the Local Planning Authority 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.

- 10.11 Given that there is an unmet need the application has the potential to achieve compliance with policy.

Availability (or lack) of alternative accommodation for the applicants

- 10.12 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

Personal Circumstances of the applicant

- 10.13 The applicant has provided a confidential statement from the Lead Nurse, Gypsy Traveller Health clarifying the applicant's personal circumstances and providing some detail as to why the applicant should be accommodated at this location. The letter of support covers all intended occupants, i.e. the 6 households.
- 10.14 Initially however, the assessment of this application should be carried out on the basis that the application would meet the accommodation need of persons of Gypsy Traveller status, i.e. as an application for 6 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

Character and Appearance

- 10.15 Policy LP5 Part D paragraph (a) of the Fenland Local Plan 2014 states that proposed use should not conflict with other development plan policies. Policy LP16 paragraph (d) seeks to protect local distinctiveness and the character of the area.
- 10.16 The site is located to the south-western side of Newbridge Lane. It is circa 350 metres from Begdale Roa, Elm beyond the Dairy Building which occupies the corner of this junction. The surrounding land is in agricultural use and therefore the site is within the open countryside with no built form within the immediate vicinity.
- 10.17 Accordingly the site, with its fenced boundary, will be prominent within the immediate locality however key views from Redmoor Lane will be at a distance and given the presence of development within Redmoor Lane the wider views of the site from a distance are interrupted, to a degree, by built form. In this regard, the proposed site would not appear overly isolated or wholly out of character. Nonetheless the proposed development would urbanise the immediate area and would be difficult to fully mitigate through soft landscaping
- 10.18 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.

10.19 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”.

10.20 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 criteria based policies where there is no such need, and Paragraph 25 which expects sites to be located in the countryside, albeit with restrictions, but without any precondition of evidence of need.

10.21 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. 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

10.22 The development is considered to be relatively small scale providing for the accommodation needs of 6 households. Furthermore, the site is set a notable distance away from the nearest settled community at Begale Lane to the 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 at a level which could not otherwise be controlled though Environmental Protection legislation e.g. noise, odour or pollution should it arise

Access, sustainability and highway considerations

10.23 An appeal decision relating to Bevis Lane ENF/183/17/UW acknowledges that the “PPTS envisages that gypsy sites may be located in rural areas, whilst noting that new traveller sites in open countryside away from existing settlements should be very strictly limited”. In the case of the Bevis Lane appeal the Inspector considered that “the proximity of the facilities available [...] mean that the site is suitably close to an existing settlement and would not conflict with the advice in the PPTS”.

10.24 A further appeal decision relating to The Spinney, Horsemoor Road, Wimblington within the decision letter noted that “There is nothing within either the National Planning Policy Framework (NPPF) or PPTS to suggest that traveller sites have to be accessible by means other than by private car. In fact both recognise that the lifestyle of travellers must be factored into the planning balance”. This stance is further reinforced by the Bevis Lane appeal highlighted above.

10.25 As such, given the distance to the nearby settlements of Wisbech and Elm it is considered that the application site is situated within a sustainable location and provides a settled base. Consequently, criterion b of Policy LP5 Part D is met.

- 10.26 There are specific issues relating to site access which are focused around the legal right to access the site given that there is a Prohibition of Driving Order in place relating to Newbridge Lane, this having come into effect on the 22nd June 2007. In essence it prohibits any motor vehicle to proceed along Newbridge Lane unless they hold a permit to do so. Within the TRO it is noted that permits will only be issued to land owners requiring access to land, statutory undertakers, the emergency services and local authorities.
- 10.27 It is a point of disagreement between the County Council and the applicant as to whether this impinges on his legal right to access the land which forms the application site. Notwithstanding this the applicant has indicated that should permission be granted for the development outlined it would be his intention to formally apply to the County Council to amend the TRO to relocate the physical barrier (gate) situated at the junction of Newbridge Lane and Begdale Road to a location just beyond the access to his site. It would also be his intention to undertake highway works to provide a turning area at the entrance to the site and there appears available land on which to deliver such a facility.
- 10.28 It is noted that the CCC Highways team indicate that '*strictly speaking*' the applicant should regularise the TRO before the planning application is determined and it is agreed that ideally this would be the case. However the applicant has indicated that the financial outlay to instruct an agent to prepare the necessary drawings and progress such an application is cost prohibitive without resolving the planning status relating to the occupation of the site.
- 10.29 There is risk from the applicants perspective as they may be left in a situation that they have a planning permission which is incapable of implementation should the application to vary to the TRO fail. However from a planning perspective it is considered that the further development of the site can be suitably controlled by condition and that the enforcement position would not be undermined given that the development as undertaken on site would not be regularised by the grant of planning permission at this time; noting that the form of development undertaken does not accord with the site layout contained within the submission excepting the fencing elements which to a certain degree would be permitted development, save for the fencing along the verge side of Newbridge Lane.
- 10.30 It would be necessary to expand the condition as recommended by the CCC Highways team to ensure that no further development is undertaken with regard to the site until the TRO matter is resolved, in addition it would not appear reasonable to impose a 6-month time-period in this regard noting the likely time-frames indicated by the LHA - with a 12-month period being deemed more realistic. Similarly the advisory statements suggested by the CCC Highways team can be included on any consent issued and the onus will rest on the applicant to heed these statements, with the Police being able to enforce the provisions of the existing TRO should this be deemed expedient.
- 10.31 With regard to access and parking within the site it is considered that these are suitable to serve the requirements of the individual households and as such the scheme has the potential to achieve compliance with Policy LP5 Part D (d).

Flood risk and drainage

- 10.32 The site contains land identified as flood zone 3 (towards the rear), flood zone 2 (central) and flood zone 1 (to the front of the site). As highly vulnerable development (i.e. caravans, mobile homes and park homes intended for

permanent residential use) the flood risk vulnerability classification notes that 'development should not be permitted' in the case of Flood Zone 3 areas and that the exception test will be required in respect of the Flood Zone 2 areas.

- 10.33 The applicant has confirmed that the site layout will be revisited to ensure that the mobile homes will be situated outside of the flood zone 3 areas of the site and this may be conditioned. Notwithstanding this it is noted that the site under consideration is featured in the Fenland District Council Wisbech Level 2 Strategic Flood Risk Assessment with the modelled Tidal Nene Breach Depth Mapping 0.5% (1 in 200) showing a maximum depth of 0 - 0.25 metres along Newbridge Lane and the site itself remaining free from flooding.
- 10.34 With regard to the site specific considerations it is noted that the EA have raised no objection to the proposal 'but strongly recommend that the mitigation measures proposed in the submitted Flood Risk Assessment (FRA) by Geoff Beel Consultancy ref: GCB/Codona dated February 2020 are adhered to'; this could be achieved via condition.
- 10.35 A drainage statement has been produced in support of the application this identifies that a connection to mains drainage is not feasible and that foul water will be dealt with by way of existing sealed septic/sewer tanks as shown on the proposed site plans. With regard to surface water it is noted that only a small area of impermeable surfaces will be laid as part of the development, to provide a small patio on each pitch. All other hardstanding will be permeable and much of the existing paddock will be retained.
- 10.36 The proposed driveway, parking and courtyard areas will be a permeable gravel surface with water from the roofs of the mobile homes, touring caravans and patio areas directed towards filtered drains which will run into a soak away system as shown on plans and the permeable hardstanding which will also act as a soakaway. Any overflow from surface water will be directed into water ditches which run along both the north and south boundary of the property for which an annual charge has already been paid to the drainage to the drainage board for drainage of the property.
- 10.37 With regard to the sequential and exceptions test it is noted that the original submission was silent in this regard and the applicant has been given the opportunity to address this through the submission of additional details. These details have been provided and evidence that there is no land available within the area that could accommodate their proposals. Officers have undertaken their own Rightmove search and can confirm this to be the case. It is appreciated that the sequential test area focuses on the local area however this is reflective of the local connections and specific health care requirements of applicant and his wider family unit who are noted to be under the care of local health providers. It is further noted that young persons within the family have settled at the local school.
- 10.38 Notwithstanding the requirements of the sequential test it is acknowledged that the two parts of the exception test may be deemed to be satisfied through
- (a) The provision of a satisfactory site specific flood risk assessment which has been accepted by the Environment Agency, and
 - (b) Noting that the LPA has accepted in similar cases that, by addressing a shortfall of accommodation needs for the traveller community where an

inadequate supply of housing currently exists such schemes align with the District's sustainability objectives, as outlined under 2.4 of the FLP which 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 evidences compliance with the first part of the exception test which requires schemes to demonstrate 'Wider community sustainability benefits'.

- 10.39 Based on the details submitted by the applicant in this regard above evaluation it is considered that the proposal on balance satisfies the sequential test and as such will achieve compliance with Policy LP14 of the FLP (2014)

Human Rights considerations

- 10.40 Due regard has been given to the Applicant's Human Rights. Interference to these qualified rights may be justified where in the public interest of which protection of the environment is a constituting factor. Given that the development will serve gypsy and travellers and in the absence of unacceptable environmental harm to the character of the open countryside it is concluded that there are no human rights issues to reconcile.

Other matters

- 10.41 Section 100ZA(5) of the Town and Country Planning Act 1990 provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition (except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018).
- 10.42 The applicant has been consulted on the proposed conditions and their acceptance of the same or otherwise will be reported to the committee. Therefore, should the application be approved and the consent granted with the proposed conditions after 1st October 2018, it is considered that the requirements of section 100ZA(5) have been met.

The proposed conditions are as follows;

Condition 1 - No further development as shown on the submitted layout drawing shall be undertaken on site until the requirements of condition 5 have been satisfied.

Reason - To define the scope of the consent and to ensure that a satisfactory and lawful access to the site is achievable.

11 CONCLUSIONS

- 11.1 The LPA can be satisfied, having due regard to the relevant policy framework that there is a lack of material harm in terms of character and sustainability.
- 11.2 Furthermore it is not necessary to establish whether there is an overriding need for gypsy sites or personal circumstances which weigh in favour of permitting the development given that there is evidence of unmet need for such provision within Fenland
- 11.3 Accordingly the scheme is considered policy compliant in terms of both local and national policy, having due regard to the Planning Policy for Traveller Sites (August 2015).

- 11.4 It is however necessary to safeguard against future development prior to matters relating to the Prohibition of Driving Order being resolved and this may be appropriately addressed through the imposition of a suitably worded condition.

12 **RECOMMENDATION: Grant subject to conditions**

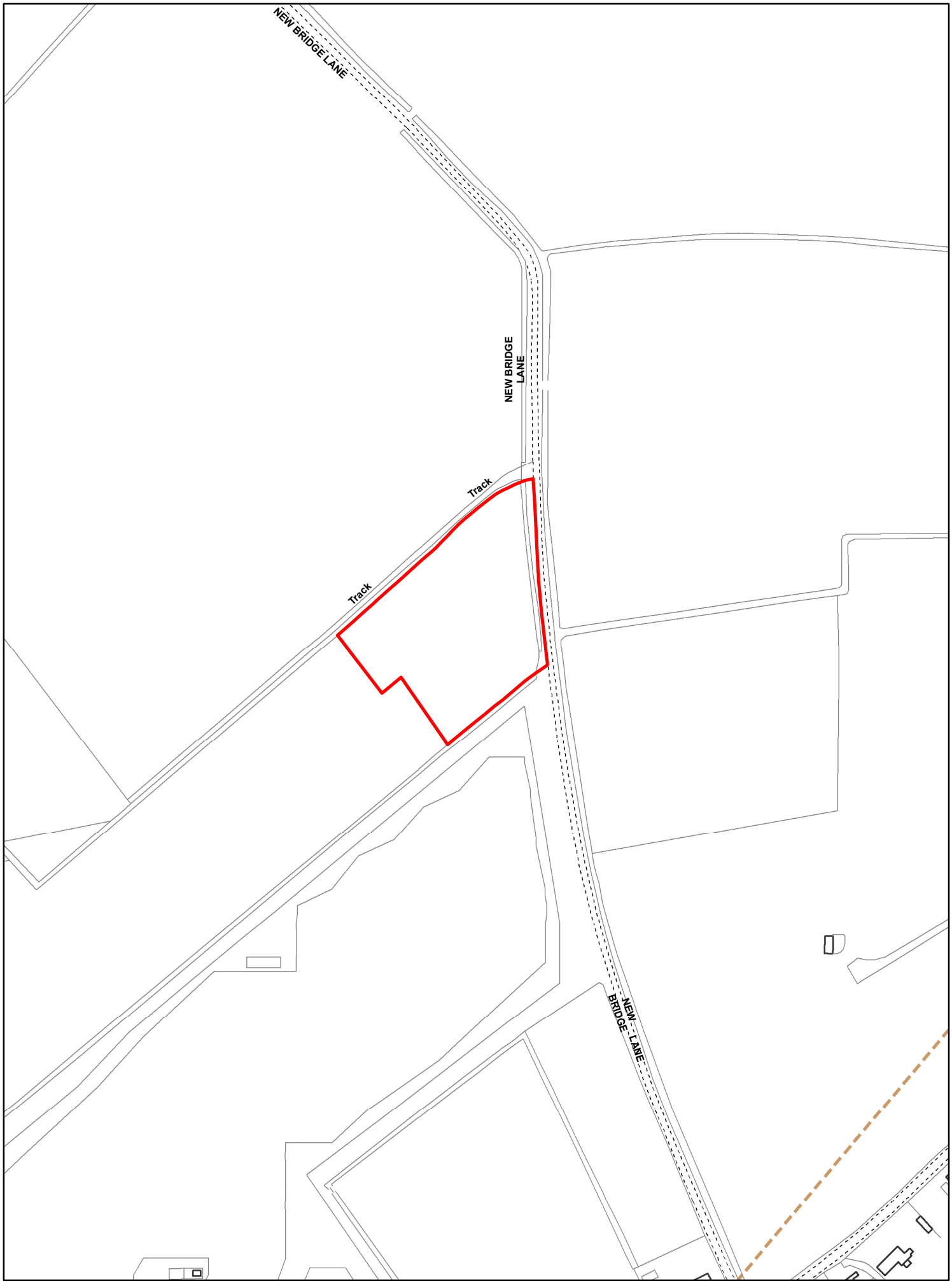
Conditions

1	<p>No further development as shown on the submitted layout drawing shall be undertaken on site until the requirements of condition 5 have been satisfied.</p> <p>Reason - To define the scope of the consent and to ensure that a satisfactory and lawful access to the site is achievable.</p>
2	<p>The site shall be limited to six 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.</p> <p>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.</p>
3	<p>Notwithstanding condition 3, two touring caravans may be stationed on Pitch numbers 1 and 2 as indicated on the site layout drawing.</p> <p>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.</p>
4	<p>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".</p> <p>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.</p>
5	<p>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 requirements set out in</p> <p>(i) to (iv) below:</p> <p>(i) Within 12 months of the date of this permission the No Entry Traffic Regulation Order along New Bridge Lane shall be amended/ relocated in accordance with a scheme to have previously been submitted to and approved in writing by the Local Planning Authority.</p>

	<p>(ii) Within 4 months of the date of this decision, notwithstanding the details shown on the submitted site layout drawing a scheme detailing:</p> <ul style="list-style-type: none"> (a) the proposed access(es) to the site and each individual pitch (b) all caravans intended for permanent occupation outside the flood zone 3 area of the site (c) fencing (d) hard surfacing areas (e) soft landscaping, including the boundary landscaping <p>shall be submitted for the written approval of the local planning authority. The scheme shall provide construction specification for the main accesses 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. These works shall subsequently be undertaken prior to the occupation of the pitch to which they relate and maintained as such in perpetuity thereafter.</p> <p>(iii) 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.</p> <p>(iv) The scheme shall have been completed fully in accordance with the details as submitted and approved under step (ii).</p> <p>(v) 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.</p> <p>Reason - To ensure safe access to the site in the interests of highway safety and to ensure compliance with Policies LP2, LP14, LP15 and LP16 of the Fenland Local Plan 2014. 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 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.</p>
6	<p>The floor levels of any habitable structure shall be set a minimum of 400mm above existing ground level at 3.1mAOD.</p> <p>Reason - In order to safeguard future occupiers and possessions in the event of flooding in accordance with LP14 of the Fenland Local Plan, 2014</p>
7	<p>Prior to any further development above slab level details of the materials to be used in the construction of the utility block/day rooms shall be submitted to and approved in writing by the Local Planning Authority; all works shall then be undertaken strictly in accordance with the agreed details.</p>

	Reason - To ensure that the appearance of the development is satisfactory and complies with Policies LP16 of the Fenland Local Plan (2014).
8	<p>No commercial activities shall take place on the land, including the storage of materials.</p> <p>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.</p>
9	<p>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.</p> <p>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</p>
10	<p>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.</p> <p>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.</p>
11	<p>Space shall be made available at all times to enable the turning and parking of all vehicles calling at the site.</p> <p>Reason - In order to ensure the free flow of traffic along Newbridge Lane in the interests of highway safety in accordance with policy LP15 of the Fenland Local Plan, 2014.</p>
12	<p>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, except as allowed under conditions 2 & 3.</p> <p>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.</p>
13	<p>All hard and soft landscape works shall be carried out in accordance with the approved details. 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</p>


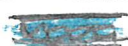


	<p>be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason - To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policy LP16 of the Fenland Local Plan 2014.</p>
14	<p>Within 6-months of the date of this decision a scheme and timetable for the provision of fire hydrants shall be submitted to, and agreed in writing by, the Local Planning Authority in consultation with the Chief Fire Officer and provision of the fire hydrants shall be made in accordance with the scheme and timetable.</p> <p>Reason - To ensure a satisfactory form of development.</p>
15	Approved plans







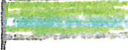
1:2500

Drawing 03
Proposed Site Plan
Scale 1:500 at A3

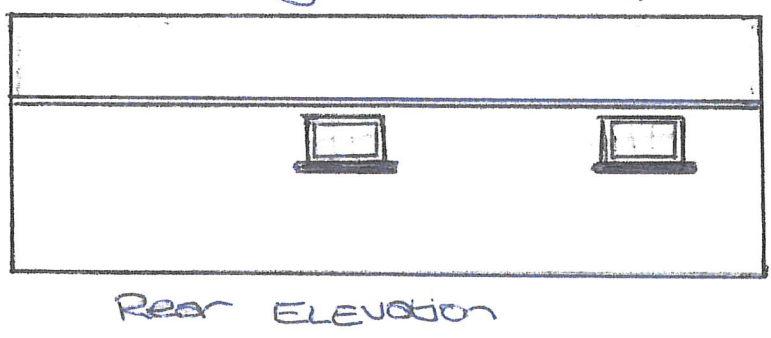
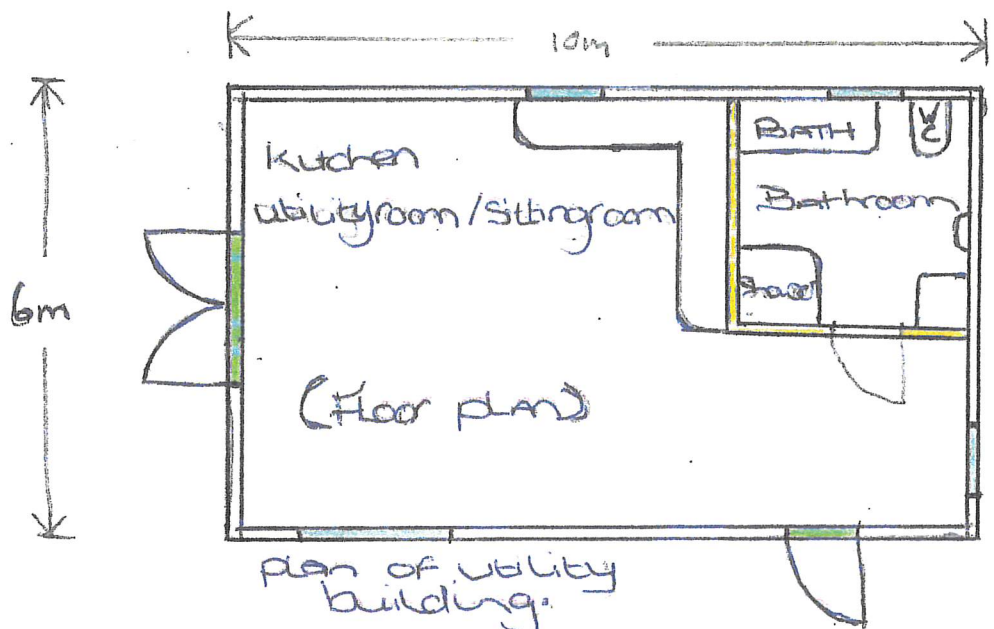
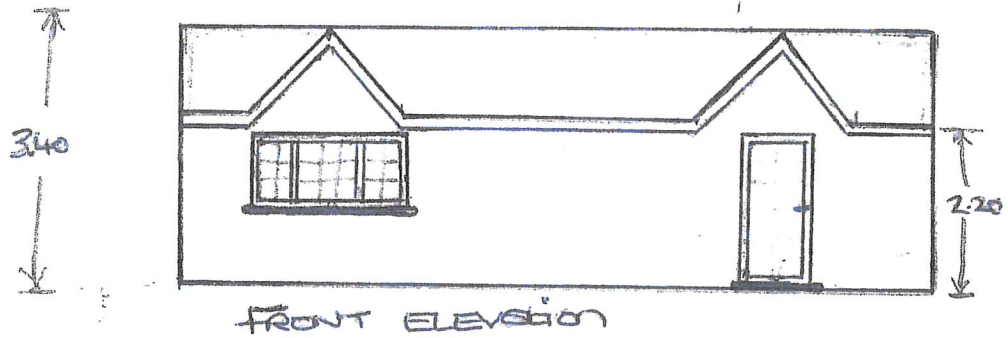
SC	static caravan		
C	touring caravan		Gross areas
DU	Disabled utility block		Proposed new hedge row
U	utility block		
	drain that no longer exists.		
	Existing mature hedge row		
	Sewer toilet. Pipes		
	Existing septic tanks		
	Gates / Entrance		
	Access roads		

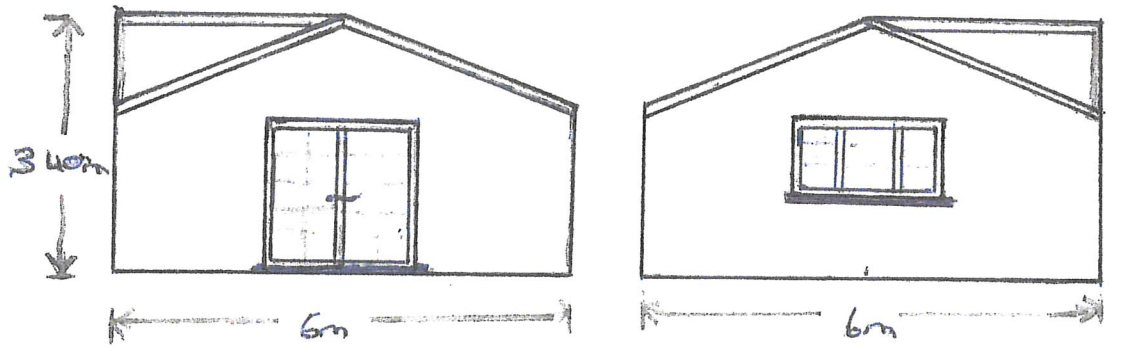
This part of the drain does not exist no longer



	Windows
	Internal walls
	Door ways

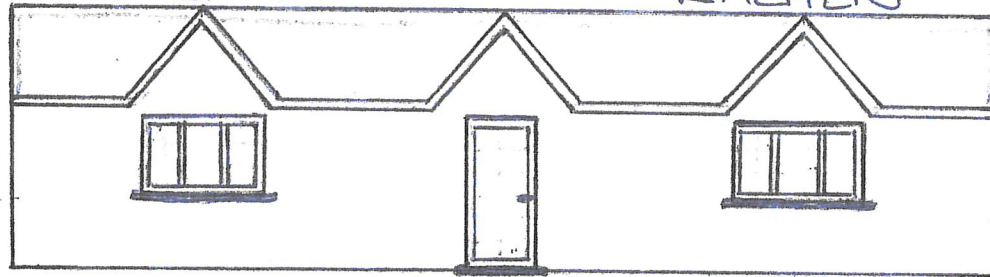
Drawing 02
UTILITY BUILDING
Plan and Elevations
Scale 1:100 on A4



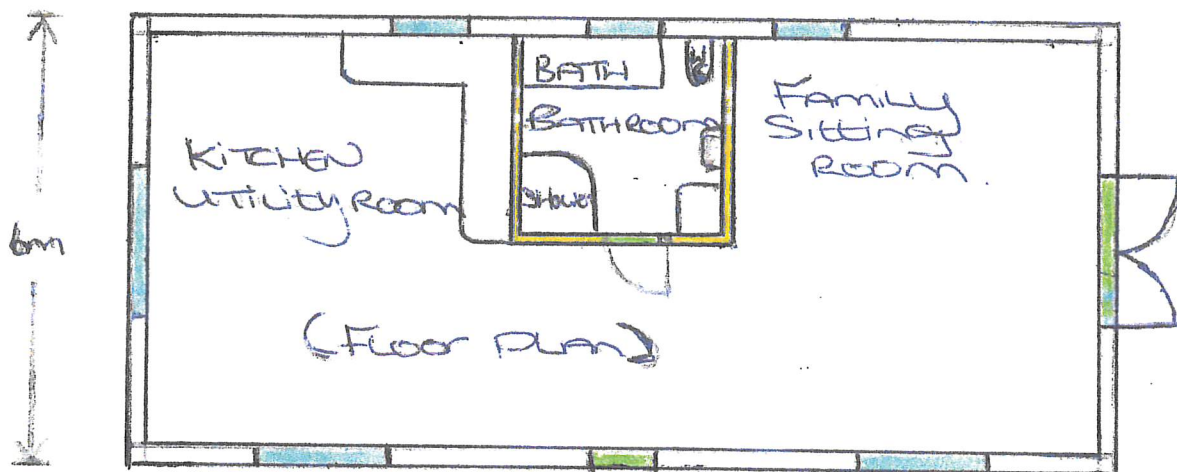


SIDE ELEVATION
SITTING ROOM

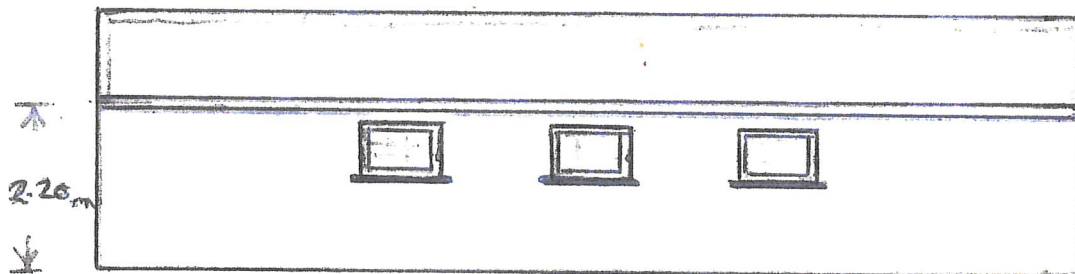
SIDE ELEVATION
KITCHEN



FRONT ELEVATION



PLAN OF DISABLED
UTILITY BUILDING



REAR ELEVATION

	Windows
	Internal Walls
	Door Walls

DRAWING OF
UTILITY BUILDING (DISABLED)
PLAN AND ELEVATIONS
SCALE 1:100 at A4