DECISION DELEGATED TO HEAD OF PLANNING

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Application No:	**H06-0532-23**	**Applicant:**	**Mr J Rooney**
Proposal:	Change of Use of Agricultural Land to Provide 5 Gypsy/Traveller Family Pitches Each having a Static Mobile Home, Dayroom, Parking for a Tourer and 2 Vehicle Spaces together with a Treatment Plant, the Laying of Hardstanding and Associated Ancillary Works - re-submission of H06-0216-23 (part retrospective)		
Location:	Land At The Orchards Blazegate Gedney		
Terminal Date:	22nd December 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
19	Rural Exception Sites
20	Accommodation for Gypsies, Travellers and Travelling Showpeople
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

National Planning Policy Framework Sections

Section 2: Achieving sustainable development
Section 4: Decision-making
Section 5: Delivering a sufficient supply of homes
Section 9: Promoting sustainable transport
Section 12: Achieving well-designed and beautiful places
Section 14: Meeting the challenge of climate change, flooding and coastal change
Section 15: Conserving and enhancing the natural environment

Planning Practice Guidance

Planning Policy for Traveller Sites

Policy A: Using evidence to plan positively and manage development

Policy B: Planning for traveller sites
Policy C: Sites in rural areas and the countryside
Policy D: Rural exception sites
Policy H: Determining planning applications for traveller sites
Policy I: Implementation
Annex 1

The Housing and Planning Act 2016

Caravan Sites and Control of Development Act 1960 - Section 5

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	3	0	0	3

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for the change of use of agricultural land to provide 5 Gypsy/Traveller family pitches, each having a static mobile home, a dayroom, parking for a tourer and two vehicle spaces, together with play areas, laying of hardstanding, and associated works on land known as 'The Orchards', Blazegate, Gedney.

The application is retrospective, as there are already touring caravans on site. During the officers site visit it was apparent that caravans were present on site.

Site Description

The site is classed as agricultural in planning terms, but it has not been maintained as such and had become more naturalised in terms of appearance. There are trees to the northern, western and southern boundaries. Only part of the eastern boundary is treed, with a large proportion of those that formerly stood along this boundary having been felled and replaced with closeboard fencing.

The overriding character of the area is rural countryside, with very limited development in the vicinity. The closest dwelling is immediately opposite the site to the north and there are a small number of dwellings and commercial premises to the north-east around the junction of Blazegate and Gipsy Lane.

History

H06-0772-21 - Change of use from agricultural land to provide 5 gypsy/travel - Refused 17.01.2022

This application contained two reasons for refusal. It was concluded that the application was contrary to Policy 4 of the South East Lincolnshire Local Plan (2019) due to the flood risk vulnerability of the site, as well as being contrary to Policy 1, due to the Council already granting permission for sufficient pitches within the plan period to satisfy both the known and unknown need outlined in the South East Lincolnshire Local Plan, 2019.

H06-0791-22 - Change of use of agricultural land to provide 5 gypsy/travel - Decline to Determine

South Holland District Council declined to determine application H06-0791-22 for the following reasons:

This decision follows the enforcement notice served by South Holland District Council ("Council") in respect of land at Silver Birch Lane, off Blazegate, Gedney, Spalding, PE12 0FU ("Site") with an effective date of 9 March 2022 ("Enforcement Notice") and the subsequent application for planning permission submitted to the Council by Mr Rooney ("Applicant") and given reference H06-0791-22 ("Application") for: "Change of use of agricultural land to provide 5 gypsy/traveller family pitches each having a static mobile home, dayroom, parking for a tourer and 2 vehicle spaces together with a treatment plant, the laying of hardstanding and associated ancillary works (part retrospective) - re-submission of H06-0772-21" ("Proposed Development").

The Council considers it clear that granting planning permission for the Proposed Development would require the grant of permission for "the matters specified in the enforcement notice as constituting a breach of planning control", thereby engaging Section 70C for the following reasons: Both the Application and the Enforcement Notice relate to the same area of land/part;

The Enforcement Notice specifies the residential use of the Site by gypsy/travellers and the stationing of caravans for human habitation and associated operational development on the Site as the breach of planning control; the Application seeks permission for gypsy/traveller family pitches together with ancillary works. The Council therefore considers that the Application seeks permission for precisely the use and works specified in the Enforcement Notice.

The Enforcement Notice was issued on 2 February 2022 (predating the Application by over 6 months) and therefore was a "pre-existing enforcement notice" for the purpose of the Act.

H06-0216-23 - Change of use of agricultural land to provide 2 gypsy/travel - Withdrawn

This application was withdrawn.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Lincolnshire Police

Lincolnshire Police do not have any objections to this application

Anglian Water

The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details. The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing our infrastructure maps on Digdat.

South Holland Drainage Board

Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treated Foul Water)

A package treatment plant, however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

LCC Highways/SUDS

Highway comments relating to highway safety only: No objection:

There are no footways on Blazegate and the Application Site is therefore not accessible on foot, other than by walking along the carriageway. However, this is no different to other Gypsy/Traveller sites that have received Planning Consent in recent years. The site is a little way outside of the nearest village and so the majority of residents' trips would most likely be undertaken by motor vehicle.

Provided the hedge, trees and other vegetation at the site frontage are removed in accordance with the submitted drawing, numbered 20/Blaze/02 Rev. C, dated September 2021, then the visibility at the site entrance will be suitable to provide safe egress from the site into the public highway.

Therefore, having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that there is insufficient cause to withhold the grant of Consent for the proposed development by reason of it being expected to have an unacceptable impact upon highway safety.

Gedney Parish Council

Council Strongly object to this application. It has been refused previously and refused at appeal.

Council stand by their original objections in 2021 as follows:

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and its associated planning practice guidance. We recommend that planning permission is refused on this basis. Reason The planning practice guidance (PPG) classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. This site lies within Flood Zone 3a, which is land defined by the PPG and your Strategic Flood Risk Assessment as having a high probability of flooding. Caravans and mobile homes intended for permanent residential use are classed as highly vulnerable 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. Flood risk assessment Although the development is inappropriate to the Flood Zone in which the application site is located, a flood risk assessment (FRA) has been included in the design and access statement. The FRA does not demonstrate that the development and its future occupants will be safe for the lifetime of the development. The FRA incorrectly identifies the hazard mapping depths the development site could experience. The site could experience depths of between 0.5- 1.0 metres and 1.0 - 1.6.

Are in total agreement with all objections raised by John Hayes MP.

This Application would greatly increase traffic and therefor pollution and the roads are not adequate to take more traffic.

There is no infrastructure in this area to accommodate such a development

SHDC Environmental Protection Officer

No comments

Environment Agency

Environment Agency position
We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and planning practice guidance (PPG). We recommend that planning permission is refused on this basis.

Reason
NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. This site lies within Flood Zone 3a, which is land defined by the PPG as having a high probability of flooding.

Caravans and mobile homes intended for permanent residential use are classed as highly vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

The site could experience depths of between 0.5m - 1.0m and 1.0 - 1.6m arising from a breach in the defences during a flood that has a 0.1% tidal chance of occurring in any one year up to 2115. In such a scenario the flooding would pose a 'Danger to Most', which means there will be danger of loss of life for the general public. We note that the supporting flood risk assessment suggests mitigation such as a flood warning and evacuation plan, securing the homes to the ground using a chains and anchors, and raising the finished floor levels of the static mobile homes and dayrooms 1.6m above existing ground level, can be implemented. It is our view that this is inadequate as the site could be subject to, and surrounded by flood water of up to, and in places in excess of 1.6m deep, which could not be considered safe. The occupants could be stranded in the homes, surrounded by flood water for an unknown amount of time. Access and egress routes would be subject to similar depths and therefore aerial rescue would be the only means of transporting occupants to safety.

If you are minded to approve the application contrary to our objection, please contact us to explain why material considerations outweigh our objection. This will allow us to make further

representations.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 16 letters of representation have been received from 6 contributors.

Some letters solely request updates on the application. Aside from these, the remaining comments can be summarised as:

-Gedney is an unsustainable village
-Agricultural land it desperately needed
-This is just a money making scheme
-The application is the same as the last refusal
-The site has been continually developed
-It is quite clear and obvious this development is a deliberate calculated breach of the rules
-Land is being used to run businesses
-Causes distress and disruption to residents nearby
-Totally changed the character of the area
-Disturbance from numerous vehicles
-The land was a haven for wildlife and birds
- Decimated the animals and birds living in this rural agricultural environment
-There are more than 5 caravans on site
-The village is now overrun with dogs
-It is a complete eyesore
-The whole site is a mess
-Significant amount of development over 2 years
-Blazegate is already in need to repair
-The entrance to the field is narrow
-On a dangerous blind bend
- The site is slowly growing with more caravans
- No progress is being made to remove the caravans
- Starting fires which fills neighbouring homes with smoke
- I have had no adverse behaviour from the residents
- I have not experienced any increase of traffic
- I fully support the Application and look forward to my new neighbours

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed above.

The policies and provisions set out in the National Planning Policy Framework (updated December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents. In respect of this proposal, the Planning Policy for Traveller Sites (updated December 2023, published by the Department for Levelling Up, Housing and Communities), also forms a material consideration in the determination of the proposal and should be read in conjunction with the National Planning Policy Framework.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Principle of Development

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy

local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location in terms of sustainability.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within Other Service Centres, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. This policy goes on to detail that development within Other Service Centres will normally be limited to Committed sites and infill.

The application site in this instance lies beyond the defined settlement boundaries of Gedney Church End and as such is considered to lie within the 'open countryside'. Within countryside locations, which includes "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements", development will be restricted to that which "is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits", with local plan policies detailing suitable types of development such as 'Rural Exemption Sites', 'Replacement Dwellings', and 'Reuse of Buildings'; all of which require specific criteria to be met.

Therefore, development within this location, of the type identified is most typically resisted and not considered sustainable development; being at conflict with Policy 1. However, the considerations of both Policy 20 of the SELLP and Planning Policy for Traveller Sites (updated December 2023 - to be read in conjunction with the NPPF) must also take place.

The policies contained within the Planning Policy for Traveller Sites provide a steer in relation to plan making and decision making for proposals for traveller sites. Para 3 details that "the government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community".

Para 4 detailed that:

"to help achieve this, government's aims in respect of traveller sites are:

a. that local planning authorities should make their own assessment of need for the purposes of planning
b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
c. to encourage local planning authorities to plan for sites over a reasonable timescale
d. that plan-making and decision-taking should protect Green Belt from inappropriate development
e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies
h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
i. to reduce tensions between settled and traveller communities in plan-making and planning decisions
j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
k. for local planning authorities to have due regard to the protection of local amenity and local environment"

In relation to sites in rural areas, Policy C of the document sets out that "when assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community." Furthermore, Policy H, which relates to 'Decision-taking', sets criteria for consideration in determining planning applications for traveller sites. In particular, paragraph 24 states:

Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
"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/plots 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."

Whilst para 25 details that *"Local planning authorities 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. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure".*

To this end, Policy 20 of the South East Lincolnshire Local Plan relates to the development and 'Accommodation for Gypsies, Travellers and Travelling Showpeople'. This policy, which sets out a framework for assessing proposals for gypsy, traveller and travelling showpeople accommodation is considered to be sound and in accordance with the DCLG advice, and gives sound and clear criteria for the assessment and consideration of applications for gypsy and traveller sites, having been subject to considerable public consultation and scrutiny, the scrutiny and amendment of the Planning Inspectorate and adoption by South Holland District Council and Boston Borough Council.

Policy 20 states that:

"Additional needs which may arise during the Local Plan period will be met through the determination of planning applications on other, unallocated sites. Planning permission will be granted for proposals on such sites" provided they meet the following criteria:

1.will be adequately provided with appropriate infrastructure such as electricity, drinking-water, waste-water treatment and recycling/waste management;
2.will not have a significant adverse effect on the amenities of existing local residents or adjoining land users (and proposals must therefore give careful consideration to layout, landscaping, external lighting schemes, and the type of business uses that would be appropriate (if mixed residential and business use is proposed)); and
3.will be successfully assimilated into both their immediate environs and the wider landscape. and
a)provide occupants with an acceptable standard of amenity;
b)are not located adjacent to uses likely to endanger the health of occupants, such as a refuse tip, water recycling centres or contaminated land;
c)respect the scale of the nearest settled community;
d)will not place undue pressure on local infrastructure;
e)will not adversely affect heritage assets or areas of importance to nature conservation;
f)will not prejudice highway safety or give rise to problems of parking or highway access;
g)for sites for permanent residential use they: i. provide occupants with access to education, health care and recreational facilities, shops and employment within reasonable travelling distances, preferably by walking, cycling or public transport; ii. are suitable (or capable of being made suitable) for mixed residential and business use; iii. are not located within Flood Zone 3a or 3b and, if located in Flood Zone 2, the Sequential and Exception Tests have been passed; and
h)for sites for transit or stopping place use, are not located within Flood Zone 3b and, if located within Flood Zone 3a, the Sequential and Exception Tests have been passed.

In this respect, the proposal details in respect of criteria 1-3 as detailed above, that:

1. It has been advised that the applicant will make arrangements with the Local Authority for regular

refuse and recycling collection. Other utilities/infrastructure are capable of being provided.

The application indicates that rainfall runoff/surface water would be via large crate Soakaways, with foul water via 'package treatment plant'. As detailed within the IDB's response, "We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse". As such, conditions would be attached if the decision is considered favourably, for both surface and foul water drainage details.

Other utilities/infrastructure are capable of being provided.

2. The impact of five households on this site, together with the associated vehicular movements, is not considered by officers to represent a form of development of a nature and intensity that would warrant refusal of planning permission on the grounds of having a significant adverse effect on the amenities of existing local residents or adjoining land users; albeit noting its open countryside location in respect of sustainability.

3. The site is currently well screened from the north, west and south by established trees and vegetation. The trees and hedge at the north of the site will be removed in order the create an appropriate visibility splay and new trees planted further back. Given the extensive screening, it is not considered that the proposal will have a material impact on the character and appearance of the area and can be successfully assimilated into the immediate environs and wider landscape.

In respect of points a-h as highlighted above, it is considered that:

a) The application site is located in the countryside where existing built development is limited. There is a residential property immediately opposite and a small-scale commercial building sited approximately 65m to the east. Each pitch would appear to be of an appropriate size, being able to accommodate a day room, static and tourer, and external amenity space. This is typical of such a scheme. SHDC's Environmental Protection Officer has no objection on amenity grounds;

b) The site is not located adjacent to any known uses likely to endanger the health of occupants, such as a refuse tip, water recycling centres or contaminated land;

c) Given the modest scale of the proposal, it is considered that the site respects the scale of the nearest settled community;

d) It is not considered that an additional 5 pitches in this location would place undue pressure on local infrastructure;

e) There are no designated or non-designated heritage assets in the immediate vicinity of the site, nor areas of importance to nature conservation;

f) Concern has been raised about highway safety and visibility from the site access. The Highway Authority have been consulted on the application and have not objected to the proposal on highway grounds, commenting that:
" Provided the hedge, trees and other vegetation at the site frontage are removed in accordance with the submitted drawing, numbered 20/Blaze/02 Rev. C, dated September 2021, then the visibility at the site entrance will be suitable to provide safe egress from the site into the public highway."

g) i. The closest primary school is located within Gedney Church End, although this would involve crossing the A17, which is likely to be a deterrent to walking or cycling. The secondary school in Long Sutton is within reasonable cycling distance being approx. 2km away. There are also shops, healthcare and recreational facilities more centrally within Long Sutton. Although a town the size of Long Sutton is likely to offer employment opportunities, it is more likely that the occupants of the site will seek employment elsewhere and frequently have their own businesses. Given that the council has in recent times granted permission for Gypsy and Traveller sites in locations where such facilities are equally as close to, if not further away, than this application site, it is on balance considered acceptable.
ii. The application states the proposal would be for residential purposes only
iii. The site is located within Flood Zone 3 and the Environment Agency have objected to the proposal. Matters relating to flood risk and discussed in more detail later in the report demonstrating

that this limb is not complied with; and

h) Not applicable to this particular proposal.

Further assessment, in respect of the flood risk and 'identifiable need' are detailed below.

Gypsy and Traveller Status

The planning definition of "gypsies and travellers", as set out in DGLG's Planning Policy for Traveller Sites is as follows: *"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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*

Annex 1 to the above document highlights that in determining whether persons are "gypsies and travellers" for the purposes of that planning policy, consideration should be given to the following issues amongst other relevant matters:
a)Whether they previously led a nomadic habit of life
b)The reasons for ceasing their nomadic habit of life
c)Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

To the best of the knowledge of the Local Planning Authority, all occupants currently residing at the site are close family or extended family and their dependent who are of Gypsy/Traveller origin. In any event, a suitably worded planning condition could be imposed if considered favourably on any planning permission granted to secure that only someone of gypsy/traveller status and their dependents could live on site, as to accord with the policy requirements.

Identifiable Need for this Development

As detailed within the previous assessment of similar proposals on this application site, "as part of work to support the preparation of the South East Lincolnshire Local Plan, an independent Gypsy and Traveller Accommodation Assessment (GTAA) was undertaken on behalf of the Joint Planning Unit, and the report was published in November 2016". At the time of that report, there were no public sites; 10 private sites with a total of 57 pitches; 1 unauthorised site with 10 pitches; and 3 Travelling Showpeople yards with 14 plots in South Holland. There was no other provision for Gypsies, Travellers or Travelling Showpeople.

In terms of need, the report referred to within the previous assessment of development on this site, concluded that at the time of publication there are 5 Gypsy or Traveller households identified in South Holland that meet the government definition (as set out above) and 37 'unknown' households that may meet the definition. The South East Lincolnshire Local Plan therefore acknowledges that there is both a 'known' and 'unknown' unmet need for additional Gypsy/Traveller residential accommodation within its district between the period 2011-36.

The assessment continued that the "need for 5 additional pitches for the households that meet the government definition will be met by two allocations in the Local Plan - Bleu Raye Farm (Mill Gate, Whaplode Fen) and land at The Stables (Baulkins Drove, Sutton St James)". In addition, the report goes on to conclude that there may be a need across the plan period for up to 13 additional pitches for 'unknown' households (on the bases that there are 37 'unknown' households that may meet the definition) to accommodate new household formation, plus any concealed adult households or need arising from older teenagers living in these households. This translates to paragraph 5.12.4 of the SELLP, which states that:
"The GTAA identifies an 'unknown' need for up to 16 additional residential pitches for gypsys and traveller households (up to 3 in Boston Borough and up to 13 in South Holland. 'Unknown' needs are those which may arise from gypsy, traveller and travelling showperson's households who were not interviewed by the GTAA consultants. This 'unknown' need will be met by determining planning applications, taking into account the provision of the NPPF, Planning Policy for traveller sites and the policies of this Local Plan (in particular Policy 20)".

As detailed within this previous decision on site, the base date for the GTAA is August 2016 and, when taking account of permission that has been granted more recently to this date, "a total of 15 additional pitches have been approved. The total number of pitches granted approval thus far therefore exceeds the 13 pitches specified in the GTAA and referred to in paragraph 5.12.4 of the

South East Lincolnshire Local Plan".

However, the Local Planning Authority, within its previous consideration, had also detailed that "in consideration of H09-0010-21 (Proposed 4 traveller pitches for family linked with pitch No. 6 at Rose View Drive, Holbeach), a view was taken that the exact number of pitches approved towards the 13 additional pitches required for 'unknown' household accommodation, new household formation was likely to be less than approved on the face of it because 5 of 6 of those permitted since August 2016 did not relate to new household formation, rather they were required for reasons such as a teenager now requiring their own pitch, a relative occupying the pitch instead or the individuals looking for somewhere more suitable to live for a more continual period".

In any event, taking this matter further, Local Planning Authorities are required to identify a 5-year supply of specific deliverable sites against their locally set targets (Planning Policy for Traveller Sites, 2015, updated December 2023). Whilst South Holland District Council has not formally published a position statement in this regard, work had been undertaken towards this and the total number of years supply as of 31st March 2022 exceeded the requirement, standing at 10.57 years.

It is also noted that, whilst not exhaustive, some 'recent' appeal decisions were made relating to gypsy and traveller applications made by the Planning Inspectorate within the District, specifically:
-Appeal Ref: APP/A2525/W/22/3300517: (H09-0087-22) Land To The Rear Of Emmanuel House, Main Road, Holbeach Drove, Spalding. Inspector's decision 31 Oct 2022;
-Appeal Ref: APP/A2525/W/20/3249950: (H02-1174-19) Bridge Inn Caravan Park, Common Drove, Crowland. Inspector's decision 11 Jan 2023 and
-Enforcement Appeal Ref: APP/A2525/C/20/3258547: Land on the east side of Baulkins Drove, Sutton St James. Inspector's decision 13 Jan 2023.

In light of the above appeal decisions, The Local Planning Authority do not object on the basis of need at this current time.

To conclude, whilst the matter of need is a debatable and challengeable area, and speculative applications of this nature could be taken to indicate that there is an outstanding need for pitches, based on the above detail and the in depth consideration and assessment, coupled with the aforementioned recent appeals whereby Inspectors concluded that there was at the time of those appeals, an unmet need in the District, need is not an issue that warrants refusal at present, in this instance.

Overall, when considering the proposal on balance, it is considered that officers would not be considered reasonable to consider the proposal to be unacceptable when considered in respect of a specified need having been met; albeit the proposal is at conflict with aspects of the Local Plan such as Policy 1, which states that new development in the 'Countryside' should be necessary to such a location and/or meet the sustainable development needs of the area in terms of economic, community or environmental benefits and given the unacceptable nature in respect of flood risk as further detailed below.

Impact on Neighbouring Dwellings

Paragraph 135 of the National Planning Policy Framework (December 2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

As stated previously, the impact of five households on this site, together with the associated vehicular movements, is not considered by officers to represent a form of development of a nature and intensity that would justify refusing planning permission on the grounds of having a significant adverse effect on the amenities of existing local residents or adjoining land users.

The proposed pitches are set back from the carriageway and will be screened by new trees and hedging. There would therefore be no material loss of privacy or overbearing and/or overshadowing impact.

The proposal is considered to be satisfactory in complying with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Flood Risk and Drainage

Section 14 of the National Planning policy Framework (December 2023) requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 168 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site is located within Environment Agency Flood Zone 3. Table 2 in the National Planning Practice Guidance (NPPG) classifies development types according to their vulnerability to flood risk and caravans for permanent residential use are classified as 'highly vulnerable'. Table 3 addresses flood risk vulnerability and flood zone 'compatibility'. This table indicates that 'highly vulnerable' development is not compatible with Flood Zone 3 and should not therefore be permitted. Furthermore, Policy 4 of the Local Plan states that 'Caravans, mobile homes and park homes intended for permanent residential use will not be permitted in areas at risk of flooding'. There is therefore a clear issue of principle in this case.

Additionally, Policy 4 states that applications should be supported by a site-specific flood risk assessment which identifies the relevant predicted flood risk (breach/overtopping) level, and mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source.

Sequential Test

The submitted Flood Risk Assessment further details the context of the site, identifying that the "site is located within Flood Zone 3, an area with a high probability of flooding, of the Environment Agency Flood Maps for Planning", further detailing that "the site is in the 'Danger for Most' area" with "peak flood depth is 0.5m - 1.0m and 1.0m -1.6m", in respect of the SFRA 2116 maps.

In respect of the sequential test, the Flood Risk Assessment details that "the development is covered by the description of mobile homes intended for permanent residential use and is classified

as 'Highly Vulnerable'". This assessment goes on to express that "the site is in defended Flood Zone 3a and the development is 'Highly Vulnerable' therefore the development is inappropriate. Section 3.3 describes the reasons why, in this case, the development could be permitted".

In concluding matters in respect of the 'Sequential Test', the Flood Risk Assessment details that "based upon the availability of alternative sites with a lower flood risk, the level of protection at the site and the similarities between the proposed development and the site at Green Acres Park, it is considered that the Sequential Test has been met".

In assessing this, it is worth noting that the SFRA details that "the Strategic Flood Risk Assessment provides the basis for applying" the sequential test and details that "the refined information in this SFRA (i.e. the hazard mapping) incorporates the consideration of climate change and should be used when carrying out a sequential assessment".

This goes onto to detail further that "Where no reasonably available sites in Flood Zone 1 exist then Local Planning Authorities should consider the availability of sites in Flood Zone 2. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3a be considered. However, as mentioned in the Introduction above, the majority of the Boston Borough area and large parts of the South Holland district lie within Flood Zone 3. For this reason, and for the reason outlined in 8.1.2 above, it is therefore necessary to use the refined flood risk information (Hazard and Depth maps) to assist with the application of the Sequential Test".

In this regard, the SFRA states that "In line with this requirement, the Local Planning Authority will expect planning applications to be supported by evidence to demonstrate that the Sequential Test can be passed". In respect of the 'search area' for a sequential test, the SFRA specifically identifies the need for this to be 'the whole council area:
"In order to carry out a Sequential Test it is necessary to define the geographical area in which a search for alternative sites at a lower risk of flooding will be undertaken. The search area for the test should be the whole of the Council area unless the functional requirements of the development justify a reduced search area", with functional requirements being matters such as settlement specific Doctor's Surgery's.

This proposal simply identifies, within the submitted Flood Risk assessment, that "Based upon the availability of alternative sites with a lower flood risk, the level of protection at the site and the similarities between the proposed development and the site at Green Acres Park, it is considered that the Sequential Test has been met". The submitted details fail to expand on any assessment that may, or may not, have been carried out.

Furthermore, as is clearly required by the SFRA, there has not been any details in respect of assessing other sites within Flood Zone 3 within South Holland that are of a 'lower' risk in respect of the specific Hazard mapping.

As such, it is considered that the proposal fails to adequately demonstrate that the sequential test has been passed in this instance.

It Is also noted that the submitted Flood Risk Assessment refers to a previous decision of the Local Planning Authority in the form of reference H06-0233-19, detailing that this "was for a similar development with a change of use of land to a residential use for caravans. The principle for the approval of highly vulnerable development in Flood Zone 3 has been set the by the approval at Green Acres Park".

Firstly, each application must be considered on their own merits and whilst each element of this previous decision has not been distinctly reviewed in comparison to this ongoing proposal, a significant consideration that differs between these cases is that Green Acres Park accommodated traveller pitches prior to the consideration and decision for the application referenced. The planning history relating to that site details the following proposals in respect of traveller pitches:
-H06-0226-18 - Erection of day room - Approved 22-June 18
-H06-0558-15 - Green Acres Park, Ropers Gate - Change of use of paddock to gypsy/traveller site comprising of 2 pitches, including alterations to existing accesses and construction of roadways and hardstanding - Approved 21 October 2015
-H06-0145-13 - Change of use of paddock to gypsy/traveller site comprising 2 pitches, including alterations to access and construction of roadway and hardstanding - Approved 6 September 2013.
As such, the proposal referenced in support of the sequential test comprises differing characteristics and closely related to an existing traveller site, providing differing principle assessments in some

regards.

Irrespective of this, the submitted Flood Risk Assessment in the opinion of the Local Planning Authority, fails to adequately demonstrate that the proposal meets the sequential test, given the lack of assessment of alternative sites.

In any event, it is considered that in such an instance where it is considered that the sequential test has been passed, the proposal would fail to pass the subsequent Exceptions Test.

The Planning Practice Guidance details that in an exception test, the applicant "needs to show that the sustainability benefits of the development to the community outweigh the flood risk" and needs "to show that the development will be safe for its lifetime taking into account the vulnerability of its users and that it won't increase flood risk elsewhere. You need to refer to your flood risk assessment and your local authority's strategic flood risk assessment in your response".

Given the considerations outlined within this report, the Local Planning Authority do not consider that the development will be safe for its lifetime taking into account the vulnerability of its users and that it won't increase flood risk elsewhere. As such, in any event, it is considered that the exception test would not be passed.

Environment Agency Comments

Beyond the sequential test, the Environment Agency have objected to the application on the following grounds:

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and planning practice guidance (PPG). We recommend that planning permission is refused on this basis.

Reason
NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. This site lies within Flood Zone 3a, which is land defined by the PPG as having a high probability of flooding.

Caravans and mobile homes intended for permanent residential use are classed as highly vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

The site could experience depths of between 0.5m - 1.0m and 1.0 - 1.6m arising from a breach in the defences during a flood that has a 0.1% tidal chance of occurring in any one year up to 2115. In such a scenario the flooding would pose a 'Danger to Most', which means there will be danger of loss of life for the general public. We note that the supporting flood risk assessment suggests mitigation such as a flood warning and evacuation plan, securing the homes to the ground using a chains and anchors, and raising the finished floor levels of the static mobile homes and dayrooms 1.6m above existing ground level, can be implemented. It is our view that this is inadequate as the site could be subject to, and surrounded by flood water of up to, and in places in excess of 1.6m deep, which could not be considered safe. The occupants could be stranded in the homes, surrounded by flood water for an unknown amount of time. Access and egress routes would be subject to similar depths and therefore aerial rescue would be the only means of transporting occupants to safety.

It is considered that, as detailed within the comments above, beyond the need for a sequential test to be passed, the mitigation proposed (including a flood warning and evacuation plan, securing the homes to the ground using a chains and anchors, and raising the finished floor levels of the static mobile homes and dayrooms 1.6m above existing ground level) are inadequate in this instance.

It is also worth noting that recent appeals, as partially referenced above, have also supported concerns in respect of why mitigation, including raised finished floor levels, is not sufficient to adequately or appropriately deal with concerns of flood risk.

Application reference H02-1174-19 sought permission to vary condition 6 on planning permission ref H02/0359/00 to allow for permanent residential use throughout the year for 5 static caravan plots only to be occupied by Gypsy/Travellers. This application was refused and subsequently dismissed

at appeal.

The appeal decision for this application noted that this decision was referred to the sequential test not being passed as there was no proper Flood Risk Assessment provided, detailing that "In this case, the appellant has not submitted a fully detailed assessment but has instead provided a letter addressing flooding matters before the event. The appellant argues this is in effect a FRA, however I do not agree". While this is not the case in this instance in that a FRA has been submitted, albeit the results of the sequential test is disputed, it also found that while mitigation such as anchoring etc was available to all caravans, this did not change the fact that these developments are considered very vulnerable and also that it was a material consideration that occupants would likely need rescuing even if the floor levels were above flood water. Specifically paragraph 33 of the decision reads:

"The appellant suggested various measures that could be taken to make the site safe in a flood event, including tethering or anchoring the caravans and a Flood Warning and Evacuation Plan. These adjustments are available to all caravan sites yet the national guidance for Gypsy and Traveller Sites states that sites should not be located in areas at risk of flooding. Whilst the caravans would only be vulnerable in extreme flood events, it does not alter my overall concern about the impact of a flood event on the occupants".

It is also noted, similar to matters raised within cases such as "Swainsthorpe Parish Council v Norfolk County Council ', the courts have ruled that great weight should be given to the consultation responses of statutory consultees. Within the aforementioned case, the judge stated that "statutory consultees plan an important part in ensuring that planning decision-making is informed, fair and effective. The importance of the role of a statutory consultee is demonstrated by the fact that a decision-maker is required to give the views of statutory consultees great or considerable weight", a consideration echoing that within 'Shadwell Estates vs Breckland DC (2013'.

Beyond this, as expressed above, Policy 4 clearly states (albeit amongst other matters) within point 3 that:
"The application is supported with a site-specific flood risk assessment, covering risk from all sources of flooding including the impacts of climate change and which:
a. demonstrate that the vulnerability of the proposed use is compatible with the flood zone;Ã??????¢?¦
c. propose appropriate flood resistance and resilience measures (following the guidance outlined in the Strategic Flood Risk Assessment), maximising the use of passive resistance measures (measures that do not require human intervention to be deployed), to ensure the development maintains an appropriate level of safety for its lifetimeÃ??????¢?¦".
Along with the following which is also cited within Policy 4: "Caravans, mobile homes and park homes intended for permanent residential use will not be permitted in areas at risk of flooding".

As such, it is considered that the proposal, notwithstanding the mitigation put forward, fails to adequate comply with the criterion of Policy 4 of the South East Lincolnshire Local Plan.

In light of the comments received, justification and reasoning set out throughout this offer report, the Local Planning Authority do not consider there is sufficient reasoning as to disagree or take an alternative stance when considering the clear formal objection raised by the Environment Agency.

Overall, given the above, flood risk is a significant material consideration against the granting of planning permission, particularly in light of the potential risk to people and property. The proposal therefore conflicts with Policies 4 and 20 in terms of flood risk and Section 14 of the National Planning Policy Framework (December 2023).

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal predominantly accords with the provisions of Policy 20 of the South East Lincolnshire Local Plan, 2019. However, there is clear conflict with criterion (iii) of point (g), in terms of flood risk.

Flood risk represents a significant material consideration against the granting of planning permission, particularly given the potential risk to people and property due to the predicted flood

depths for the application site. The policy and technical objection from the Environment Agency in this regard is also clear and unambiguous. There is clear conflict with Policy 4 of the Local Plan and national guidance on flood risk.

Furthermore, the proposal can be deemed as being contrary to Policy 1 of the Local Plan. Policy 1 states that new development in the 'Countryside' should be necessary to such a location and/or meet the sustainable development needs of the area in terms of economic, community or environmental benefits; amongst other matters as addressed within this report. It is noted that the proposal may provide some benefits in this regard, with additional pitches having the opportunity to economically benefit the surrounding area with the potential for increased usage and expenditure, along with the potential for community benefits in the form of providing increased pitches for travelling and showpeople.

However, the proposal fails to adequately demonstrate such benefits, with minimal economic benefits being identified within the assessment of the proposal. Likewise, the proposal fails to provide any environmental benefits and as such, fails to provide a benefit to any sustainable development needs of the area in this regard.

Overall, the extent of benefit that can be argued in this regard is minimal and as such, the proposal is not considered to provide suitable economic, environmental or community benefits in respect of the sustainable development needs of the area, that otherwise outweigh the conflict identified.

As such, the planning balance is not in favour of the proposal and the development is considered to be unacceptable for the reasons expressed within the report above.

Conclusion

Taking into consideration these factors, the proposal is not considered to comply with Policies 1, 4 and 20 of the South East Lincolnshire Local Plan (SELLP), 2019, or the advice within the National Planning Policy Framework (NPPF), December 2023. In light of the aforementioned conflicts and risk, whilst there are some benefits to the proposal in the form of providing 5 additional pitches within the district, this is not considered to be a benefit of sufficient significance in this case as to outweigh the conflicts and risk identified (particularly as the concerns relate to the safety of occupants and property of the proposals); therefore, in considering all the matters raised above the planning balance is not in favour of the proposal and the policies referred to above.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.