SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 18 May 2022**

(Author: **Lucy Buttery - Principal Planning Officer)**

Purpose: **To consider Planning Application H09-0087-22**

Application Number:	H09-0087-22	**Date Received:**	31 January 2022
Application Type:	FULL		
Description:	Change of use from paddock to residential use for Gypsy and Travellers (retrospective) to include 2 static caravan pitches, and associated touring caravans - re-submission of H09-0845-21		
Location:	Land to the rear of Emmanuel House Main Road Holbeach Drove		
Applicant:	Mr G Carman	**Agent:**	Mrs J Codona
Ward:	Whaplode and Holbeach St Johns	**Ward Councillors:**	Cllr A C Beal Cllr P A Redgate

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H09-0087-22

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Objections received and policy issues that merit Committee consideration.

2.0 PROPOSAL

2.1 This is a full planning application for a change of use from paddock to residential use for Gypsy and Travellers (retrospective) to include 2 static caravan pitches, and associated touring caravans on land to the rear of Emmanuel House, Main Road, Holbeach Drove.

2.2 The application is a re-submission of H09-0845-21, which was withdrawn by the applicant to allow time to make amendments.

3.0 SITE DESCRIPTION

3.1 The application site is a long and narrow plot that extends north-south and sits almost at the western edge of Holbeach Drove. It is accessed from Main Road and the bulk lies to the rear of a frontage plot which benefits from an extant permission for the construction of two dwellings (one of which has been implemented). Adjoining the site to the east are dog kennels (permitted for up to 20 rescue dogs). Development in Holbeach Drove is predominantly frontage and larger detached dwellings, some of which have sizeable curtilages. There are open agricultural fields to the rear of the site.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

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
36 Vehicle and Cycle Parking
APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Planning Practice Guidance (PPG)

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

5.0 RELEVANT PLANNING HISTORY

5.1 Application site

5.2 H09-0845-21 - Full - Change of use from paddock to a residential use for travellers (retrospective) including 4 static caravan pitches and associated touring caravan pitches - Withdrawn December 2021.

5.3 Land to the south

5.4 H09-0683-21 - s73 - Demolition of glasshouse and erection of 2 detached dwellings - approved under H09-0783-18. Modification of Condition 2 to allow amendments to previously approved plans and removal of Condition 6 relating to Contamination - Approved August 2021.

5.5 H09-0783-18 - Full - Demolition of glasshouse and erection of 2 detached dwellings - Approved June 2019.

5.6 Planning decisions relating to permanent residential sites for Gypsies and Travellers within the District since the start of the Local Plan period (1 April 2011)

5.7 H06-0145-13 - Ropers Gate, Gedney - Change of use of paddock to gypsy/traveller site comprising 2 pitches, including alterations to access and construction of roadway and hardstanding - Approved September 2013.

5.8 H16-1003-13 - Land off Drain Bank North, Spalding - Provision of gypsy and traveller caravan site with 10 pitches each accommodating up to 3 caravans (permanent site) - Approved May 2014.

5.9 H06-0558-15 - Green Acres Park, Ropers Gate, Gedney - 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 October 2015.

5.10 H23-0440-17 - Eccles Place, Hurdletree Bank, Whaplode St Catherine - Use of land for siting of caravan - Approved January 2018.

5.11 H06-0233-19 - Green Acres Park, Ropers Gate, Gedney - Change of use of land (part retrospective) to provide five additional gypsy/traveller pitches with one day room per pitch and existing stables converted to dayrooms. Also, erection of one new store and retention of sheds for pitch 1, with construction of internal road to facilitate separate ingress and egress to and from the site, including hardstanding - Approved September 2019.

5.12 H16-0734-19 - Akita Place, Clay Lake, Spalding - Siting of mobile home (retrospective) - re-submission of H16-0030-17 - Approved October 2019.

5.13 H23-0848-19 - Bleu Raye Farm, Millgate, Whaplode - Proposed residential gypsy/traveller site - Approved June 2020.

5.14 H20-0513-20 - The Stables, Baulkins Drove, Sutton St James - Residential gypsy caravan site for one family with 2 caravans (retrospective) - approved under H20-0287-06. Modification of Condition 1 to allow the name on the planning approval to be changed to Ms West - Approved August 2020.

5.15 H23-0841-20 - Foxes Lowe, Hurdletree Bank, Whaplode St Catherine - Change of use from paddock to travellers site for applicants' and family only (part retrospective) - Approved December 2020.

5.16 H16-0932-20 - Oak Tree Meadow, A16, Spalding - Caravan site for one traveller family (3 caravans), with associated hardstanding, cesspit drainage and portakabin/dayroom (retrospective) - Approved January 2021.

5.17 H08-1133-20 - Travellers Lodge, Beck Bank, Gosberton Clough - Extend the existing Travellers Site into part of the adjacent paddock to accommodate two touring caravan parking spots. (Static already approved - chalet to remain on original axels) and erection of day room for the pitch - Approved January 2021.

5.18 H09-0010-21 - Rear of 6 Rose View Drive, Holbeach - Proposed 4 traveller pitches for family linked with pitch No.6 - Approved May 2021.

5.19 H06-0772-21 - The Orchards, Blazegate, Gedney - Change of use from 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 a treatment plant, laying of hardstanding, and associated work - Refused January 2022.

6.0 REPRESENTATIONS

6.1 Holbeach Parish Council

No objections.

6.2 Lincolnshire Police

No objections.

6.3 LCC Highways/SUDS

No objection subject to standard informatives and a condition requiring a 1.8m wide footway to connect the development to the existing footway network. This same Condition was applied to the Consent issued under H09-0783-18 (Condition 7 of that Notice). Whilst the provision of this footway may therefore be secured under that previous Consent, it is also possible that the development proposed in this Application could become occupied before occupation of the dwelling approved under the previous Consent and it is therefore recommended that the Condition is repeated for any Consent that may be given under Application number H09-0087-22.

6.4 South Holland Internal Drainage Board

Recommends that the proposed surface water and foul drainage strategies of infiltration and use of a drainage field is supported by ground investigation to determine the infiltration potential of the site and the depth to groundwater.

6.5 SHDC Environmental Protection (contaminated land)

No comments or objections.

6.6 SHDC Environmental Protection (noise and odour)

No objection.

6.7 Public (9 objections received, summarised)

- Proposal doesn't meet criteria of being infill and previous applications for dwelling on site were refused
- Concern regarding highway safety
- Village not large enough to take development
- Not in keeping with countryside character
- Approving a retrospective application would set a dangerous precedent for others to makes changes as they wish without planning permission
- If application is approved, strict limitations should be applied to allow no more families or caravans on site than proposed, and to prohibit business use of adhoc accommodation for non family members
- From the limited information provided by the agent it is not possible to determine family relationships, numbers or reasons or justification for residing at this site.
- The claimed hourly bus service from Holbeach Drove to Peterborough does not exist.
- The site would be a privately operated site managed by a family member. The applicant should be asked to demonstrate how these arrangements would be sustained over the long term.
- Two static caravans already been moved on to the site
- Noise disturbance from site
- Concern regarding occupants not being held accountable for their actions

Public (2 letters of support, summarised)

- Family are kind, friendly and always offer assistance
- Helpful neighbours who keep an eye on adjoining properties
- Quiet people
- Property kept clean

7.0 CONSIDERATIONS

7.1 **Planning Considerations**

7.2 Principle

7.3 The principle of this proposal is considered in the light of the National Planning Policy Framework (2021), Planning Policy for Traveller Sites (August 2015, published by DCLG) and the policies of the South East Lincolnshire Local Plan (2019).

7.4 Policy C of the DCLG 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."

7.5 Policy H of the DCLG document sets criteria for determining planning applications for traveller sites and, 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"

7.6 The relevant policy at a local level is Policy 20 of the South East Lincolnshire Local Plan (2019) (SELLP), which sets out a framework for assessing proposals for gypsy, traveller and travelling showpeople accommodation. It is considered that Policy 20 of the SELLP, which has 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, is 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.

7.7 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 that they meet criteria 1 to 3, and they:

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.

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."

7.8 Assessing the proposal against the above:

a. The application site is located almost at the edge of the small village of Holbeach Drove. The site does not immediately adjoin any boundary of an existing dwelling, although there are frontage properties to the east and west with curtilages which extend back as far as the site. The development is of a relatively small scale and such that it should not have a material impact on the amenity of neighbouring residents, particularly given that the site is well screened on either side by fencing and/or mature trees. Each pitch would appear to be of an appropriate size, being able to accommodate a mobile home, touring caravan and parking provision, and external amenity space is provided at the rear of the site. Space for one additional touring caravan is also provided for use by the applicant's son and wife for short stay visits to their extended family or those instances when additional support relating to personal healthcare needs/disabilities if required (this is due to the Gypsy and Traveller community cultural tradition of personal care only being administered by someone of the same sex). Adjoining the site to the east are dog kennels (permitted for up to 20 rescue dogs), however 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 small 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 2 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 regarding highway safety, particularly the perceived close proximity to the corner with Holbeach Drove Gate. The Highway Authority have been consulted on the application and have not objected to the proposal on highway grounds, provided that a 1.8m wide footway to connect the development to the existing footway network is constructed.
g. i. The closest primary school is located within Gedney Hill around 1.3 miles away, which can be cycled to reasonably. The nearest secondary schools are in Spalding, Holbeach and Long Sutton, therefore there would be a reliance on private transport or school buses in order to attend. There is a small convenience store and filling station in Holbeach Drove, but other shops, healthcare and recreational facilities are located in larger settlements further away and public transport options from Holbeach Drove are very limited. Although the aforementioned settlements are likely to offer employment opportunities, it is more likely that the occupants of the site will seek employment elsewhere and have their own business(es). Indeed, it is stated in the submitted Traffic Statement that movements from cars and other vehicles are likely to be reduced to/from the site during March - October whilst residents are away from the site due to work. In reality, development of this nature traditionally is located in more rural areas, therefore it is expected that there will be some reliance on the use of private transport.
ii. The supporting statement indicates that it is a wholly residential site without any associated working area. The applicant has a roofing and building company and he and the family-run their business away from home, from construction sites.
iii. The site is located within Flood Zone 1. This is an acceptable location for this type of development as per National Planning Practice Guidance; and
h. Not applicable to this particular proposal.

7.9 1. The supporting statement indicates that refuse/recycling will be stored for collection in a dedicated space adjacent to the public highway. Full details could be conditioned if permission were to be forthcoming. As the site is already occupied, the necessary utilities/infrastructure have already been installed.
2. The impact of three adults and three children 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.
3. The site is currently screened by 1.8m high timber close board fencing. Whilst the fencing is not particularly attractive, the site in time would be considerably less visible once the two frontage properties are constructed. Views from the east are limited due to mature trees which extend up to the road and views from the west are fleeting given the position of the frontage property and surrounding landscaping. Visibility of the site from public vantage points to the north is extremely low. Overall, it is not considered that the proposal would have a material impact on the character and appearance of the area and is capable of being successfully assimilated into the immediate environs and wider landscape.

7.10 Taking the above into account, the proposal can be considered to generally accord with the provisions of Policy 20 of the Local Plan, on the basis that need for the development is accepted.

7.11 Gypsy and Traveller Status

7.12 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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

7.13 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.

7.14 It has been confirmed that all individuals are Gypsies whom comply with the definition set out above.

7.15 In terms of criteria a-c above, the following has been provided:

(a) whether they previously led a nomadic habit of life
Information submitted in support of the application suggests that occupants of the site have/are living a nomadic habit of life. The applicant and his extended family travel for economic purposes and as part of their religious beliefs, and to visit numerous Gypsy fairs, events, and gatherings across the UK.

(b) the reasons for ceasing their nomadic habit of life
The applicant and his extended family have not ceased a nomadic way of life and will continue seasonal travel for economic and other purposes.

(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.
Information submitted in support of the application suggests that occupants of the site will continue to have a nomadic life, albeit for part of the year (March - October).

7.16 Officers accept this and have no reason to determine otherwise. In any event, the relevant condition which forms part of the recommendation controls this in perpetuity and only someone of gypsy/traveller status and their dependents could live on the site.

7.17 Identifiable need for this development

7.18 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 published in November 2016. At the time of the report, in South Holland 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. There was no other provision for Gypsies, Travellers or Travelling Showpeople.

7.19 In terms of need, this report 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 in the previous section) 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.

7.20 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).

7.21 In addition, the report goes on to conclude that there may be a need for up to 13 additional pitches for 'unknown' households (on the basis 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, between 2016 and 2036. This translates to Paragraph 5.12.4 of the Local Plan, which states that:
"The GTAA ... identifies an 'unknown' need for up to 16 additional residential pitches for gypsy 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 provisions of the NPPF, Planning policy for traveller sites and the policies of this Local Plan (in particular Policy 20)".

7.22 The base date for the GTAA is August 2016 and, taking into account permissions that have been granted, as well as completions, since that date, the need of 13 pitches specified in the GTAA and referred to in paragraph 5.12.4 of the Local Plan has been met. This was also the view of officers, and indeed Committee members, in respect of the last application for gypsy and traveller accommodation which was presented to Planning Committee in January 2022 (ref. H06-0772-21).

7.23 In addition to the above, 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). Whilst South Holland District Council has not formally published a position statement in this regard, work has been undertaken towards this and the total number of years supply as at 31st March 2022 exceeded the requirement, standing at 10.57 years.

7.24 A report submitted in support of the application contends that the approach taken by the consultants in the GTAA is flawed, meaning "it almost certainly underestimated needs by a large amount". With regard to the adequacy of the GTAA, officers would highlight that the accommodation needs of the Gypsy and Traveller community were the subject of a specific Local Plan examination hearing session and the suitability of that assessment was accepted by the Planning Inspector. It is considered that the statutory formal review of the Local Plan would be the most appropriate forum for considering whether an update of the evidence base is required.

7.25 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, in the context of the refusal of application ref. H06-0772-21 and the Council's evidence base in respect of need remaining the same, it is the view of officers that the present application could be refused on the basis of the specified need having been met. The relevant policy provision being Policy 1 of the Local Plan, 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.

7.26 Impact on Neighbouring Dwellings

7.27 As stated previously, the impact of three adults and three children 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.

7.28 The site does not immediately adjoin any boundary of an existing dwelling, although there are frontage properties slightly separated to the east and west with curtilages which extend back as far as the site. The development is of a relatively small scale and the site is well screened on either side by fencing and/or mature trees.

7.29 The proposal satisfactorily accords with Policies 2, 3 and 30 of the Local Plan in this regard.

7.30 Flood Risk and Drainage

7.31 The site is located within Flood Zone 1. This is an acceptable location for this type of development as per National Planning Practice Guidance.

7.32 In terms of drainage, the proposal is for surface water to be discharged into soakaways and a package treatment plant would be installed on site to deal with foul water in the longer-term. There is an existing septic tank in place that is currently being utilised. Further details of each can be conditioned if permission were to be forthcoming.

7.33 Other

7.34 For completeness, the remaining comments made by objectors that have not been addressed in the sections above are responded to below.

7.35 Proposal doesn't meet criteria of being infill and previous applications for dwelling on site were refused - The application relates to Gypsy/Traveller accommodation, not general market housing, and Policy 20 (rather than Policy 1) is the context in which such applications are considered.

7.36 Approving a retrospective application would set a dangerous precedent for others to makes changes as they wish without planning permission; two caravans already been moved on to the site - Whilst it is clearly preferable for applicants to seek planning consent prior to carrying out any development, retrospective applications are permitted by the legislative framework and each application is determined on its own merits.

7.37 If application is approved, strict limitations should be applied to allow no more families or caravans on site than proposed, and to prohibit business use of adhoc accommodation for non family members - A condition could be added that the areas of the site external to the mobile homes and tourers should not be used for business purposes, as well as one limiting occupation of the site to the applicant and members of the extended family. A condition can also be used to limit the number of caravans and mobile homes on site

7.38 The site would be a privately operated site managed by a family member. The applicant should be asked to demonstrate how these arrangements would be sustained over the long term. - It is not considered that a development of this scale requires a detailed management plan.

7.39 Planning Balance

7.40 Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

7.41 The proposal generally accords with the provisions of Policy 20 of the South East Lincolnshire Local Plan, 2019 in terms of criteria 1 - 3 and a - h.

7.42 However, with regard to need, it is the opinion of officers that the Council has already granted planning permission, or completions have taken place, for sufficient pitches since 1st August 2016 to satisfy both the known and unknown need outlined in the Gypsy and Traveller Accommodation Assessment (November 2016), and as set out in the South East Lincolnshire Local Plan, 2019. Furthermore, although the Council has not formally published a position statement in respect of a five-year supply for gypsy and traveller pitches, work has been undertaken towards this and the total number of years supply as at 31st March 2022 exceeded the requirement, standing at 10.57 years.

7.43 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, in the context of the refusal of application ref. H06-0772-21 and the Council's evidence base in respect of need remaining the same, officers are of the view that the present application could be refused on the basis of the specified need having been met. The relevant policy provision

being Policy 1 of the Local Plan, 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.

7.44 **Conclusion**

7.45 It is considered that the Local Planning Authority has already granted planning permission, or completions have taken place, for sufficient pitches since 1st August 2016 to satisfy both the known and unknown need outlined in the Gypsy and Traveller Accommodation Assessment (November 2016), and as set out in the South East Lincolnshire Local Plan, 2019. The proposal is therefore contrary to Policy 1 of the Local Plan 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.

7.46 **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.

8.0 RECOMMENDATIONS

8.1 **Refuse permission for the reasons set out at Section 9.0 of the report**

9.0 REASONS FOR REFUSAL

1. The Local Planning Authority has already granted planning permission, or completions have taken place, for sufficient pitches since 1st August 2016 to satisfy both the known and unknown need outlined in the Gypsy and Traveller Accommodation Assessment (November 2016), and as set out in the South East Lincolnshire Local Plan, 2019. The proposal is therefore contrary to Policy 1 of the Local Plan 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.

2. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

   This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

3. The determined plans are:
   Site Location Plan
   Proposed Site Plan
   Supporting Statement
   Traffic Statement
   Gypsy Status Document
   A report in support of Planning Application by Mr George Carman on Boston and South Holland Gypsy and Traveller Accommodation Assessment, November 2016 and South East Lincolnshire Local Plan Provision for Gypsies (prepared by Michael Hargreaves Planning)

Background papers:- Planning Application Working File

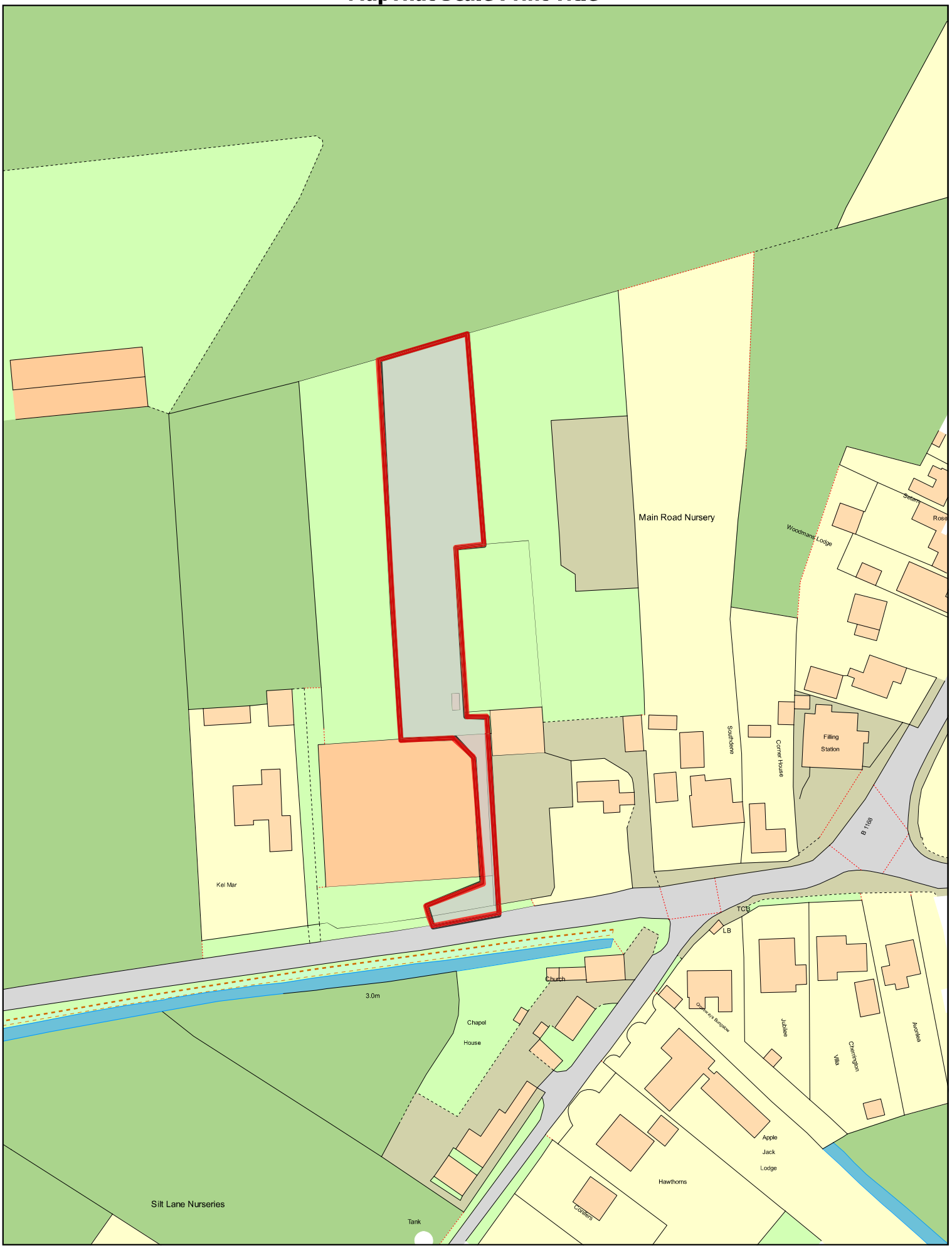
Lead Contact Officer

Name and Post:	Richard Fidler , Development Manager
Telephone Number:	01775 764428
Email	rfidler@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



SOUTH HOLLAND DISTRICT COUNCIL

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