

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H14-0402-23	Applicant:	Mr T Connors
Proposal:	Use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use - re-submission of H14-0419-22		
Location:	Land North Of Gatehouse 86 Langhole Drove Pinchbeck		
Terminal Date:	26th July 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
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 2021

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 places
 Section 14: Meeting the challenge of climate change, flooding and coastal change
 Section 15: Conserving and enhancing the natural environment

Planning Practice GuidancePlanning 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

Representations:

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

Route for determination of application	Delegated	X	Committee	
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CASE OFFICER ASSESSMENT

Proposal

This application seeks full planning permission for the change of use of land for the siting and stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use.

The proposal incorporates one mobile home to be sited to the north-east of the smaller parcel of land within the site, one touring caravan to be sited to the north-west of the parcel of land and one utility/day room.

The proposal is a resubmission of the previously determined application - H14-0419-22, which itself was a revision to a previously refused planning application for the siting of a park home for residential purposes (Ref: H14-0565-19).

Site Description

The proposal site lies to the south of Langhole Drove and to the east of Herring Lane, Pinchbeck. The site comprises a parcel of land, which has a current lawful use as land for agricultural purposes.

The site lies to the north-west of the main settlement of Pinchbeck, and when viewing the site in relation to the defined settlement boundaries, the site lies a significant distance outside the defined settlement limits of Pinchbeck. As such, the site is classed as being located in the open countryside.

The surrounding area is predominately rural in nature and is characterised by sparse development of buildings of varying ages and designs, with residential properties adjacent to the west and a further property to the immediate south along with large agricultural style buildings beyond. Directly east of the site runs a trainline with agricultural land directly north.

The site is in Environment Agency Flood Zone 3, with a low hazard area and a predicted maximum flood depth of 500mm on the 2115 South Holland Strategic Flood Risk Mapping.

History

Site History:

-H14-0565-19 - Siting of park home for residential purposes - Refused 30th January 2020.

-An Enforcement Notice was served on 12/11/19 requiring cessation of residential uses and removal of the mobile home and associated domestic paraphernalia.

-H14-0419-22 - Use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use - Refused 27th June 2022.

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)

-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.

-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.

-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.

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

-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.

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

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

-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.

-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.

-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.

-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.

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

-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.

-H09-0087-22 - Land to the rear of Emmanuel House, Main Road, Holbeach Drove - 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 - Refused May 2022.

Consultation Responses

Pinchbeck Parish Council

Object to the proposal - High risk of flooding.

Environment Agency

Do not wish to object to the proposal.

Network Rail

No objection in principle to the development, subject to further notes.

Lincolnshire County Council Highways and SUDS

No objections - The proposed development is to be accessed by means of the existing vehicle access to the subject field which is in a position where adequate visibility is afforded in both directions for a driver to be able to emerge safely from the site into the public highway.

Black Sluice Internal Drainage Board

No objections, with further comments in relation to raising of land and potential need for consent from the internal drainage Board.

Anglian Water Services

No comments to make.

South Holland District Council Environmental Protection

No objections, subject to the imposition of conditions.

Public Representation

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, two letters of representation have been received. These can be summarised as:

- The site is liable to regular flooding
- The site is outside the settlement boundary

-Wildlife on site, including the likelihood of Great Crested Newts

H14-0419-22:

The above application, as briefly referred to above within the report, comprised a full planning application which sought permission for the use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use. This application was refused on 27th June 2022 for the following reasons:

1. The use for which planning permission is sought falls within the 'highly vulnerable' flood risk vulnerability category that is inappropriate to the flood zone in which the application site is located (Environment Agency Flood Zone 3). Tables 1 and 3 of the National Planning Practice Guidance (NPPG) make it clear that this type of development is not compatible to this flood zone and therefore should 'not be permitted'. Furthermore, Policy 20 of the adopted South East Lincolnshire Local Plan (2019) states that planning permission for sites for permanent residential use will be granted when they 'are not located within Flood Zone 3a or 3b'.

In light of the above, the proposal is considered contrary to Policies 4 and 20 of the South East Lincolnshire Local Plan (2019), as well as Section 14 of the National Planning Policy Framework (2021) and National Planning Practice Guidance on flood risk.

2. The Local Planning Authority has already granted planning 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). 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 meets the sustainable development needs of the area in terms of economic, community and environmental benefits.

Subsequent to this decision, the applicant appealed the Local Planning Authority's decision to the Planning Inspectorate. During this process, a statement of case was required by the Local Planning Authority as is typically required within an appeal through the written representation route.

It is noted that initially the Local Planning Authority (LPA) acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that were received during the public consultation exercise. A revised Flood Risk Assessment was submitted during the course of the application in an attempt to address the holding objection by the Environment Agency (EA). However, at the time of decision the issues were considered to be so fundamental to the proposal that it was not possible to negotiate a satisfactory solution and due to the harm, which was identified within the reasons for the refusal, approval was not possible.

However, during this initial appeal process, it was also noted that '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.

As a result, these decisions form further material consideration for proposals of this nature. Therefore, further assessment, consideration and advice was sought to inform planning decision making on such proposals going forward. Advice gained detailed in respect of these decisions, that:

"With regard to 'need', having reviewed the recent appeal decisions it is the considered view of the external legal advisor that it is now extremely difficult for the Council to object on the basis of need, without an updated Gypsy and Traveller Accommodation Assessment (GTAA) being undertaken. Each of the recent three appeal decision notices specifically addressed "need" and all three Inspectors concluded that there was an unmet need in the District based on the outdatedness of the assessment, the high number of unknown households and the fact that Local Plan policy does not place an upper limit on sites". As a result, including the consideration of the three 'recent' and consistent appeal decisions, without a change to the evidence Base (i.e. the GTAA), it is the view of the external legal advisor "that the Council runs the risk of an adverse costs award if it continues to

resist applications and appeals on the ground of need i.e. it would be unreasonable. Of course it should be noted that any new GTAA may well demonstrate a greater need".

In addition to this, in respect of 'flood risk', "the external legal advisor again considered the recent appeal decisions in the District, and advises that although Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople, makes reference to Flood Zone 3a/b, this argument did not persuade the Planning Inspector at Baulkins Drove. Also, the Planning Inspector at the Bridge Inn appeal, would appear to have left the door open to allowing such uses where an appropriate Flood Risk Assessment has been submitted". It was considered that Langhole Drove differed to Baulkins Drove "in that it lies in a hazard zone, albeit it in the 'low' classification, which is lower than Bridge Inn". However, in concluding, "the external legal advisor remarks that in summary his advice to the Council is that without a change to the evidence base, it is now extremely difficult to object to future applications/appeals on the basis of need. In relation to flood risk, his advice is that should the Environment Agency no longer object to the scheme in the context of the recent appeal decisions it would similarly not be advisable to pursue the appeal on flood risk grounds".

In discussing the matter with the Environment Agency, they detailed that in sight of the additional detail of the appeals referenced, along with the further legal advice, "if the Council is minded not defend an appeal against the refusal of this application, the Environment Agency would not pursue its policy objection"; further detailing that "this site lies in an area shown to be at a 'low hazard' should a breach of the defence occur in an event with a 1 in 1000 chance of occurring in any year up to 2115. The development could experience depths of up to 250mm should such an event occur. Therefore, notwithstanding the policy objection, the risk of the flooding of the site is not considered to pose a threat to life during the extreme event and resistance measures could be incorporated into the development to protect property - i.e. setting the finished floor levels of the static caravan and day room at 300mm".

As such, it was concluded that the Local Planning Authority, based on the above detail, shall advise the Planning Inspectorate and the appellant that no evidence shall be presented by the Council to defend this appeal, in the light of recent appeal decisions, external legal advice and further representations from the Environment Agency. This decision was taken and agreed through the Local Planning Authority's Planning Committee.

Following this, the appellant withdrew their ongoing appeal, with the view to re-submitting the proposal following the additional advice and appeal decisions that formed increase material consideration.

Evaluation

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.

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 July 2021) 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 August 2015, 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.

Planning Considerations

Principle of Development

The South East Lincolnshire Local Plan (SELLP) 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; 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 SELLP 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 sustainable development hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising of Other Service Centres and Settlements. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location in sustainability terms.

Policy 1 (Spatial Strategy) of the SELLP indicates that within Main 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, where they are within the settlement boundaries.

The application site in this instance lies to the south of Langhole Drove, to the north-west of Pinchbeck. The site lies significantly beyond the defined settlement boundaries of Pinchbeck 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 (August 2015 - 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. The application indicates that rainfall runoff/surface water would be via large crate Soakaways, with foul water via 'package or bio-treatment units. As detailed within the IDB's response, "if this is the case, then any soakaways or infiltration systems should be designed in accordance with BRE Digest 365 or other approved code. Evidence that soakaways are suitable for the site should be submitted to the local planning authority for their approval". As such, conditions would be attached if the decision is considered favourably, for both surface and foul water drainage details. In addition to drainage, refuse/recycling would be stored from collection in a dedicated space adjacent to the access. Other utilities/infrastructure are capable of being provided.

2. As detailed within the previous assessment of the proposal, it is considered that the resultant impact of a single mobile home and one touring caravan on this site, together with the associated vehicular movements, is not considered 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. Overall, the amenity is not considered to be adversely impacted to an unacceptable extent.

3. The proposed development would be directed towards the north-west corner of the plot utilising the existing access off Old Fen Lane. The western boundary comprises a row of deciduous trees that offer some visual protection. It is proposed to plant additional hedging and tree planting enclosing the site. Subject to the imposition of conditions to agree specific landscaping/boundary treatment details, it is considered that the proposal could be successfully assimilated to its environment and landscape.

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

a) The resultant standard of amenity would be adequate as to not be unacceptable or cause an unacceptable impact upon future occupiers. To the north of the site lies agricultural land, with the Flax Mill railway to the east. Whilst it is considered that the neighbouring land uses would likely give rise to some noise and disturbance to the occupants of the proposed development, it is considered that these can be mitigated/reduced with an acceptable boundary treatment plan. This mitigation would be secured via suitably worded planning conditions on any permission granted.

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) The proposal seeks permission for a single mobile home and one touring caravan. This provision, within the location proposed, is not considered to 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) It can be noted that given the location of the site, consideration should be had with regard to the suitability of this development in relation to the highway network. Lincolnshire County Council Highway Authority have been consulted on the application and have raised no concerns in relation to the proposed development, with it being considered to comprise adequate vehicular visibility as per the previous proposals consideration. Furthermore, it is considered there is adequate provision for off-street parking provision.

g) As detailed within the assessment of the previous proposal, of which matters or circumstances have not altered:

"i. The closest primary school is Pinchbeck East C of E Primary School which is approximately 1km away - however, large stretches of the journey do not include a pedestrian footpath and therefore is likely to be accessed via private vehicle. The closest secondary school is in Spalding which is approximately 5.7km away. With regards to healthcare, recreational facilities and shops the site is approximately 1km away from Knight Street, Pinchbeck which provides these day-to-day facilities. While a town the size of Pinchbeck is likely to offer some employment opportunities, it is more likely that the occupants of the site will seek employment elsewhere and frequently have their own businesses.

ii. The application states the proposal would be for residential purposes only.

iii. The site is located within Flood Zone 3, and the previous assessment of the site raised concerns in this regard with the Environment Agency having objected to the proposal. Matters in respect of this consideration have been detailed above within the history of the previous proposal and which have been reviewed further below. Whilst there is a minor conflict with this criterion, the Environment Agency have raised no objections to the proposal, given the recent appeal decisions within the District and given the "site lies in an area shown to be at a 'low hazard' should a breach of the defences occur in an event with a 1 in 1000 chance of occurring in any year up to 2115. The development could experience depths of up to 250mm should such an event occur. Therefore, notwithstanding the policy objection, the risk of flooding to the site is not considered to pose a threat to life during the extreme event and resistance measures could be incorporated into the development to protect property - i.e. setting the finished floor levels of the static caravan and day room at 300mm".

h) Not applicable to this particular proposal.

Overall, when taking the above criterion into account, whilst there is a minor conflict with criterion (iii) of point (g), the proposal lies within an area of 'low risk' as detailed within the circumstances detailed above and is considered to accord with all other criteria detailed. As such, when viewed

overall, the proposal accords with Policy 20 of the South East Lincolnshire Local Plan.

Taking the above into account, the proposal predominantly accords with the provisions of Policy 20 of the South East Lincolnshire Local Plan, on the basis that need for the development is accepted. There is clear conflict in terms of flood risk; however, the supporting Flood Risk Assessment and specific assessment of this matter for this proposal does not give rise to particular concern or impact that would warrant the overall refusal of permission, when viewed on balance. Likewise, the principle of the proposal accords with the NPPF and the Planning Policy for Traveller Sites.

It is considered, on balance, that the proposal is acceptable in principle.

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, 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.

Whilst specific details have not been provided as part of this application to indicate the exact situation of the proposed occupants, a suitably worded planning condition would be imposed 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 this proposal 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 the 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, 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 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 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 gypsies 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 the 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 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 of 31st March 2022 exceeded the requirement, standing at 10.57 years.

Further to this, as partially detailed at the commencement of this report and within the 'planning history' section, advice was gained during the appeal process relating to this site. This advice, which must be taken into consideration, detailed that "with regard to 'need', having reviewed the recent appeal decisions it is the considered view of the external legal advisor that it is now extremely difficult for the Council to object on the basis of need, without an updated Gypsy and Traveller Accommodation Assessment (GTAA) being undertaken. Each of the recent three appeal decision notices specifically addressed "need" and all three Inspectors concluded that there was an unmet need in the District based on the outdatedness of the assessment, the high number of unknown households and the fact that Local Plan policy does not place an upper limit on sites". As a result, including the consideration of the three 'recent' and consistent appeal decisions, without a change to the evidence Base (i.e. the GTAA), it is the view of the external legal advisor "that the Council runs the risk of an adverse costs award if it continues to resist applications and appeals on the ground of need i.e. it would be unreasonable. Of course, it should be noted that any new GTAA may well demonstrate a greater need".

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 advice gained and the consideration of the aforementioned recent appeals whereby "all three Inspectors concluded that there was an unmet need in the District based on the outdatedness of the assessment, the high number of unknown households and the fact that Local Plan policy does not place an upper limit on sites", it is the view of officers that the Local Planning Authority would be unreasonable, in this instance, to resist the proposed development. Overall, when considering the proposal on balance, it is considered that the proposal is acceptable when considered in respect of a specified need having been met, albeit being 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.

Flood Risk and Drainage

The site is located within Environment Agency Flood Zone 3 and is at risk from fluvial flooding from the River Glen. The maps 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. Also, large parts of the South Holland District 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.

Section 14 of the NPPF 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". Para 162 details that "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.

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, where:

1. It can be demonstrated that there are no other sites available at a lower risk of flooding (i.e. that the sequential test is passed). The sequential test will be based on a Borough or District wide search area of alternative sites within the defined settlement boundaries, unless local circumstances relating to the catchment area for the development justify a reduced search area, i.e. there is a specific need for the development in that location. The sequential test is not required for sites allocated in the Local Plan, minor development or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site)", with 'minor development' in this instance taking the definition outlined within the NPPF and National Planning Practice Guidance in relation to flood matters.

The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) is the basis for applying the Sequential Test. This concludes that the vast majority of South Holland District is in Flood Zones 2 and 3. Therefore, consistent with wider sustainability objectives, it is not realistically possible to direct all development to zones with a lower probability of flooding. As such, the document outlines a methodology whereby the SFRA hazard and depth maps (in that order) are to be utilised when determining flood risk and applying the sequential test. Using this methodology, it is possible to use the information to steer development towards the areas of lower flood risk as advised within Section 14 of the NPPF.

Table 2 in the Planning Practice Guidance (PPG) classifies development types according to their vulnerability to flood risk with the proposed development being 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.

It is also worth noting that Policy 4 of the SELLP states that "caravans, mobile homes and park homes intended for permanent residential use will not be permitted in areas at risk of flooding" and Policy 20 of the SELLP states that planning permission will be granted for sites for permanent residential use provided they are not located within Flood Zone 3a or 3b.

Notwithstanding this, having been partially detailed within the report above, the proposal has been accompanied by a Flood Risk Assessment. In assessing this, alongside the comments received from the Environment Agency in this case which detail no objection to the proposal, and those previously provided in receipt of the previously withdrawn appeal on site which detailed that "in sight of the additional detail of the appeals referenced, along with the further legal advice, "if the Council is minded not defend an appeal against the refusal of this application, the Environment Agency would not pursue its policy objection"; further detailing that "this site lies in an area shown to be at a 'low hazard' should a breach of the defence occur in an event with a 1 in 1000 chance of occurring in any year up to 2115. The development could experience depths of up to 250mm should such an event occur. Therefore, notwithstanding the policy objection, the risk of the flooding of the site is not considered to pose a threat to life during the extreme event and resistance measures could be incorporated into the development to protect property - i.e. setting the finished floor levels of the static caravan and day room at 300mm".

In respect of flood risk, the external advice gained, as outlined above, expressed that although Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople, makes reference to Flood Zone 3a/b, this argument did not persuade the Planning Inspector at Baulkins Drove. Also, the Planning Inspector at the Bridge Inn appeal, would appear to have left the door open to allowing

such uses where an appropriate Flood Risk Assessment has been submitted". It was considered that Langhole Drove differed to Baulkins Drove "in that it lies in a hazard zone, albeit it in the 'low' classification, which is lower than Bridge Inn.". However, in concluding, "the external legal advisor remarks that in summary his advice to the Council is that without a change to the evidence base, it is now extremely difficult to object to future applications/appeals on the basis of need. In relation to flood risk, his advice is that should the Environment Agency no longer object to the scheme in the context of the recent appeal decisions it would similarly not be advisable to pursue the appeal on flood risk grounds".

In this respect, it is the officers balanced consideration that the proposal, given its 'low risk', is acceptable in respect of flood risk subject to conditions which would secure the mitigation measures detailed within the Flood Risk Assessment and details relating to drainage, which would include the need for on site surface water drainage to utilise soakaways to BRE365 specification and Building Regulations approval.

Overall, whilst being at conflict with criterion of Policy 20 of the South East Lincolnshire Local Plan, on balance, when taking account of all material considerations, the application is considered to be acceptable in terms of flood risk.

Impact on Neighbouring Dwellings

Paragraph 130 of the National Planning Policy Framework (2021) 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 previously stated, the impact of one mobile home and one touring caravan 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 result in detrimental noise and disturbance impacts on neighbouring properties amenities or adjoining land users. Furthermore, the proposal would be partially screened by new hedgerow/tree planting and is considered to be a sufficient distance to the closest neighbouring residential properties.

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

Other Matters

The site is in close proximity to the Flax Mill railway level crossing and as such, Network Rail have provided comments on the application. Whilst no objections in principle have been raised, they have requested notes be provided in respect of any subsequent permission.

Concerns have also been raised regarding the potential presence of Great Crested Newts on site, given the flooding matters detailed. There has not been any evidence of such presence and the comments raised have not substantiated this by way of further evidence. Notwithstanding this, these are protected species and must be carefully considered. Legislation, outside of planning, also provides increased protection to protected species including Great Crested Newts and the subsequent permission granted by the Local Planning Authority, if forthcoming, would not outweigh the need to comply with this separate legislation.

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.

Whilst the proposal has a conflict with Policy 1 and a partial conflict with Policy 20 of the development plan, as detailed within the report above, the proposed development is considered to be acceptable in principle, when considered on balance and when taking account of the material considerations detailed throughout the report. It is considered that the proposed development does

not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking throughout the scheme.

Further, the proposal predominantly accords with the South East Lincolnshire Local Plan when viewed in its entirety and the scheme also provides numerous benefits in respect of providing further accommodation for Gypsy and Travellers.

In the context of the aforementioned legal advice and the previous resolution of the Committee to not present evidence at the appeal, it would be unreasonable to now seek to refuse the application in respect of need or flood risk.

Conclusion

On balance, the benefits of the proposal, coupled with the significant consideration of the material matters subject to this proposal, it is considered that the development proposed is acceptable.

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.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.