

**FLOOD RISK ASSESSMENT
FOR PROPOSED
RESIDENTIAL DEVELOPMENT
AT 86 LANGHOLE DROVE,
PINCHBECK, Lincs.**

REVISED FINAL REPORT

GEOFF BEEL CONSULTANCY

MAY 2022

GCB/GREEN PLANNING

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1.0 INTRODUCTION

- 1.1 A full planning application has been submitted by Green Planning Studio Ltd on behalf of Mr Thomas Connors for proposed residential development at land north of the Gatehouse, 86 Langhole Drove, Pinchbeck, Spalding, Lincs.
- 1.2 Planning approval requires a Flood Risk Assessment to accompany the application to meet the requirements and general principles contained in the Planning Practice Guidance to the National Planning Policy Framework (NPPF) and for approval by the Environment Agency.

The site is shown within Flood Zone 3 of the Environment Agency's Flood Map for Planning. The latest Flood 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.

The site is also shown in a Low Hazard Zone (present day) of the South East Lincs. Strategic Flood Risk Assessment Maps as only affected by between 0.00 – 0.25m of Residual Depth floodwaters both present day and in year 2115 and located in the Black Sluice Internal Drainage Board district.

- 1.3 Geoff Beel Consultancy was appointed on 28th March 2022 to undertake a Flood Risk Assessment.
- 1.4 The Environment Agency has raised an objection to the proposed development by way of letters dated 3rd May and 12th May file ref: AN/2022/133034 as highly vulnerable residential development in Flood Zone 3 is inappropriate.

Caravans and mobile homes intended for permanent residential use are classed as highly vulnerable. The site is at risk of fluvial flooding from the River Glen.

However, the Agency would not object to the development of the day room part of the application (less vulnerable) if the finished floor levels were conditioned to be 400mm above existing ground levels.

This Revised Flood Risk Assessment addresses the issue of the development being classed as highly vulnerable.

2.0 LOCATION

- 2.1 The development site is located at land north of the Gatehouse, 86 Langhole Drove, Pinchbeck. The National Grid Reference of the central point of the site is TF 23472656.
- 2.2 The position and extent of the site is shown on Fig 1 – Title Plan and Fig 2 – Location Plan at the end of the document.
- 2.3 The site, located within the Black Sluice Internal Drainage Board district is shown within Flood Zone 3 as detailed on the Environment Agency Flood Map for Planning and in a Low Hazard Zone of the South East Lincs. Strategic Flood Risk Assessment Maps (present day).

3.0 THE SITE AND SEQUENTIAL TEST

- 3.1 The site is at land north of the Gatehouse, 86 Langhole Drove, Pinchbeck.
- 3.2 The total area of development is approximately 0.25 hectare with existing land level at 3.50m aOD.
- 3.3 The proposed site layout consists the construction of a utility/day room and static home together with a touring caravan and car parking area in the north west corner of the site. Finished floor levels of the utility/day room and the static home will be a minimum of 400mm above existing ground level.
- 3.4 The Sequential Test and Exception Test will require to be applied but the development may be permitted as the site is protected against both the 1 in 100 year fluvial event and the 1 in 200 year tidal event by a combination of defences, pumping stations and sluice gates meeting the requirements of NPPF. There is no other land available in Pinchbeck at a lower risk of flooding to accommodate the development.
- 3.5 The development with the inclusion of appropriate mitigation measures would ensure the proposals pass Part 2 of the NPPF Exception Test by ensuring that the development has an adequate water exclusion strategy for the design flood and breach event.

The Sequential Test is met as the development site is located in a present day Low Hazard Zone of the South East Lincs. Strategic Flood Risk assessment maps.

4.0 EXISTING FLOOD ALLEVIATION MEASURES

- 4.1 The site is within a defended floodplain, as defined in Appendix 1 of the Environment Agency's 'Policy and Practice for the Protection of Floodplains' and is considered to be passive until such time as a flood greater than that for which the defences were designed occurs. The likelihood of flooding due to overtopping or failure of a flood defence embankments is considered to be small.
- 4.2 The site is located within the Black Sluice Internal Drainage Board protected by the River Glen defences to the 1 in 100 year return period flood event.
- 4.3 The site and surrounding land drains to the Pinchbeck North Fen Pumping Station for discharge into the South Forty Foot Drain.
- 4.4 The Black Sluice IDB have carried out improvements to the Pinchbeck North Fen catchment over the years such that the pumping station capacity meets present day standards of protection with a maximum design water level of 0.60m aOD.

- 4.5 Current maintenance standards within the Black Sluice Internal Drainage Board are generally very good.

During the operation and maintenance of its pumping stations, associated structures and channel systems, particularly those that could affect property, the Board seeks to maintain a general standard capable of providing flood protection to its district. A routine maintenance programme is in place to ensure that the Boards assets are commensurate with the standard of protection that is sought. However, bank slips, blocked culverts etc may occur from time to time and these matters are usually dealt with promptly.

- 4.6 The fluvial River Glen is located to the south-east of the site with a standard of protection of 1 in 100 years return period.

Defence and Flood levels of the River Glen protecting the site frontage are as follows:

	Present	Present + Climate Change	Defence Level
1%	4.46	4.74	5.50

- 4.7 Maintenance standards of the Environment Agency's main rivers and defences are well maintained and regularly inspected for their asset condition.

5.0 POTENTIAL SOURCES OF FLOODING

- 5.1 Four potential sources of flooding have been identified as a result of this assessment:

- a) local blockages to existing IDB main drain system.
- b) storm return period of 1 in 50 years being exceeded
- c) failure of Pinchbeck North Fen Pumping Station
- d) overtopping and breaching of the fluvial River Glen defences

- 5.2 The probability of flooding from source a) is low due to the maintenance standards already achieved and managed by the IDB.

The probability of flooding from b) is also low due to the Black Sluice IDB main drain design standard incorporating a minimum 900mm freeboard to the lowest land level which provides adequate storage in events greater than 1 in 50 years.

- 5.3 Failure of the Pinchbeck North Fen Pumping Station may occur due to long term mechanical breakdown or power supply being disrupted. However, in these circumstances, if conditions were such to put properties and land at risk of flooding, the Internal Drainage Board would take emergency action to maintain the drainage level of service by utilising temporary pumping equipment. The probability of such an occurrence is also considered to be low.

Previous historic rainfall events of 1968 and 1978, estimated to be greater than 1 in 100 year events, caused no flooding to any residential properties at the time and the Boards policy is to provide a standard of drainage which satisfies NPPF requirements of a 1 in 100 year return period for fluvial protection inclusive of the effects of climate change and development. The Boards policy regarding the connection of future developments to the arterial system enables a flexible approach to be adopted and meet the criteria for “sustainable urban drainage”. The probability of the site flooding from this potential source is also considered to be low.

- 5.4 The possible overtopping and breaching of the fluvial River Glen flood defences which may affect the site under extreme conditions is also considered to be very low. The present standard of defence of 1 in 100 years would most probably have to be exceeded to create such conditions. The River Glen flood defences consist of concrete walls and it is estimated that the floodwaters would not affect the development site, as there is sufficient freeboard above the 1 in 100 year flood level inclusive of climate change.
- 5.5 The South East Lines. Strategic Flood Risk Assessment has considered the effect of a breach or overtopping to the River Glen and the site is shown as affected by between 0.00-0.25m of floodwaters, both present day and in year 2115.

To safeguard the permanent buildings on the site from any risk of flooding , finished floor levels will be raised a minimum of 500 mm above existing ground level and suitably anchored to the ground.

- 5.6 **This would be in accordance with the Planning Inspectorate Appeal Decision of a Fenland District Council enforcement notice numbered ENF/183/17/UW for a breach of planning control of the material change of use of land to a residential use south of junction of New Drove and Bevis Lane, Wisbech St. Mary, Cambridgeshire located in a defended tidal Flood Zone 3.**

The Inspector considered that whilst there is a policy conflict with respect to the location of the site in Flood Zone 3, I consider that the actual harm caused by this would be slight, provided suitable conditions are put in place. I conclude therefore that the benefits of the proposal are material considerations sufficient to outweigh any conflict with local and national planning policy and that planning permission for the development should be granted.

Condition 3)i) required that a scheme for (a) the proposed method of tethering the caravans, raising the floor level of the static caravan to at least 500mm above existing ground level and providing a route for any flood water to pass below the static caravan – see the full Appeal Decision in Fig. 8 of this Revised Flood Risk Assessment.

- 5.7 The developer should ensure that the eventual occupiers of the development are sufficiently aware of the risk of flooding, and the standard of the existing defences. The Environment Agency provides a Flood Warning Service which includes Flood Warning Codes and uses direct warning methods where the risks and impacts of flooding are high. Indirect warnings are provided to all flood risk areas, even those at low risk of flooding. The main method is media broadcasts via local radio and also by television.

In addition to direct and indirect flood warnings, the Environment Agency operates a 24 hour a day Floodline Service providing advice and information on flooding contacting 0345 988 1188 and the occupiers of the development should register with the Floodline Warnings Direct Service to receive any future flood warnings.

6.0 EXTENT OF KNOWN FLOODING

- 6.1 During the preparation of this assessment, no evidence was discovered of the site being flooded or of any adjoining properties.

7.0 PROBABILITIES AND TRENDS OF FLOODING

- 7.1 The probability of this development flooding from localised drainage systems is very low. It is also intended to construct finished floor levels at a minimum of 500mm above existing ground level.
- 7.2 The probability of the site flooding with water from any Black Sluice river system is less than 1% because of the standards of the existing flood defence systems, storage within existing drainage channels and the location of the site. Similarly the same standard is provided by the Environment Agency's main river and defences.
- 7.3 If under very extreme events, levels of floodwater from any Environment Agency or Black Sluice river or arterial systems rose to such an extent that the site was affected, the situation would not be sudden. It is very probable that sufficient time would be available to take precautionary actions to limit the extent and potential impact of flooding.
- 7.4 The water levels in the drainage channels will tend to rise as a result of the impacts of climate change. However the existing systems and defences together with proposed floor levels at a minimum of 500mm above existing ground level and suitably anchored will be appropriate for the design life of the development (i.e. 60 years).
- 7.5 Safe and dry access to and from the site would be available onto Langhole Drove and hence to Spalding where land is in Flood Zone 1.

8.0 IMPACTS OF FLOODING

- 8.1 No significant impacts of flooding are anticipated.
- 8.2 Floor levels of the development will be at a minimum of 500mm above existing ground level offering additional protection against impacts arising from any extreme short duration, localised events. Surface water drainage will be discharged to soakaway designed to BRE365 specification and Building Regulations approval.
- 8.3 The general location of the site within the catchment is such that if flooding occurred from any of the Environment Agency or Black Sluice IDB river systems, then probably 2 to 3 days warning time would be available.
- 8.4 No displacement of water from the site will affect any adjoining properties and agricultural land.

9.0 RESIDUAL RISK – EXTREME EVENTS

- 9.1 The residual risk from extreme events is very low on this site, because of its location, within a pumped sub-catchment of the Black Sluice IDB area and its location near to River Glen fluvial defences consisting of concrete wall defences.
- 9.2 The site is within a Low Hazard Zone according to NPPF classification, with a very low risk of flooding due to the current standards of drainage and flood defence and land levels. The site is not located within a Functional Flood Plain of any 'main river' or 'main drain'. The Environment Agency Flood Map for Planning has been produced irrespective of existing flood defences and standards of protection.
- 9.3 South Holland District Council in conjunction with Boston Borough Council and the Environment Agency and the local IDB's within the Councils area have carried out the South East Lincs. Strategic Flood Risk Assessment of the whole District by appointed Consulting Engineers.

The South East Lincs. Strategic Flood Risk Assessment has produced more definitive Flood Risk Maps similar to those published by the Environment Agency and at the same time has analysed flood return periods of all tidal and fluvial defences for year 2115 to account for the effects of climate change.

Breach scenarios of embankments failing and/or being overtopped have also been carried out to establish Flood Risk Zones.

10.0 CONCLUSIONS AND RECOMMENDATIONS

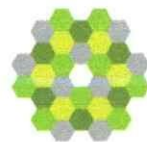
10.1 As a result of the assessment, the following conclusions have been reached:-

- The proposed development is not in a Functional Floodplain as defined by NPPF. It is located in the Passive Floodplain protected by defences to a 1 in 100 year return period.
- The site is in a Low Hazard Zone with the actual risk of site flooding from any Environment Agency river system being very low.
- Although the site is located within an Internal Drainage District with a minimum standard of drainage of 1 in 50 years, this accords with Defra guidelines for rural development. Freeboard to design water level of 900mm to lowest land level is available for events greater than 1 in 50 years providing further storage within the drainage channels.
- Finished floor levels of the utility/day room and the static caravan will be a minimum of 500mm above existing ground level and suitably anchored to the ground with any flood water able to pass below the static caravan, all as required in the Planning Inspectorate Appeal Decision of APP/D0515/C/18/3196061.
- On site surface water drainage will be discharged to soakaway to BRE365 specification and Building Regulations approval.

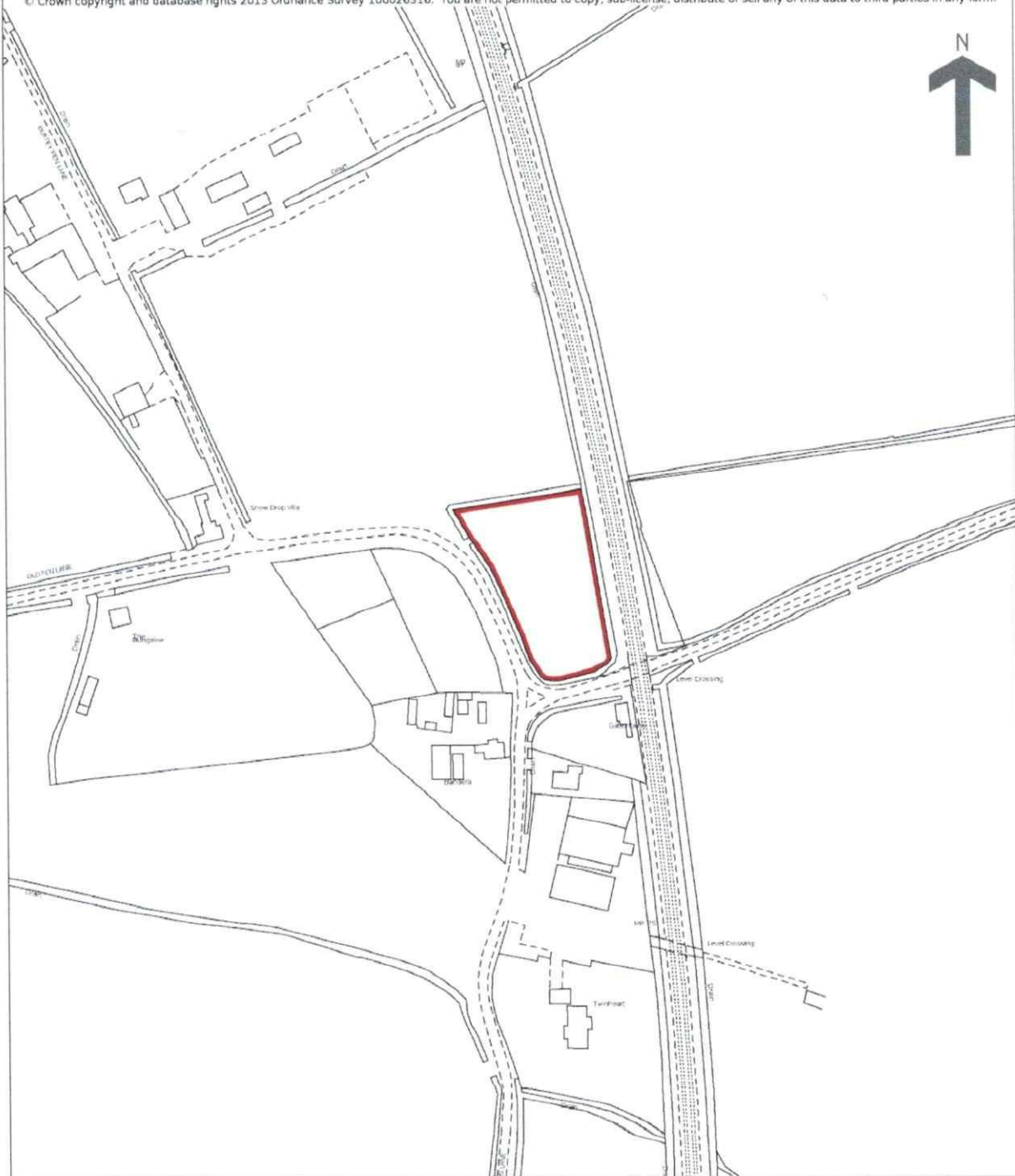
HM Land Registry

Current title plan

Title number **LL340989**
Ordnance Survey map reference **TF2326NW**
Scale **1:2500**
Administrative area **Lincolnshire : South Holland**



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Rev.	Date	Amendments	Author	Client:	Mr Thomas Connors	Scale:	1:1250 @ A3	 Unit D Limesdale Upton Magna Business Park Shrewsbury SY4 4TT t: 01743 709364 f: 01743 709695 w: www.greenplanning.co.uk e: applications@gpsltd.co.uk
Note:				Project title:	Land North of the Gatehouse, 86 Langhole Drove, Pinchbeck, Spalding, PE11 3SS	Project:	21_1186	
LEGEND				Drawing title:	Location Plan	Drg. No:	21_1186_001 KL	
 Application Boundary  Ownership Boundary				© Copyright 2022 Green Planning Studio Ltd This Drawing and the building works/designs depicted are the copyright of Green Planning Studio Ltd and are not to be reproduced in any form or by any means without the written consent of Green Planning Studio Ltd.				

Nocturnal

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|---|------------------------------|---|--------------------------------|
|  | Proposed water system |  | Proposed water treatment plant |
|  | Proposed water supply system |  | Proposed water supply system |
|  | Proposed water supply system |  | Proposed water supply system |
|  | Proposed water supply system |  | Proposed water supply system |
|  | Proposed water supply system |  | Proposed water supply system |

Year	Quota	Amount of fish	Number of fish
1950	100	100	100
1951	100	100	100
1952	100	100	100
1953	100	100	100
1954	100	100	100
1955	100	100	100
1956	100	100	100
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2039	100	100	100
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2041	100	100	100



Client:

Mr Thomas Connors

Project title

Land North of the Gatehouse,
86 Langhole Drive,
Pinchbeck,
Spalding,
PE11 3SS

Academic Title

Proposed Block Plan

Scale @ A2:	1:200	Date of last issue:	March 2022	Drawn:	KL
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Project No.	21 1186
Issue Status	Planning

Revision:	21_1186_003
Drawing No.	

Unit D Luncedale
Station Magna Business Park
Newbury
44 4TT





Flood map for planning

Your reference

Pinchbeck

Location (easting/northing)

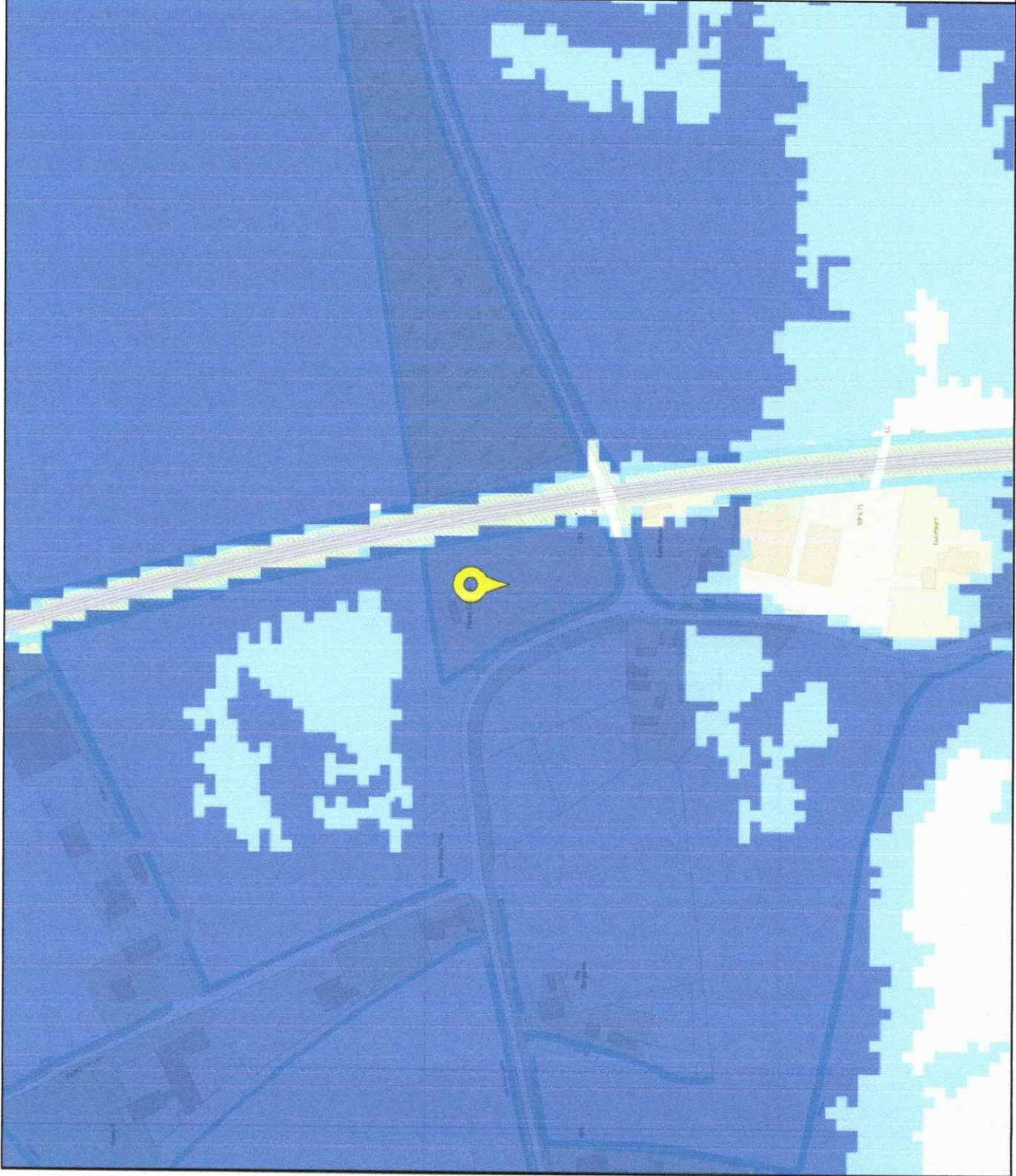
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Scale

1:2500

Created

2 Feb 2022 10:35



Selected point



Flood zone 3



Flood zone 3: areas
benefitting from flood
defences



Flood zone 2



Flood zone 1



Flood defence



Main river

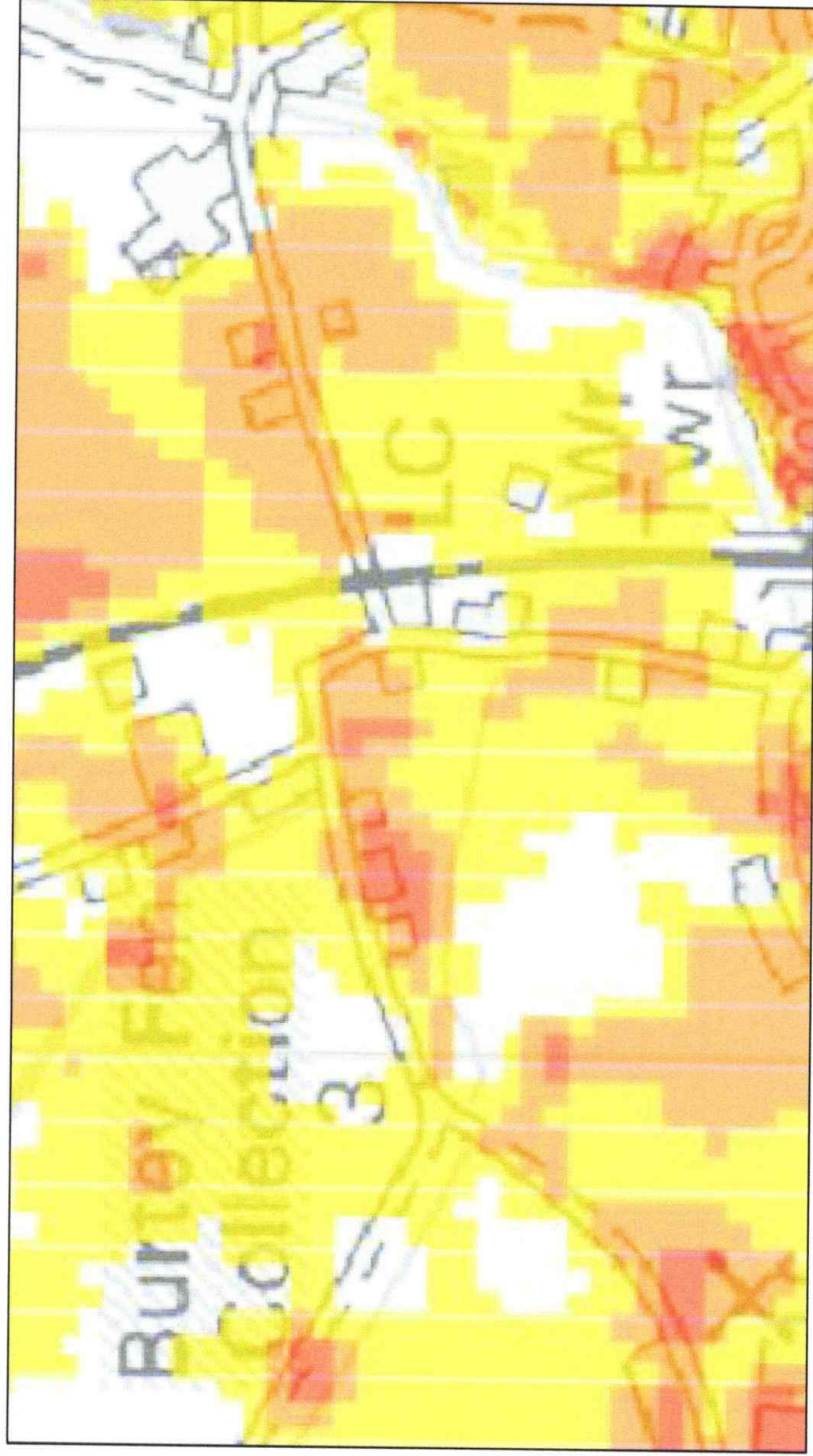


Flood storage area

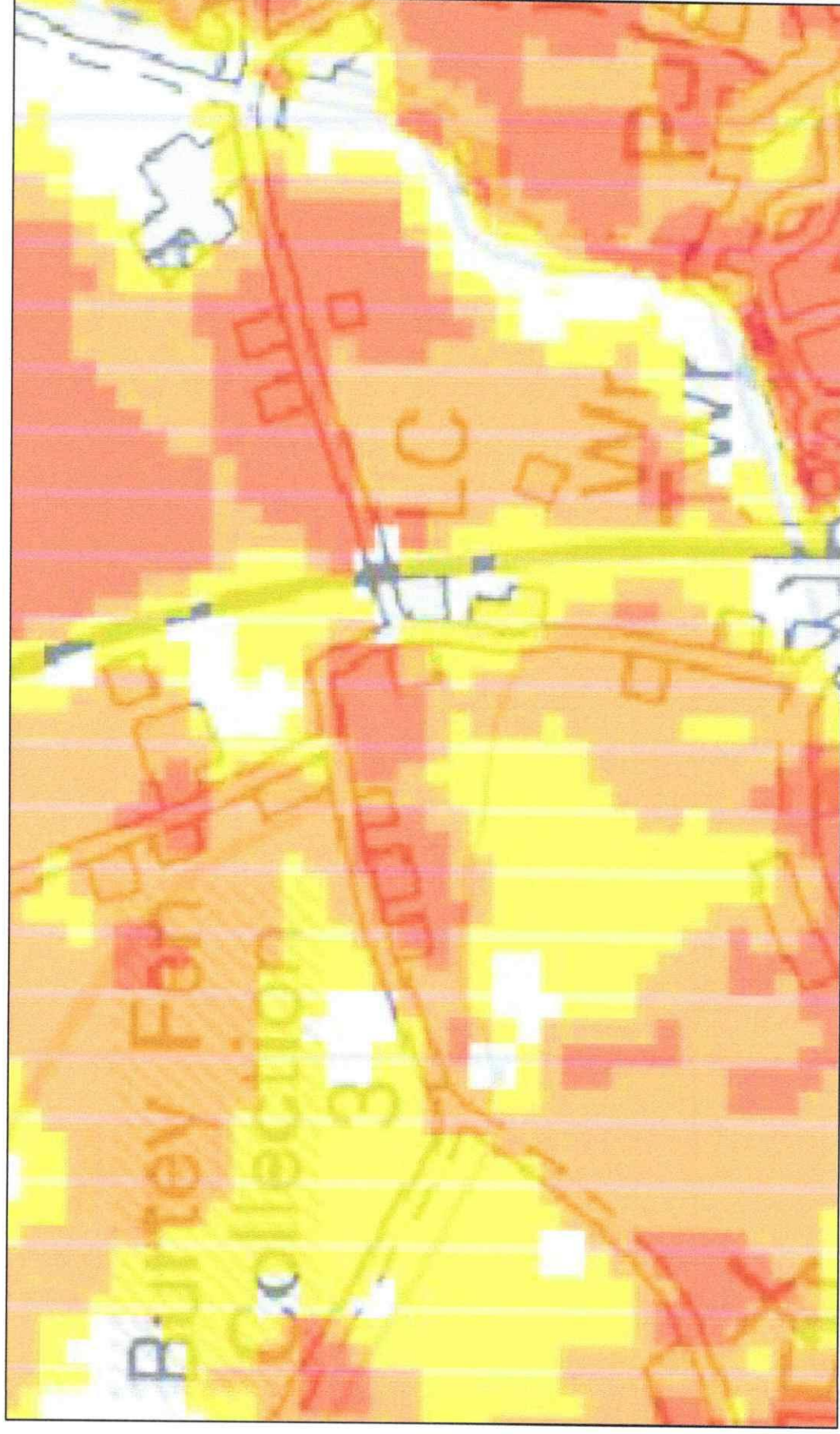


Page 2 of 2

Residual Peak Depth – 0.5% Annual Probability Present Day



Residual Peak Depth – 0.5% Annual Probability Year 2115





Appeal Decision

Hearing Held on 6 August 2019

Site visit made on 6 August 2019

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 September 2019

Appeal Ref: APP/D0515/C/18/3196061

Land South of junction of New Drove and Bevis Lane, Wisbech St Mary, Cambridgeshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Stephen Upton against an enforcement notice issued by Fenland District Council.
 - The enforcement notice, numbered ENF/183/17/UW, was issued on 15/01/2018.
 - The breach of planning control as alleged in the notice is the material change of use of land to a residential use of touring caravans and associated container unit, hardstanding and fence.
 - The requirements of the notice are a) Permanently cease the use of the land for residential use, b) Permanently remove the touring caravans and container unit from the land, c) Permanently remove the fence and hardstanding from the land.
 - The period for compliance with the requirements is 6 months for items a) and b) and 9 months for item c).
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g), of the Town and Country Planning Act 1990 as amended.
-

Decision

1. I direct that the notice be varied by the deletion of the allegation and the following wording substituted therefor: *'The breach of planning control as alleged in the notice is the material change of use of land to a use for the stationing of caravans for residential purposes and associated container unit, hardstanding and fence.'*
2. I also direct that the notice be varied by the deletion of requirements a) and b) and the following wording substituted therefor: *'a) Permanently cease the use of the land for the stationing of caravans for residential purposes, b) Permanently remove the caravans and container unit from the land,'.*
3. Subject to these variations the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the use of the land for the stationing of caravans for residential purposes and associated container unit, hardstanding and fence subject to the conditions listed in Annex A to this Decision.

Procedural matters

4. The appellant questioned whether the Council Officer who issued the Enforcement Notice had the authority to do so. At the Hearing, the Council submitted a copy of the signed authority of the Corporate Director and Chief Finance Officer to delegate the matter to the Head of Planning and referred to the relevant paragraph in the Council's constitution¹ that allowed him to do so. It was then agreed that the notice had been issued with the correct authority.
5. The appellant also submitted that the wording of the notice is defective in that 'residential use of touring caravans' is not a recognised use of land in planning terms. The Council agreed that the wording of the allegation and the requirement relating to it should be varied and both parties agreed that I had the authority to do this.
6. It is also the case that there are now two touring caravans and a static caravan on the site and it was agreed that any revised wording should reflect this situation.
7. Since the appeal was lodged, the Council has withdrawn the reason for issuing the Enforcement Notice relating to the need for gypsy and traveller sites and confirmed at the Hearing that does not have a 5 year supply of such sites and that it was not suggesting there were any suitable alternative sites to which the appellant and his family could presently move. The extent of the shortfall in the number of sites available is a matter of dispute between the parties but it is agreed² that the Fenland Gypsy and Traveller Accommodation Needs Assessment (GTANA) methodology is flawed and that there is an underestimation of need in the District. There are no policies in the adopted Development Plan that identify specific sites for travellers.

Main Issues

8. I therefore consider the main issues in this case are now:

On ground (a):

- (i) whether the location of the site meets the tests for sustainability in the development plan, the National Planning Policy Framework (the Framework) and Planning Policy for Traveller sites (PPTS).
- (ii) the effect of the development on (1) the character and appearance of the surrounding countryside and (2) flood risk.
- (ii) in the event of non-compliance with the development plan, whether there are any material considerations in favour of the development that outweigh this conflict.

On ground (c): whether the fence and hardstanding benefit from planning permission granted by the Town and Country Planning (General Permitted Development) Order 2015 (GPDO).

On ground (f): whether the requirement to remove the fence in its entirety goes beyond what is necessary to remedy the breach of planning control.

If these grounds fail:

On ground (g): whether the time for compliance with the notice is reasonable.

¹ Paragraph 59

² Statement of Common Ground paragraph 16

The Site and Surroundings

9. The appeal site is a small parcel of land located outside the village of Wisbech St Mary, on a corner plot between Bevis Lane, a two lane country road and New Drove, a single track road. The site has been hard-surfaced and surrounded by a timber panel fence of varying height. As noted previously the site contains a static caravan, two touring caravans and a container used as a dayroom.
10. The land in the ownership of the appellant extends beyond the appeal site to the west and the whole plot has a ditch to the east which separates it from the orchards beyond. In the vicinity of the site there is sporadic residential development including a number of other gypsy sites, all but one of which I was told by the Council were authorised, either through the grant of planning permission or through having gained a lawful use over time.

Reasons

Ground (c)

11. This ground of appeal relates to part of the boundary fence around the site. Most of it is below 1m in height where it is adjacent to the highway on New Drove and Bevis Lane but there is a section, about 16m in length, that is higher than this. This section would not meet the requirements for permitted development as set out in Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO).
12. The appellant submits that whilst it is accepted that some of the fence would not be permitted development the majority of is and that this part should be allowed to remain in any event. The case for the retention of the higher section is made under the appeal on ground (f).
13. I consider that there is nothing to indicate that the erection of the fence was undertaken in anything other than a single operation. Since the GPDO does not grant retrospective planning permission, for the appeal to succeed on ground (c) (that planning permission has already been granted) the fence as a whole would need to have been permitted by the GPDO as in force at that time. As it was not, the appeal on ground (c) consequently fails.

Ground (a)

Sustainability of the site location

14. The Council consider that the site is poorly located in terms of access to services and facilities and that it would encourage the use of the private car. However, the appellant points out that it is just over 1km to the nearest convenience store in Wisbech St Mary, where there is also a primary school, a public house and various other facilities, including bus stops with limited but regular connecting services into the larger town of Wisbech, some 3 miles away and March, which is just over 9 miles away.
15. Although the walk into Wisbech St Mary is mainly along Bevis Lane, which has no footpaths, the road is well surfaced, flat and straight. Visibility is good and the road is only lightly trafficked. I consider that there would be no safety concerns or other problems that would discourage occupants of the site from undertaking the journey into the village by foot or on a bicycle. Indeed, the appellant confirmed that this route is used by two of his children, aged 13 and 16, who walk to the village shop.

16. PPTS which, together with the Framework, sets out the Government's policy for locating traveller sites, envisages that gypsy sites may be located in rural areas, whilst noting that new traveller sites in open countryside away from existing settlements should be very strictly limited. In this case, I consider that the proximity of the facilities available in the village mean that the site is suitably close to an existing settlement and would not conflict with the advice in PPTS. It would also meet criterion (b) of policy LP5 D of the Fenland Local Plan 2014 (LP) which requires gypsy sites to be within reasonable travelling distance of a settlement offering local services, including a primary school.

Flood risk

17. The site lies within Flood Zone 3 as defined in the Environment Agency's flood maps, in a defended flood plain, where highly vulnerable development, such as caravans, would not normally be permitted, as set out in LP policy LP5 D (a), PPTS paragraph 13 g) and the Framework. It was agreed at the Hearing that development on this site would be contrary to policy. This would consequently be a significant factor weighing against the proposal.
18. In this case, the appellant has commissioned a Flood Risk Assessment (FRA) as required by national policy, the findings of which have not been challenged by the Council. The FRA demonstrates that in the 1 in 1000 year flood event (i.e. the worst case scenario), the maximum velocity of the water likely to reach the site in the event of the flood defences being breached would be 0.3 metres/sec or less, the maximum depth would be 0.25m and the areas of Bevis Lane immediately adjacent to the site would be above the water level. There would be no risk from flooding if the current defences were to be overtopped. The FRA concludes that the site is not in a functional flood plain, it is protected to the minimum standards required by the Framework and the actual risk of it flooding is less than 0.5%.
19. Even so, national policy requires the sequential test to be undertaken before planning permission could be granted. This must show that there are no other reasonably available sites at lower risk of flooding in the District. PPTS notes that to be considered developable, traveller sites should be in a suitable location and that there should be a reasonable prospect that they are available now. As noted above, any such sites must be at a lower risk of flooding than the appeal site, which means they would have to be in Flood Zones 2 or 1.
20. Whilst there are areas of undeveloped land within Flood Zones 1 and 2 nearby, the appellant notes that much of this is prime agricultural land that is part of wider and substantial agricultural holdings, and it would be unlikely that a small parcel would be sold off for a private gypsy site. The appeal site is limited in size and, as previously noted, bounded by roads and a drain, so that it is not likely to be suitable for any of the large scale agricultural purposes that are typically carried out in the vicinity.
21. The Council agreed that it could not identify any sites in Flood Zone 1 and 2 that would be currently available to the appellant, either with or without planning permission. It was also confirmed that some of the Council's own gypsy sites are located in Flood Zone 3. In these circumstances, I consider that the sequential test has been met.

22. Following on from this, the Government's Planning Practice Guidance (PPG) refers to the 'Exception Test', as also set out in the Framework which would need to be passed if the development were to be classed as 'more vulnerable'. The PPG explains that it is a method to demonstrate and help ensure that flood risk to people and property would be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. However, caravans are classified as 'highly vulnerable' and the advice is that such development should not be permitted. The Exception Test is not therefore normally relevant to proposals such as this.
23. Nevertheless, the appellant has submitted an example of a case, determined by the Secretary of State³, where a similar conflict occurred but where it was consequently found that failure to meet the policy on the location of development at risk of flooding was just one of a number of material considerations that needed to be weighed in the planning balance. In the case cited, the Exception Test was found to have been met as the benefits of the development were found to outweigh the presumption against it and that it would be safe for its lifetime, without increasing flood risk elsewhere. I consider that this finding consequently confirms that there can be circumstances where development in Flood Zone 3 can be permitted.
24. In this case, given the short distance to the land which would be above the 1 in 1000 year flood risk level and the considerable distance from the River Nene, which would be the source of any possible flooding, I am satisfied that the development could, through the imposition of conditions, be made safe for its lifetime. Such conditions would require the tethering of the caravans and ensuring that flood water could flow freely through the site. The second limb of the Exception Test will be considered in the overall planning balance.

Character and appearance

25. Policy LP12 of the LP requires that development in rural areas should not harm the wide open character of the countryside. The site is, in my view, not located in a 'wide open' location; as noted previously the site is a small corner plot that is not isolated from other development. It is seen in the context of a bungalow on Bevis Lane and is close to the other gypsy sites in the road. PPTS notes that gypsy sites in rural areas should not dominate the nearest settled community and the development complies with this requirement.
26. There is no requirement that gypsy sites should be hidden from view; on the contrary, the advice in PPTS is that a site should not be enclosed with so much high fencing that the impression is given that it is being deliberately isolated from the rest of the community. The site is large enough to accommodate the current development without appearing cramped and the section of fence that is higher than 1m, if softened by a landscaping scheme, would not result in any overly dominant impact. The lower sections of fence give clear views onto the road junction and allow traffic to enter and leave the site safely.
27. This site is typical of many gypsy pitches and is not particularly prominent and does not appear out of place in its surroundings. I therefore find that there is no harm to the character of the surroundings sufficient to indicate that planning permission should not be granted.

³ Ref: APP/Z2505/V/09/2119176

Planning balance

28. As previously noted, the development fails to comply with some local and national policies on the location of development in areas at risk of flooding. Nevertheless, any harm caused by this has to be weighed in the planning balance against any benefits of the proposal.
29. In this case, the site meets all the relevant criteria set out in paragraph 13 of PPTS including section g) on flood risk, which notes that caravans should not be located in an area at high risk of flooding including functional flood plains. The FRA has concluded that the site is in the passive, not the functional, flood plain and that it is at a low risk of flooding.
30. The benefits of the proposal in planning terms include the provision of a gypsy site in an area where there is an established need for such development. Although the extent of the need is disputed, with the Council saying that the shortfall is presently 10 sites and the appellant claiming it is more likely to be 55, the provision of even one site would be of considerable benefit in an area where it has clearly proved difficult to find suitable locations for traveller development.
31. The appellant is a local resident and therefore wishes to stay in the area where other members of his family are also resident. Planning permission for the site would allow the children of the family to have a settled base close to a village where the youngest child is due to start at nursery early next year.
32. I consider that, whilst there is a policy conflict with respect to the location of the site in Flood Zone 3, I consider that the actual harm caused by this would be slight, provided suitable conditions are put in place. I conclude therefore that the benefits of the proposal are material considerations sufficient to outweigh any conflict with local and national planning policy and that planning permission for the development should be granted.

Conditions

33. As previously noted, I will impose conditions relating to tethering of the caravans and the provision of raised floor levels for the static unit. There is an opportunity to provide landscaping, particularly to soften the appearance of the boundary fence and I will require such a scheme to be submitted for approval. I will also require a lighting scheme to be submitted for approval in the interests of the amenity of the occupiers of nearby properties. There is no need for a commencement condition as the use has already begun but I will also impose conditions that ensure that the site is retained for use by travellers who meet the definition set out in the Annex 1 to PPTS.
34. I have considered whether the permission should be a temporary one, to allow the Council more time to identify and allocate sites through the LP process. However, this is a single site in a location that I have found to be suitable on a long term basis, so I conclude that a temporary permission is not necessary. Similarly, although there are personal benefits to this particular gypsy family, these benefits would be likely to apply to many other such families and I therefore find there is no requirement for a personal permission.

Conclusions

35. It is clear from the representations, and from my inspection of the site, that the description of the development in the enforcement notice is incorrect in that there are now 2 touring caravans and one static caravan on the site. The appellant and the local planning authority agreed at the hearing that it was open to me to correct the allegation in the notice. I am satisfied that no injustice will be caused by this and I will therefore correct the enforcement notice in these respects in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended.
36. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation. The appeal on grounds (f) and (g) do not therefore need to be considered.

Katie Peerless

Inspector

APPEARANCES

FOR THE APPELLANT:

Matthew Green	Green Planning Studio Ltd.
Stephen Upton	Appellant
Geoff Beel	Flood risk consultant

FOR THE LOCAL PLANNING AUTHORITY:

David Rowen	Fenland District Council
Gareth Martin	Fenland District Council
Lee Walsh	Fenland District Council
David Bailey	Fenland District Council

DOCUMENTS

- 1 Record of Authorisation to delegate the issue of Enforcement Notices to the Head of Planning at Fenland District Council
- 2 Statement of Common Ground
- 3 Map showing Flood Zone designations in vicinity of the appeal site
- 4 Update statement of Mr Upton

Annex A

Conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 2) No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 3) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 90 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision schemes for (a) the proposed method of tethering the caravans, raising the floor level of the static caravan to at least 500mm above existing ground level and providing a route for any flood water to pass below the static caravan; (b) the provision of any external lighting on the boundary of and within the site; (c) landscaping of the site, including details of planting species, plant sizes and proposed numbers and densities; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be maintained/retained/remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.