Design and Access Statement

Proposed Gypsy and Traveller Day Room at

6 Evergreen Close

Spalding

PE12 6BF

This report's aim is to demonstrate how the design process has been established and created the thought process behind the planning application. The report outlines the provisions of a high standard of design with the inclusion of accessibility for all, whist complying with planning legislation.

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Design and Access Statement

1. **Introduction: -**

This Design and Access Statement supports the full planning application for the design of a Gypsy and Traveller a single day room on originally approved site H16-1003-13.

Mobile homes are regarded as 'Caravans'. There are touring caravans, Motor homes, static caravans, twin unit mobiles. These are all caravans. You will also hear the terms 'Park home' 'leisure lodge' 'log cabin'. These are not legal definitions. We use the term 'mobile home' because this refers to static caravans and twin unit mobile homes.

2. **Compliance with Planning Policies:-**

The application should be determined in accordance with polices such as FLP policy LP5 in respect of specific traveller development and including the PPTS and NPPF as well as general policies. Paragraph 25 state that LPAs should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure. In its recent decisions the Council has accepted that planning permission can be granted on sites in the countryside, acknowledging that the identified need will not be met by land within existing towns and villages. The application should be determined in accordance with polices such as FLP policy LP5 in respect of specific traveller development and including the PPTS and NPPF as well as general policies.

PPTS
10.5 Under PPTS Policy B planning authorities should, amongst other things, set pitch targets for gypsies and travellers which address likely needs in their area, working collaboratively with neighbouring local planning authorities. In producing their local plans they should amongst other things:

a) identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets;
b) identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15.
d) relate the number of pitches to the circumstances of the specific size or location of the site and the surrounding population's size and density;
e) protect local amenity and environment.

PPTS 2015
"ensure the 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". In order to do this PPTS sets out a number of aims including:
• to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites:
• to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
• to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure.

This application echoes the ruling of the European Court of Human Rights in Chapman v UK1 which placed a positive obligation on the UK government to facilitate the traditional way of life of Gypsies.

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Policy B: Planning for Traveller sites

Policy C: Sites in rural areas and the countryside

Policy H, paragraph 22 of the PPTS notes that planning law requires applications for planning permission to be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise. Applications should also be assessed and determined in accordance with the presumption in favour of sustainable development in the NPPF and the PPTS. It says that local planning authorities should consider the following issues, amongst other relevant matters, when considering planning applications:

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 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.

Planning and Compulsory Purchase Act 2004;
Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local
Plan (2014).
The Council has a duty Under the Equality Act 2010, Section 149, to have due regard to the need to:

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

The NPPF seeks to promote sustainable development in rural areas where it will maintain the vitality of rural communities. This is further supported by the policies within the Local Plan and Emerging Core Strategy where it is determined that new development in villages will be supported where it contributes to the sustainability of the settlement and does not harm the wide, open character of the countryside.

Human Rights Act 1998;
Article 8 of the Human Rights Act 1998 is of relevance to the applicant's case as failure to grant permission would constitute an interference with home and family life. The site is small and accommodates only 1 family consisting of 3 people.

Section 149 of the Equality Act 2010:

149 Public sector equality duty
(1) A public authority must, in the exercise of its functions, have due regard

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to the need to—
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
(a) tackle prejudice, and
(b) promote understanding.
(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
(7) The relevant protected characteristics are—
–age
–disability
–gender reassignment
–pregnancy and maternity
–race
–religion or belief
–sex
–sexual orientation
(8) A reference to conduct that is prohibited by or under this Act includes a reference to—
(a) a breach of an equality clause or rule;
(b) a breach of a non-discrimination rule.

Caravan Sites Act 1968 Defines a caravan as:

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(1) A structure designed or adapted for human habitation which—

(a) Is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and

(b) Is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer),

shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a **[**highway**] [**road**]** when assembled.

(2) For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (*a*) and (*b*) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely—

(a) Length (exclusive of any drawbar): **[**65.616**]** feet (**[**20**]** metres);

(b) Width: **[**22.309**]** feet (**[**6.8**]** metres);

(c) Overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): **[**10.006**]** feet (**[**3.05**]** metres).

(3) The **[**Minister**] [**Secretary of State**]** may by order made by statutory instrument after consultation with such persons or bodies as appear to him to be concerned substitute for any figure mentioned in subsection (2) of this section such other figure as may be specified in the order.

(4) Any statutory instrument made by virtue of subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Planning Policy for Traveller Sites (PPTS) states, at paragraph 13, that local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. At subparagraph h) of paragraph 13 states that local planning authorities should ensure that policies reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

Policy C of PPTS, in stating 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, recognises that sites outside settlements are not unacceptable in principle.

Case Law

Case law with regard to the personal circumstances of an applicant. The leading case on this is Great Portland Estates plc *v* Westminster City Council[4] (attachment PA12) where the court held at 750:

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"Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. It would be inhuman pedantry to exclude from the control of our development the human factor. The human factor is always present, of course, indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should, be given direct effect as an exceptional or special circumstance. But such circumstances, when they arise, fall to be considered not as a general rule but as exceptions to a general rule to be met in special cases. If a planning authority is to give effect to them, a specific case has to be made and the planning authority must give reasons for accepting it. It follows that, though the existence of such cases may be mentioned in a plan, this will only be necessary where it is prudent to emphasise that, notwithstanding the general policy, exceptions cannot be wholly excluded from consideration in the administration of planning control."

As a matter of principle, Article 8 rights of the applicant are engaged. There can be no dispute that if the applicant and their family were prevented from living in caravans on their land this falls within the scope of Article 8 as relating to their right to respect for their family life, private life and home.

3. Use and amount:-

This statement has been produced to show the concept and development of the proposal and to ensure that a high-quality development is produced, ensuring that it follows the guidelines laid down in Government Guidance but perhaps, more importantly, that the proposed development respects the local context that it will sit within.

The site in question is occupied by family members of a Gypsy family unit. Due to ill health and dependants a safe living space for all the family is to be proposed. As art of the gypsy traveller culture, the requirement of a day rom is paramount to allow for living accommodation of a family room, kitchen and bathroom which can be accessed by anyone on site for the use of washing and use in the day. Sleeping accommodation is only permitted within the mobile homes, as family connections are a big cultural aspect to the gypsy traveller community.

My client proposes the erection of a larger day room as the site approved originally was only approved for mobile homes. As the site is currently approved for 10 mobile homes, a day room of this size is substantial to accommodate the 3 mobile homes in this area that were approved on application H16-1003-13. This site is well equipped to offer the family a day room that we feel corresponds with the current legislation and the gypsy status the family have are within their rights to use a day room of this size on site appeasing human rights, planning legislation and the welfare of the family to remain together.

This application is seen to be acceptable by the council as it has already been approved H09-0933-15. Both of the sites have similarities, the site approved H09-0933-15 was to accommodate a large day room for the use of a larger family. Our site has an approved 10 mobile homes with approx. 3 mobiles on each plot with no day room.

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My client has a large extended family and thus requires a large day room to seat their family and their extended family when they visit. A family tree has been attached to this application (to be a confidential document) to show the council who resides on the plot and their family members.

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to 'Planning policy for traveller sites' (Department for Communities and Local Government, August 2015), namely "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such".

Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998, imposes a positive obligation to facilitate the gypsy way of life in that the vulnerable position of gypsies as a minority group means that some special consideration should be given to their needs and lifestyle in reaching planning decisions in particular cases. This provides some justification for a bespoke policy document addressing gypsy traveller developments – the PPTS. There can be no dispute that if the applicants and their family were prevented from living in caravans on their land this falls within the scope of Article 8 as relating to their right to respect for their family life, private life and home.

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to 'Planning policy for traveller sites' (Department for Communities and Local Government, August 2015), namely "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such".

The floor levels of any habitable structure shall be a minimum of 500mm above the level of the adjacent highway.

4. Design/Layout

The site is situated within the sporadic road of Drain Bank North Spalding. It is in a flat landscape that is predominantly agricultural in nature, with hedges and trees marking field boundaries and the lines of the drainage ditches

Given the flatness of the locality and the substantial vegetation along the roadsides and ditches, the site is readily apparent in wider views it appears to be similar to the various developments around, and in my opinion the boundary fencing and the caravans within the site serve to emphasise the domestic nature of the scheme. This means it does not positively enhance the environment but rather erodes the rural nature of the locality and detracts harmfully from its character and appearance. Mindful though of the presence of the development around and the effect this has on the nature of the area, the scale of this harm is limited. This scheme can be treated as being a visual extension.

The development is considered to be relatively small-scale providing a day room need for 3 mobile homes. Furthermore, the site is set a notable distance away from the nearest settled community. In this regard the development would not dominate the nearest settled community and would be unlikely to give rise to any obvious amenity harm, certainly which could not otherwise be controlled though Environmental Protection legislation e.g. noise, odour or pollution should it arise.

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5. Access

The access is not to be changed from that approved already.

6. Landscaping

All existing landscaping is to be retained.

7. Growth and sustainability

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No commercial activities shall take place on the land, including the storage of materials.
No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight. No person other than a permanent resident of the pitch to which this planning permission relates shall bring a laden commercial vehicle to the site, or park, or keep laden commercial vehicles on the site.

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