

F/YR15/0284/F

8 April 2015

Applicant: Mrs P R Wilson

Agent :

**Land North East Of Golden View, North Brink, Wisbech, Cambridgeshire**

**Change of use of land for the siting of 2no mobile homes (1no retrospective) and erection of 1 x 2-storey garage/storage building; 1 x garage/workshop and 5 metre high floodlight**

**Proposal called in by Councillor G Booth as he considers it complies with Policy LP5 (Part D). Also 7 letters of support received.**

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**1 EXECUTIVE SUMMARY**

This proposal seeks planning permission for the extension of an existing site to provide additional accommodation to support the extended family of the applicant.

Whilst the personal and locational links to the site, together with their status as are undisputed by the Local Planning Authority and afforded significant weight this cannot be to the exclusion of the fundamental principle issue which clearly restricts incompatible development in areas of high flood risk.

Although all other aspects of the scheme are found acceptable there is an unequivocal policy framework which restricts highly vulnerable development in Flood Zone 3 and the Local Planning Authority has no alternative but to recommend the scheme for refusal.

**2 SITE DESCRIPTION:** The site, which in essence has been divided into two sections lies directly to the north-east of Golden View with the closest area performing the function of garden to this mobile home. The south western boundary is formed by hedging and the north eastern boundary in part by fencing. The north-eastern section of the site has been fenced (at a point to the rear of the mobile home in situ) and there is a substantial grass verge to the front of the entire site. There is an established access serving Golden View and a partially constructed access running between the proposed central mobile unit and the unauthorised mobile unit which has been placed on the site. The site has an area of 0.25 Ha.

**3 PROPOSAL:** The proposed scheme consists of the stationing of 2 no. mobile homes towards the frontage of the site (the mobile home to the north-east having already been placed on site) and the erection of 2 x workshop garages. The individual units will occupy their own plots in reality although there is some degree of unity given the shared access between Golden View and the central plot and as a result of the wider family occupation detailed in the submission.

The workshop/garage to the central plot is to be sited to the rear of the site alongside an existing workshop building at Golden View within an existing secure enclosure; materials have not been specified however the structure will have a footprint of 6.5m x 6.5 metres with an eaves height of 3 metres and a ridge height of 6 m. It will have a first floor available for storage, accessed via an external staircase and the ground floor will feature 2 x garage doors.

The second garage/workshop will have a proposed footprint of 7.6 metres wide x 10.606 metres deep with an eaves height of 5 metres and a ridge height of 6 metres it will have a single access door with a height of 4.750 metres. The installation of a 5 metre high flood light situated 30 metres into the site is also proposed to illuminate the secure yard at the rear of the property.

#### 4 SITE PLANNING HISTORY

Adjacent current site:

F/97/0115/O	Erection of a bungalow	Refused 22.07.1997
F/1002/89/F	Use of land for the stationing of a mobile home and erection of a toilet block (part retrospective)	Granted 16.02.1990
F/90/0140/F	Erection of a single-storey domestic garage and garden store	Granted 05.04.1995
F/YR06/0857/F	Erection of a 3-bed detached bungalow involving removal of existing mobile home	Refused 01.09.2006

#### 5 CONSULTATIONS

**Town Council:** Recommends that the application be supported

**Travellers & Services Manager (FDC):** The Council working with the County Council, has produced a local assessment of need for Gypsy, Traveller (permanent and transit) and Travelling Showman plots. The latest published evidence (November 2013), prepared jointly with the County Council, indicates there is no need for Fenland District Council to identify any new pitches.

Irrespective of whether a need is identified or not, Policy LP5 (meeting housing need) Part D states that the Council will determine applications on a case by case basis.

It is confirmed that Mr Cunningham meets the definition of Gypsy and Traveller as set out in Government guidance. The Cunningham family have lived and worked in and around the village for years and as such are integrated into the local community. Mr Cunningham has informed me that he has lived on his father's site all his life, abutting this site, and due to this site being at capacity he wishes to develop his own site for himself and his family.

I have not been made aware of any health or welfare issues.

**Cambridgeshire County Council Highways Authority:** The proposal is for the siting of two mobile homes and the erection of a garage and workshop (part retrospective). The application site has two accesses onto North Brink. The northern one of the two is sealed to an acceptable standard.

The mobile home access central to the site needs to be constructed to an adoptable standard. Plans should be amended to detail this crossover being constructed to CCC crossover specification.

**North Level Internal Drainage Board:** No objection in principle however request details of the final approved surface water disposal method as surface water run-off is increased from the agricultural run-off rate of 1.4l/s/h and a development levy will be required. Also note that they are not convinced that a refuge in the roof space of a caravan sited within a matter of 30 m of a tidal main river is such a good idea.

**Natural England:** Natural England has no comments to make regarding this application.

**Environmental Protection (FDC):** The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposed development, as it is unlikely to have a detrimental effect on local air quality or the noise climate. The flood light should be positioned in such a manner so as not to cause nuisance to neighbouring residents.

**Local Residents/Interested Parties: 7 letters of support have been received which state that they:**

- Reside in the local community and have known the family for several years and have no objection to the proposal
- They are a large Romany/Gypsy family that have lived in the area the longest of all surrounding residents and are part of the local community

## **6 POLICY FRAMEWORK**

**National Planning Policy Framework (NPPF) (2012)**

**Planning Policy for Traveller Sites (PPTS) (2012)**

**Planning Practice Guidance (PPG) (online) (2014)**

**Consultation: planning and travellers 2014**

**Fenland Local Plan (2014)**

LP1: Presumption in favour of sustainable development.

LP2: Health and Wellbeing

LP3: Spatial Strategy, the Settlement Hierarchy and the Countryside

LP5: Meeting Housing Need – Part D Gypsy and Travellers and Travelling Showpeople.

LP12: Rural Areas Development Policy

LP14: Responding to Climate Change and Managing the Risk of Flooding in Fenland

LP15: Facilitating the Creation of a More Sustainable Transport Network in Fenland

## **7 KEY ISSUES**

**The key issues associated with the consideration of this proposal are as follows:**

- **Principle**
- **Flood risk**
- **Character and Appearance**
- **Sustainability**
- **Peaceful and Integrated co-existence**
- **Personal circumstances of the applicant**
- **Health and wellbeing**

### **Principle**

The site is situated within the open countryside for planning policy purposes. As such it is not within any defined settlement area.

The latest published evidence (Gypsy and Travellers Accommodation Needs Assessment - November 2013), prepared for the District Council in association with the County Council, as part of the evidence base for the recently adopted Local Plan, indicates there is no need for FDC to identify any new pitches.

The Fenland Local Plan indicates that irrespective of whether an up-to-date need is identified or not, the Council will still determine applications on a case-by-case basis. However the need, or lack of, has to be a factor within this assessment as, should a need be identified then the impacts may have to be tolerated.

Part D of Local Plan Policy LP5 sets out a criteria (a – f) which will be used to assess new sites and associated facilities. The Council will be prepared to grant permission for sites in the countryside provided that there is evidence of a need, that the intended occupants meet the definition of Gypsy and Travellers, and provided that the criteria (a – f) are met.

Paragraph 4 of the Planning Policy for Traveller Sites (PPTS) advises that the Government's aims for new traveller sites includes enabling provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure. Paragraph 11 confirms that when devising planning policies in relation to gypsy and traveller accommodation access to local health and education services should be considered. Paragraph 23 of the PPTS also confirms that new traveller sites should be strictly controlled within the open countryside. The recent consultation document Consultation: planning and travellers seeks to elevate this to very strict control with the travelling community who have ceased to travel being subject to the same policy framework as the settled population. .

The Planning Policy for Traveller Sites (PPTS) is therefore slightly at odds with the Local Plan in so much as the control over new development in the open countryside at the national level appears to be stronger.

As such the starting point appears to be that there is no need for additional pitches within the District and the approval of additional sites, as advocated in Part D of Policy LP5, has to be considered on this basis. Notwithstanding this the PPTS was a consultation document issued by the Coalition Government and has not been transposed to legislation accordingly the Fenland Local Plan and the Planning Policy for Traveller Sites appear the most appropriate considerations with regard to this proposal.

**Flood Risk (criteria (a) of Policy LP5, Part D refers)**

The consultation response of the Environment Agency is awaited however the NPPF requires Local Planning Authorities to steer new development to areas at the lowest probability of flooding. The site lies within Flood Zone 3 and the proposed development is classed as 'highly vulnerable' – table 3 of the PPG to the NPPF states this type of development is not compatible with Flood Zone 3 and **should not therefore** be permitted.

Although it is appreciated that the site under consideration offers an opportunity for the extended family to reside together this can only be one component of the overall consideration of the scheme.

The application is accompanied by a site specific flood risk assessment which states that an application for minor development or change of use does not require the application of the sequential/exception test to be undertaken. This is at variance to the guidance contained within Planning Policy Guidance to the National Planning Policy Framework which identifies that minor development are non-residential extensions of less than 250 square metres, alterations which do not increase the size of buildings and householder development, e.g sheds and garages etc within existing curtilages.

Notwithstanding this there is a clear steer given against locating highly vulnerable development with Flood Zone 3 with the Exception test only being necessary when considering proposals for 'essential infrastructure' or 'more vulnerable' development, neither of which applies to this application.

This steer is reinforced through Section 11(g) of PPT which requires that Local plan allocations do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans. Although there are no specific land allocations contained within the FLP this advice is entirely relevant to the consideration of this application. Furthermore Criteria (e) of Part D, of Policy LP5 identifies that development should not have an adverse impact on the well-being of future occupiers, this being reinforced in Policies LP2, LP12, LP14 and LP16 which all highlight that development should not put people or property in danger from identified risks.

**Character and Appearance (criteria a of Policy LP5, Part D refers)**

As indicated in the site description the site is located in an open countryside location however it is considered that the mobile units and associated developments would not have a seriously harmful effect on the appearance of the landscape. Each plot offers sufficient amenity space and does not give the impression of isolation from the rest of the community by virtue of existing landscaping and the proposed boundary treatments.

Recognising there is a certain element of mixed usage on each proposed plot, with the construction of substantial outbuildings particularly with regard to the north – eastern plot it is clear that full consideration has been given to site these appropriately within the development to minimise their impact.

The proposed floodlight is situated into the site and again represents no significant issues in terms of residential amenity or the character of the area.

**Sustainability of the site's location and highway safety (criteria b and d of Policy LP5, Part D refers)**

The PPT states that Local planning authorities should 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. It is considered that the cumulative site will not dominate the nearest settled community in terms of scale and whilst an open countryside location it is well placed to offer access to both the settlements of Wisbech St. Mary (approx.. 2.5km) and Wisbech (approx. 3.25km) although it is appreciated that the majority of these trips are likely to be undertaken by car.

**Peaceful and integrated coexistence (criteria c of Policy LP5, Part D refers)**

As indicated in the character and appearance section above the location size, extent, access and boundary treatment of the site should allow for integration with the local settled community and no unacceptable adverse impacts on the amenities of intended occupiers and adjacent occupiers will accrue in design terms. Accordingly it is considered that the requirements of criteria (c) are satisfied.

**Personal Circumstances of the Applicant**

The Council accepts that applicant and her family have gypsy status. There is substantial evidence put forward from the applicant in respect of their background and links to the land. It is noted that the family have had a connection to the site since 1989 and are established within the local community, this being supported by the consultation responses received in support of the submission. In the supporting information the applicant identifies that the GTNA fails to consider families such as theirs.

Certain health needs are identified within the family unit and the support that living together on one site are also cited in the supporting information; whilst this has not been evidenced in the submission by a medical practitioner this would not, it is considered, be so significant in itself given the other supporting information which clearly evidences a locational and familial tie to the site which is significant and may be afforded significant weight alone.

**Health and Wellbeing**

Policy LP2 promotes healthy, safe and equitable living environments and it is clear that providing an opportunity for the wider family of the adjoining occupier to settle in this location would further this aim. Furthermore it would provide homes to meet the individual needs of the intended occupiers.

Notwithstanding this are clear flood risk implications arising from the proposal which would compromise Policy LP2, together with other policies of the Local Plan (as listed above) as the siting of residential accommodation in this location does not avoid adverse impacts which could compromise the health and wellbeing of the intended occupiers.

## **8 RECOMMENDATION**

The Local Planning Authority has sympathy with the desire of the applicant to provide opportunity for the extended family to reside on site, and significant weight is attached to this in its evaluation of the scheme. It is also apparent that in scale, design and amenity terms there are no significant impacts accruing from the proposed development. The requirements of the Local Highway Authority could be easily addressed via an appropriately worded pre-commencement condition to ensure the means of access to the site is appropriately constructed.

Notwithstanding these positive aspects it is clear the NPPF, NPPG and Local Plan are framed in such a way that safety from flood risk should ultimately be a key determinant on whether such development is acceptable. As the site is within Flood Zone 3 it is clearly contrary to this requirement and as such the Local Planning Authority has no alternative but to refuse the proposal.

## **9 REFUSE**

**1 Policy LP14 of the Fenland Local Plan (2014) and the National Planning Policy Framework seeks to direct development to areas of lowest flood risk to ensure the safety of people and property this being further reinforced by Policies LP2, LP12, LP14 and LP16 of the Fenland Local Plan( 2014). The proposal would result in Highly Vulnerable development being located within Flood Zone 3, the area of highest flood risk thereby putting people and property in danger of identified risks to the detriment of their safety and as such it would be contrary to Policies LP14, LP2, LP12 and LP16 and the clear guidance contained within the National Planning Policy Framework.**

## **10 UPDATE TO 3<sup>rd</sup> JUNE PLANNING COMMITTEE**

**Members received the following consultation update in respect of the application at the June Committee meeting:**

**Environment Agency Consultation response:** The site lies within Flood Zone 3 defined by the Technical Guide to the National Planning Policy Framework as having a high probability of flooding. However, the site lies just outside the Tidal Nene Hazard mapping extents for the 2115, 1000 year breach scenario. The location of the proposed caravan lies outside the mapping extents.

We note the proposed mitigation for the development, as per the Flood Risk Assessment (FRA).

However, the proposed mobile home, intended for permanent residential use, is classed as highly vulnerable and therefore is deemed inappropriate in Flood Zone 3. Your Authority will need to make a decision from a Sequential Test point of view.

**Environment Agency position:** The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) as detailed in the FRA with this application are implemented and secured by way of a planning condition on any planning permission.

Comments also included noting that the LPA must be satisfied with regard to the safety of people, their ability to reach places of safety and safe refuge and the ability of emergency services to access such buildings to rescue and evacuate those people.

**In addition further information was provided to the committee following on from their site visit in answer to direct questions they had raised:**

1. How long have the existing buildings and unlawful mobile home been in-situ?

*The applicant has confirmed that her brother's mobile unit has been on there since 27th March and he is currently paying council tax for the property.*

2. Requested an update regarding the rules and application of the GTANA

*The GTANA is as written, although it is likely to be challenged at a forthcoming appeal. To recap the Gypsy and Traveller Needs Assessment (2013) states that the Local Authority can deliver its identified need for traveller pitches up to 2026 and that there is no need for additional pitches. Notwithstanding this Policy LP5 – Part D identifies that proposals will still determine applications on a case-by-case basis*

3. Are the touring caravans being lived in/ can they be used for accommodation?

*The applicant has confirmed that the smaller of the touring caravans belongs to her parents and they use it for travelling, the larger touring caravan is the applicants which she uses for travelling and staying in when her son is poorly and they need to be close to the family. They are also both used for when her sisters and other family come to stay, they are used for travelling not for living in. They are normal touring caravans, which anyone would have*

4. What will happen to the unauthorised Mobile if application refused?

*The applicant will be invited to remove the mobile unit from the site to avoid the need for compliance activity. Is Golden View also in Flood Zone 3 and does it have planning permission?*

*Golden View lies within Flood Zone 3 and as indicated in the report it was granted planning permission in 1990 (see history section). This decision predates the Flood Risk Guidance of National Planning Policy (PPG25 published 2001)*



5. How many times has the area flooded and when did it last flood?

*The submitted FRA notes that there is no flood history for the area and that there was no flooding on the 12<sup>th</sup> December 2013 when the River Nene reached a level considered at or around the predicted 1:200 year event during a storm surge.*

*The applicant has confirmed that The area has never flooded since we have lived there, my dad prior to living here was at Jubilee Cottage further down North Brink towards Guyhirn and he has never seen the area flooded, he has lived in this area all his life.*

## **11 UPDATE TO 22<sup>nd</sup> JULY 2015 PLANNING COMMITTEE**

At the planning committee meeting of 2<sup>nd</sup> June 2015 Members resolved to Grant planning permission for two mobile units and associated outbuildings and delegated authority to the Head of Planning, in consultation with the Chairman and Vice-Chairman of the Planning Committee, to formulate suitable and correct conditions to form part of the decision as they did not support the officer recommendations to refuse planning permission as they felt that the risk of flooding was less than anticipated when considered on actual Flood Zone areas and Maps.

It was against this backdrop that a decision notice was drafted and given the need to ensure that the decision issued reflected the committee consideration of the proposal the Chairman requested that the matter be referred back to the committee with some further commentary to clarify the intended occupation of the site.

Officers have met with the original applicant Mrs P R Wilson to discuss this in detail and further supporting information has been provided. This has identified that at validation stage Mrs Wilson and her brother Mr Cunningham were advised to submit the application in one name only and describe the dual occupation of the site in the description, i.e. two mobile units. Whilst this was appropriate for validation processes it does lead to difficulties in issuing a personal consent and as such the application has now been amended to revert back to dual applicants.

To recap on the intended occupation it is proposed that Mrs Wilson and her family will relocate from their existing house at Parson Drove on the site closest to Golden View and Mr Cunningham will occupy the second area of land; continuing to reside in the mobile home that Members viewed during their site inspection, with his wife and children who range in age from 18 months to 11 years.

Mrs Wilson explained directly to the committee as part of her presentation that it was her desire to live at Golden View permanently, this was in accordance with the information submitted with the original application which whilst acknowledging she and her family were domiciled in Parson Drove noted that they had a trailer at Golden View to stay in as required (this trailer being identified in Item 3 of the Update to the June Planning Committee).

Mrs Wilson has also clarified that she did not labour the issue of the collective status of her and her brother as coming from a Romany/Gypsy family as this was clearly covered in the report although she was speaking on behalf of her and her brother and sought to address the flood risk issues raised in the report whilst also identifying that she had personal needs which would be addressed through permanent relocation to the site. This having not been fully covered in the officer report, albeit it was identified that her brother (the intended occupant of the second plot) had no specific health or welfare needs.

The health and welfare needs of Mrs PR Wilson were not captured in the report however for the sake of completeness this assessment has been requested from the FDC Travellers & Services Manager, and will be reported to the committee direct to the meeting.

As identified Mrs Wilson has submitted supplementary information post recommendation which clarifies that Mr Cunningham has lived at Golden View since he was about 7-years old apart from when he is travelling; excepting a 6-month period where he lived at a Wisbech site and at Guyhirn. He has outgrown the family plot and it has been asserted that should he not be able to secure a personal planning consent to live at the site under consideration he would have nowhere else to reside and would be classed as road-side if he had to move

The earlier refusal recommendation was based solely on Flood risk grounds as Officers considered that the locational and familial tie to the site were significantly robust to satisfy Policy LP5 requirements and there were no other implications arising when viewing the proposal against other relevant policies. Members of the committee considered that the flood risk implications were not so severe as to warrant a refusal of the scheme on these grounds

### **Suggested Conditions**

- 1 The development permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The occupation of the site hereby permitted shall be carried out only by the following and their resident dependants/spouses Mrs P R Wilson and Mr E Cunningham. When the land ceases to be occupied by those named above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto or erected on the land, or works undertaken in connection with the use, shall be removed and the land shall be restored to its condition before the development took place. This restoration shall be undertaken fully in accordance with a scheme outlining the works necessary to restore the land to the pre-development condition and the time period within which the works shall be undertaken, which shall be within 6-months, with this scheme having been submitted to and approved in writing within 1-month of the site being vacated.

Reason: In granting this permission the Council has had regard to the special circumstances of this case and wishes to have the opportunity of exercising control over any subsequent use in the event of the family vacating the premises, in the light of the development plan and any other material considerations. Recognising that the consent has been given based of the Policy LP5(D) of the Fenland Local Plan, adopted May 2014.

- 3 There shall be no more than two pitches on the site and on each of the two pitches hereby approved no more than one mobile home and one touring caravan, which shall fall within the definition of a caravan as specified in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time.

Reason –To fully define the scope of the consent

- 4 No commercial activities shall take place on the land or within the two garage/workshops hereby approved, including the storage of materials.

Reason:- The site is within an area where commercial activity would not normally be permitted in view of the need to safeguard the amenity of adjoining residential properties to ensure compliance with Policy LP16 of the Fenland Local Plan, adopted May 2014

- 5 No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 7.5 tonnes in weight.

Reason:- The site is within an area where commercial activity would not normally be permitted in view of the need to safeguard the amenity of adjoining residential properties to ensure compliance with Policy LP16 of the Fenland Local Plan, adopted May 2014

- 6 Within 3 months of the date of this decision the north-eastern access where it crosses the public highway shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification, and thereafter retained in perpetuity.

Reason : In the interests of highway safety and to ensure satisfactory access into the site in accordance with Policy LP16 of the Fenland Local Plan, adopted May 2014.

- 7 The development permitted by this planning permission shall be carried out in accordance with the approved FRA for development at Land North East of Golden View, North brink, Wisbech dated 12 March 2015 and the following mitigation measures detailed within the FRA:

1. The owners of the mobile homes will sign on to the Environment Agency's Floodline Warnings Direct Service
2. Finished floor levels of proposed mobile homes will be set a minimum of 1.0m above existing ground level.

3. Safe refuge will be provided within the mobile homes. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to ensure compliance with Policies LP16 and LP14 of the Fenland Local Plan, adopted May 2014

- 8 Finished floor levels of the mobile homes shall not exceed 1.5 metres above existing ground level

Reason: To ensure that the proposed development is acceptable in visual amenity terms in accordance with policy LP16 of the Fenland Local Plan, adopted May 2014

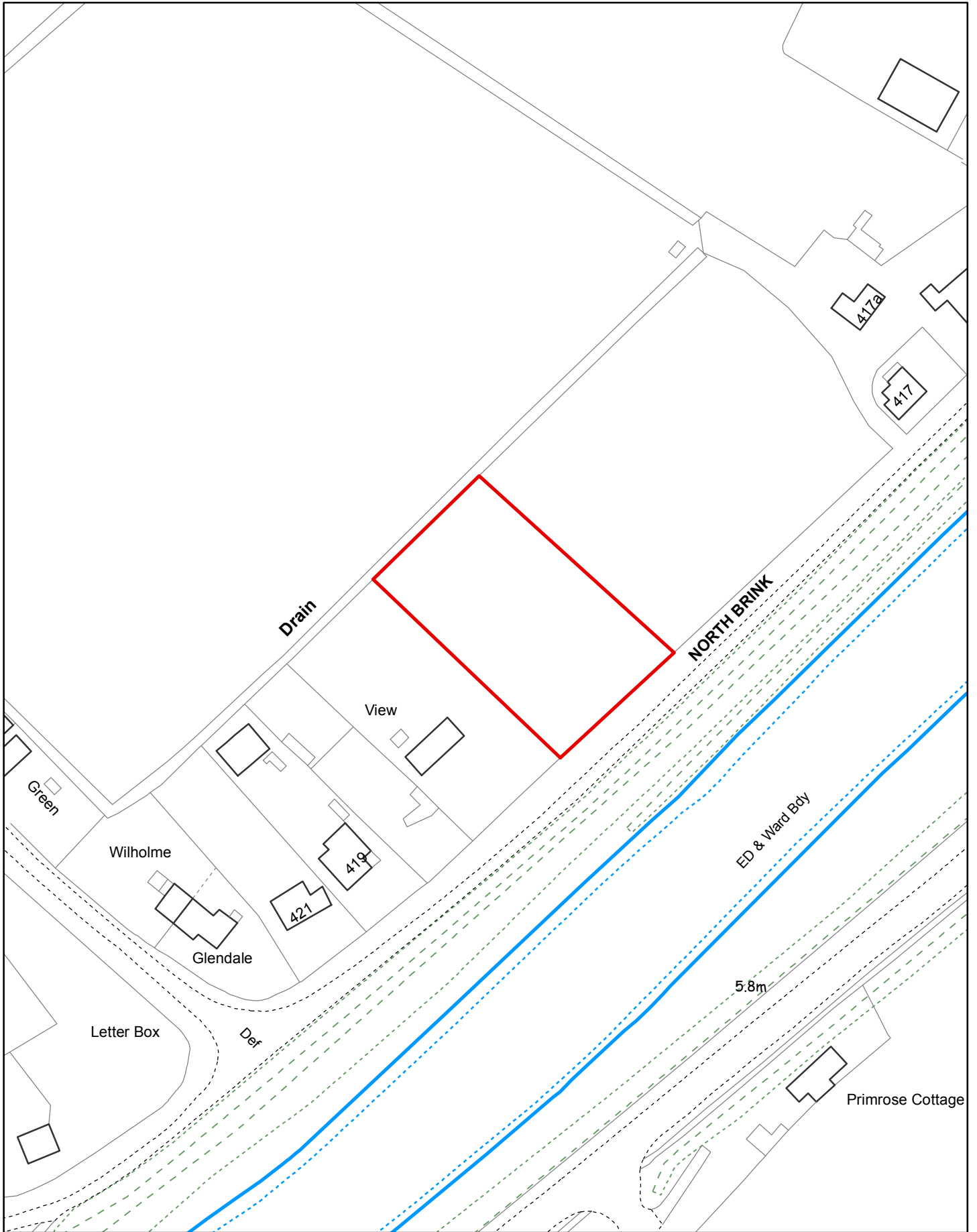
- 9 Within 3-months of the date of this decision, a scheme for the provision and implementation of surface water drainage, to include timescales for implementation shall be submitted and agreed in writing with the Local Authority in consultation with the Drainage Authority. The scheme shall subsequently be implemented in accordance with the approved details and agreed timeframe and thereafter retained in perpetuity.

Reason: To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding in accordance with Policies LP14 and LP16 of the Fenland Local Plan, adopted May 2014

- 10 No raw materials, finished or unfinished products, parts, crates, packing materials or waste shall be stacked or stored on the site except within the buildings or storage area at any time, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the visual amenities of the area in accordance with Policy LP16 of the Fenland Local Plan, adopted May 2014

- 11 The development hereby permitted shall be carried out in accordance with the following approved plans



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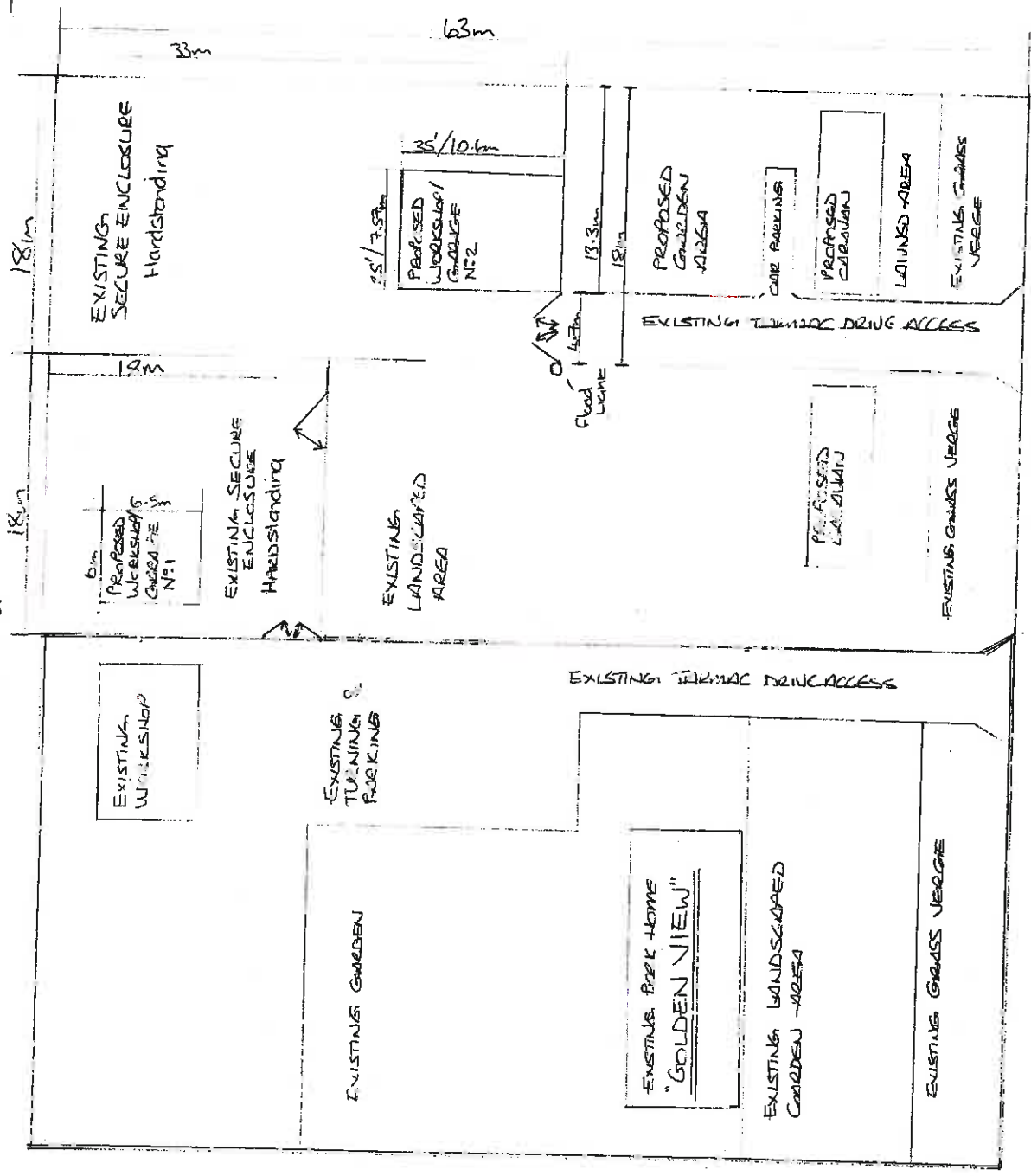
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PROPOSAL TO EXTEND THE CARTRIDGE OF "GOLDEN VIEW",  
 NORTH BRINK, WISBECH TO LAND NORTH-EAST OF THE PROPERTY OF  
 "GOLDEN VIEW".

SCALE 1:200  
 24-03-2015



ROAD - "NORTH BRINK"