F/YR24/0304/F

Applicant: Mr S Taylor

Agent : Mrs Alex Patrick Alexandra Design

Land East Of Fern House, Birds Drove, Gorefield, Cambridgeshire

Change of use of land to gypsy traveller's plot involving the siting of 2 x residential mobile homes and 2 x touring caravan, the formation of hardstanding, in-filling of ditch (to create vehicular access) and erection of 1.8m high fencing and a gate with 2.15m high brick piers (retrospective)

Officer recommendation: Grant

Reason for Committee: Number of representations and Parish Council comments contrary to Officer recommendation

Government Planning Guarantee

Statutory Target Date for Determination: 6 June 2024

EOT in Place: Yes/No

EOT Expiry: 6 November 2024

Application Fee: £578

Risk Statement:

This application must be determined by 6 November 2024 otherwise it will be out of time and therefore negatively affect the performance figures.

1 EXECUTIVE SUMMARY

- 1.1 The application seeks retrospective planning permission for the change of use of the site for Gypsy & Traveller plots, the siting of 2no. mobile residential homes, 2no. touring caravans, the creation of associated hardstanding and access, and the erection of a 1.8m close-boarded fence and 2.15m brick piers.
- 1.2 The proposal engages the tilted balance on the basis of a lack of 5-year land supply for Gypsy & Traveller pitches in the district. It is considered that the proposal is acceptable in principle, on balance, by contributing towards achieving the required supply.
- 1.3 It is acknowledged that there is a policy conflict in respect of flood risk and drainage by virtue of the sites location in flood zone 3. However, it is considered that this is sufficiently mitigated by the existing flood defences and mitigation measures set out in the submitted Flood Risk Assessment.
- 1.4 The proposal is considered to be acceptable in terms of the overall planning balance and it is therefore recommended that permission is granted in this instance.

2 SITE DESCRIPTION

- 2.1 The application site is located on the southern side of Bird's Drove in Gorefield. The site has not been subject to any previous planning applications and as such, the authorised use of the land is as an undeveloped agricultural field.
- 2.2 Notwithstanding this, the site has been subject to the unauthorised development as listed above, and now consists of 2no. residential mobile homes, 2no. touring caravans, associated hardstanding, creation of an access and erection of a 1.8m close-boarded fence and 2.15m high brick piers.
- 2.3 The wider context of the surrounding area is largely rural and agricultural in nature, with sporadic pockets of development also present. There are no properties immediately adjacent to any boundary of the site, with the nearest property approximately 100m away.
- 2.4 The site is located in Flood Zone 3 but is at very low risk of surface water flooding.

3 PROPOSAL

- 3.1 The proposal seeks retrospective planning permission for the change of use of land to gypsy traveller's plot involving the siting of 2 x residential mobile homes and 2 x touring caravan, the formation of hardstanding, in-filling of ditch (to create vehicular access) and erection of 1.8m high fencing and a gate with 2.15m high brick piers.
- 3.2 The development has already been carried out in its entirety.

Full plans and associated documents for this application can be found at:

https://www.publicaccess.fenland.gov.uk/publicaccess/

4 SITE PLANNING HISTORY

4.1 There is no relevant planning history on the site.

5 CONSULTATIONS

5.1 Gorefield Parish Council

Gorefield Parish Council does not support this application. It is development in the open countryside with no justification.

5.2 **North Level Internal Drainage Board** *Please note that North Level District Internal Drainage Board have no objections to the above planning application.*

5.3 Cambridgeshire County Council Highways Authority

I can confirm that the revised details are acceptable to the Local Highway Authority. Whilst we may retain reservations in relation to the suitability of the local highway network to cater for additional development, the scale and impact of the proposal when considered on its own merits is not sufficient to justify a recommendation of the refusal in the context of Para 115 of the NPPF.

5.4 Environment Agency

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and planning practice guidance (PPG). We recommend that planning permission is refused on this basis.

5.5 Natural England

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

5.6 CCC Ecology

The application provides insufficient evidence to demonstrate: - the level of impact of the scheme on protected species, namely bats, nesting birds and water vole

- 'no net loss', and ideally net gains, in biodiversity value

It is not possible to determine if the scheme accords with Fenland Local Plan 2014 policies LP16 & LP19 which seek to conserve, enhance and promote the biodiversity interest. Nor, whether the LPA will meet its statutory duties to conserve biodiversity (Section 40, Natural Environment and Rural Communities Act 2006) and European protected species (Conservation of Habitats and Species Regulations 2017).

We therefore recommend refusal, unless the following information is provided prior to determination:

- Protected Species surveys (water vole) recommended in the Water Vole Appraisal

- Preliminary Ecological Appraisal (to include consideration of removal of trees), and any further survey work recommended in the PEA

5.7 Environment & Health Services (FDC)

The Environmental Health Team note and accept the submitted information and have 'No Objections' in principle to the proposal, as it is unlikely to have a detrimental effect on local air quality, the noise climate, or be affected by ground contamination.

5.8 **FDC Traveller And Diversity Manager**

I would confirm that the family are ethnic Gypsies.

5.9 Local Residents/Interested Parties

Objectors

A total of 6 letters of objection were received from residents of Wisbech, Leverington, Gorefield and Chatham. The representations raised the following material planning considerations:

- Noise disturbance from a generator being run on site
- Increased flooding to neighbouring property

- Lack of public transport links
- All roads are unlit without footways
- Significant visual impact on landscape
- Site within flood zone 3
- Unknown need for pitches in the district area
- Insufficient infrastructure (doctors surgeries, schools, etc.)
- Narrow highway with no passing places and in poor condition

Supporters

A total of 18 letters of support were received from residents of Gorefield, Wisbech, Claremorris, March, Hunstanton, Chatteris, Norwich, Sutton Bridge, Hinckley and Westport. The representations raised the following material planning considerations:

- The development has improved the visual amenity of the site
- The applicant has carried out repairs to the ditch in front of the site to improve drainage

6 STATUTORY DUTY

- 6.1 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 Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021).
- 6.2 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.

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF)

Chapter 2 - Achieving sustainable development

Chapter 4 – Decision-making

Chapter 8 – Promoting healthy and safe communities

Chapter 12 - Achieving well-designed and beautiful places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

7.2 National Planning Practice Guidance (NPPG)

Determining a Planning Application

7.3 National Design Guide 2021 Context Identity Built Form Movement Nature Homes and Buildings

7.4 Fenland Local Plan 2014

- LP1 A Presumption in Favour of Sustainable Development
- LP2 Facilitating Health and Wellbeing of Fenland Residents
- LP5 Meeting Housing Need
- LP6 Employment, Tourism, Community Facilities and Retail
- 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
- LP16 Delivering and Protecting High Quality Environments across the District
- LP17 Community Safety
- LP19 The Natural Environment

7.5 Cambridgeshire Flood and Water SPD 2016

7.6 Emerging Local Plan

The Draft Fenland Local Plan (2022) was published for consultation between 25th August 2022 and 19 October 2022, all comments received will be reviewed and any changes arising from the consultation will be made to the draft Local Plan. Given the very early stage which the Plan is therefore at, it is considered, in accordance with Paragraph 48 of the NPPF, that the policies of this should carry extremely limited weight in decision making. Of relevance to this application are policies:

- LP1: Settlement Hierarchy
- LP2: Spatial Strategy for the Location of Residential Development
- LP5: Health and Wellbeing
- LP7: Design
- LP8: Amenity Provision
- LP12: Meeting Housing Needs
- LP14: Gypsies and Travellers and Travelling Showpeople
- LP18: Development in the Countryside
- LP22: Parking Provision
- LP24: Natural Environment
- LP25: Biodiversity Net Gain
- LP32: Flood and Water Management

8 KEY ISSUES

- Principle of Development
- Character and appearance impact
- Impact on amenities
- Flood Risk and Drainage
- Biodiversity Impact
- Parking provision and highway safety
- Biodiversity Net Gain (BNG)

9 ASSESSMENT

Principle of Development

- 9.1 The application seeks retrospective planning permission for the change of use of the site for Gypsy & Traveller plots, the siting of 2no. mobile residential homes, 2no. touring caravans, the creation of associated hardstanding and access, and the erection of a 1.8m close-boarded fence and 2.15m brick piers.
- 9.2 Whilst the site is located within the parish limits of Gorefield, it is situated outside of the continuous built area of the settlement. As such, the application should be considered as Rural/Open Countryside development under Policy LP12 of the Fenland Local Plan, rather than the village specific policy LP3.
- 9.3 Notwithstanding the requirements of Policy LP12, it is recognised that many traveller pitches will be located outside of settlements and in rural locations such as this.
- 9.4 Furthermore, Policy LP5 concerns meeting housing needs in the district. Part D of this policy is particularly relevant to the consideration of this application, as it relates to the assessment of development proposals for Gypsy and Travellers and Travelling Showpeople.
- 9.5 Due regard has also been given to Planning Appeal APP/D0515/W/23/3332133 (F/YR22/1029/F Land North of the Spinney, Gall's Drove, Guyhirn), which was allowed in March 2024 for the use of land for the stationing of caravans for residential purposes and dayroom ancillary to that use.
- 9.6 This appeal found that the Council are unable to identify and demonstrate the current need for Gypsy & Traveller plots within the district. As such, the Inspector concluded that the Council were unable to demonstrate a five-year land supply in this regard. In the absence of an adequate supply, significant weight in favour of the proposal must be given as a means of helping to meet the need in the district.
- 9.7 When having due regard to the outcome of this appeal, the provision of additional Gypsy & Traveller plots in this development proposal weighs in favour of the application, notwithstanding any harm identified and conflict with Fenland Local Plan policies arising from the location of the site.
- 9.8 Therefore, when considering the principle of development in this instance, it is considered to be acceptable when having regard to the Council's lack of evidence to identify the need for Gypsy & Traveller pitches in the district and acknowledging that this development would offer a small contribution towards meeting this.

Character and appearance impact

- 9.9 The site is located in a rural area with a flat topography and fairly open views, particularly when looking North and West from the site. It is acknowledged that there is a degree of visual impact from the development when viewing the site from these directions. However, when looking to the East and South, there is a band of trees that restricts any wider visual impacts of the development in these directions.
- 9.10 Whilst noting the generally rural character of the surrounding area, there is still a presence of pockets of development. It is considered that these pockets of development result in some visual impact on the landscape, meaning that the

development in question is not alien nor incongruous on the landscape character of the area.

- 9.11 It is not considered that the scale of development on site, the provision of 2no mobile residential homes and 2no touring caravans, would be out of keeping with the scale of development seen on nearby sites.
- 9.12 When considered on balance, it is acknowledged that the development is visible on the landscape when viewed from certain vantage points. However, it is not considered that this impact is significant when considered in the overall context of the wider landscape. As such, it is considered that the proposal, on balance, complies with Policy LP of the Fenland Local Plan (2014) in terms of character and appearance impact.

Impact on amenities

- 9.13 When considering the impact of the development on residential amenities, it is important to note that the site is approximately 100m from the nearest property.
- 9.14 It is not considered that the use of the site for residential purposes would generate significant levels of noise that would result in disturbance to the nearest neighbours, particularly when considering that the nearest property to the east is located immediately south, and in far closer proximity, to a site which appears to benefit from a planning permission for the storage, repair and servicing of tipper lorries (F/YR01/0072/F). Notwithstanding, the proposal is for a residential use which would be generally compatible with adjacent residential uses.
- 9.15 Further to this, it is noted that the Environmental Health Team have raised no objections to the proposal on the basis of the arising impacts. Whilst concerns have been raised about the use of generators, the frequency of this is unknown. Notwithstanding, the Council's Environmental Health teams has powers under the Environmental Protection Act to intervene should statutory noise nuisance (or other nuisances) occur.
- 9.16 Due to the separation distance from the application site to any neighbouring properties, and the modest scale of development proposed, it is not considered that the development would result in any adverse impacts on residential amenity.
- 9.17 Residents have raised concerns over the impact on local services and facilities through this development, or rather a lack of sufficient services and public transport to support it. In this regard, the scale of the development and likely number of occupiers will be low and therefore unlikely to place significant burdens upon local services. Furthermore, whilst the lack of public transport is noted, this is not an uncommon situation where countryside development occurs and where justified. As such, refusal on these grounds is unwarranted in this instance.
- 9.18 Therefore, the proposal is considered to comply with Policy LP16 of the Fenland Local Plan (2014) in this regard.

Flood Risk and Drainage

- 9.19 The application site is located within Flood Zone 3 but is immediately adjacent to Flood Zones 2 & 1. It is also noted that the site is located to the North of areas benefitting from flood defences and a water storage area, as shown on the Environment Agency maps.
- 9.20 In terms of surface water flood risk, the site is located in an area considered to be of very low risk.

- 9.21 Due to the location of the site within an area of higher flood risk, there is a conflict with Policy LP14 of the Local Plan. This weighs against the proposal.
- 9.22 Consideration has been given as to whether the proposal passes the sequential and exception test in this regard. It is considered that the sequential test is met in this instance as the Council are unable to identify any sites at a lower risk of flooding that could accommodate the development. As such, the sequential test is met and it is necessary therefore to consider whether the application passes both parts of the exception test, which are; a) that the development provides wider community benefits which outweigh the flood risk and; b) that the development can be made safe for its lifetime without increasing flood risk.
- 9.23 In respect of a); the site will provide accommodation for a specific community group where there are no other sites available and the Council are unable to confirm that sites will come forward in the immediate future. The development would therefore provide wider benefit in securing accommodation against an unmet need.
- 9.24 In respect of b) Whilst there is an objection from the Environment Agency on the basis that the site is located within Flood Zone 3, their comments do highlight that their hazard maps do not have this area at risk, should a breach of the flood defences occur. Further to this, it is noted that there is no objection from the Internal Drainage Board.
- 9.25 It is noted, as highlighted in the aforementioned appeal decision (APP/D0515/W/23/3332133), where flood risk was also a key issue, that the Environment Agency mapping is only a guide and reflects a worst-case scenario that does not take into account flood defences in the area.
- 9.26 Notwithstanding this, the Flood Risk Assessment submitted alongside the application sets out a number of mitigation measures that can be implemented to improve the resilience of the site in the event that flooding occurs The Environment Agency has confirmed that they are satisfied with the measures, when considering the additional protection afforded to the site by the existing flood defences and water storage areas nearby
- 9.27 As such, it is considered that through the identified mitigation, the development can be made safe for its lifetime and would not increase flood risk elsewhere. Therefore, both parts of the exception test are considered to have been met.
- 9.28 As such, whilst it is acknowledged that there is a policy conflict in this regard, it is not considered that the harm arising from this conflict would warrant the refusal of the application when having regard to the lack of supply of Gypsy & Traveller pitches and the flood mitigation measures proposed in this instance.
- 9.29 On balance, therefore, the proposal is considered to be acceptable in planning terms, having due regard to Policy LP14 of the Fenland Local Plan.

Biodiversity Impact

9.30 Given that the development has already been implemented, it must be accepted that any biodiversity impact has already occurred. Notwithstanding this, the initial comments received from the County Ecologist raised an objection on the basis of insufficient information relating to biodiversity impact – particularly protected species surveys for water voles.

- 9.31 Further information has been submitted and re-consulted on in this regard. However, comments have not been forthcoming from the Ecologist on this information.
- 9.32 An ecological appraisal has been submitted that includes information about two water vole surveys that were carried out on ditches and near to the site in April and July 2024. These surveys identified no evidence of water voles, although this may have been due to the clearance work undertaken on site.
- 9.33 Whilst it cannot be confirmed whether and implementation of the development resulted in any biodiversity impact, and what the extent of this impact may have been, it is not considered that the development will result in any ongoing or further harm in biodiversity terms.
- 9.34 Notwithstanding this, it is considered necessary that the site provide a scheme of biodiversity mitigation and enhancement measures to offset any harm that may have occurred. As such, it is recommended that a condition being included requiring the submission of such a scheme within 3 months of the date of decision. The approved scheme should be implemented within 6 months of its approval.
- 9.35 As such, it is considered on balance that the proposal can accord with Policy LP19 of the Fenland Local Plan if appropriate mitigation and enhancement can be provided post decision.

Parking Provision and Highway Safety

- 9.36 The highway authority has raised concerns with the scheme due to the narrowness of the highway and lack of passing provision available. There were also concerns about the capability of the site to provide adequate turning space to allow vehicles to enter the highway in forward gear.
- 9.37 Following the submission of additional information, including vehicle tracking plans, the highway authority do maintain some reservations with the scheme, but do not consider that there are sufficient grounds to maintain a formal objection when considering paragraph 115 of the NPPF.
- 9.38 It is considered that the proposal provides sufficient parking provision for the number of units proposed, along with sufficient turning provision on site. Whilst it is noted that the public highway is narrow, it is not considered that the scale of development proposed would result in a severe impact on the highway network due to its modest nature.
- 9.39 As such, it is considered on balance that the proposals are acceptable in terms of parking provision and highway safety, having regard to Paragraph 115 of the NPPF.

Biodiversity Net Gain (BNG)

- 9.40 The Environment Act 2021 requires development proposals to deliver a net gain in biodiversity following a mitigation hierarchy which is focused on avoiding ecological harm over minimising, rectifying, reducing and then off-setting. This approach accords with Local Plan policies LP16 and LP19 which outlines a primary objective for biodiversity to be conserved or enhanced and provides for the protection of Protected Species, Priority Species and Priority Habitat.
- 9.41 There are statutory exemptions, transitional arrangements and requirements relating to irreplaceable habitat which mean that the biodiversity gain condition does not always apply. In this instance, one or more of the exemptions /

transitional arrangements are considered to apply and a Biodiversity Gain Condition is not required to be approved before development is begun because the nature of the development being retrospective, is exempt from statutory net gain.

10 CONCLUSIONS

- 10.1 The application seeks retrospective planning permission for the change of use of the site for Gypsy & Traveller plots, the siting of 2no. mobile residential homes, 2no. touring caravans, the creation of associated hardstanding and access, and the erection of a 1.8m close-boarded fence and 2.15m brick piers.
- 10.2 The proposal engages the tilted balance on the basis of a lack of 5-year land supply for Gypsy & Traveller pitches in the district. It is considered that the proposal is acceptable in principle, on balance, by contributing towards achieving the required supply.
- 10.3 It is acknowledged that there is a policy conflict in respect of flood risk and drainage by virtue of the sites location in flood zone 3. However, it is considered that this is sufficiently mitigated by the existing flood defences and mitigation measures set out in the submitted Flood Risk Assessment.
- 10.4 The proposal is considered to be acceptable in terms of the overall planning balance and it is therefore recommended that permission is granted in this instance.

11 RECOMMENDATION

11.1 Grant; subject to the following 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).
	Reason – The site is in an area where residential development other than in particular circumstances would be contrary to policies of the Council's adopted development plan. Planning permission has only been granted in order to provide accommodation for occupation by gypsies and travellers having regard to the specific policies or development of this nature in place at this time.
2.	No more than 4 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 2 shall be a static caravan) shall be stationed on the site at any time.
	Reason – In order that the Local Planning Authority can control the impact of the use of the site on the locality, in accordance with Policy LP2, LP15 and LP16 of the Fenland Local Plan 2014.
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 below:

	i)	Within 3 months of the date of this decision, a scheme for ecological enhancements measures shall be submitted to, and approved in writing by, the Local Planning Authority. Any such scheme shall be implemented within 6 months of its approval and maintained in perpetuity.
	ii)	Within three months of the date of this permission a scheme for foul and surface water drainage, to include implementation, serving the site shall be submitted to the Local Planning Authority for approval.
	iii)	Within 2 months of the date of this decision, the Flood Risk mitigation measures set out in the Flood Risk Assessment (February 2024) prepared by Ellingham Consulting Limited, shall be implemented and maintained in perpetuity.
	iv)	If within 9 months of the date of this decision the Local Planning Authority refuse to approve the 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;
	V)	If an appeal is made in pursuance of iv) above, that appeal shall have been finally determined and the submitted schemes shall have been approved by the Secretary of State.
	vi)	The approved scheme shall have been carried out and completed in accordance with the approved timetable.
	Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained and maintained in accordance with the approved details.	
	the ris	n – In the interests of the health and wellbeing of occupants in view of k of flooding, and in the interests of biodiversity in accordance with s LP2, LP14, LP16 and LP19 of the Fenland Local Plan 2014.
4.	Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure, other than those shown on the approved plans shall be erected on the site and no areas of hard surfacing installed, other than as hereby permitted.	
	accord	n – To protect the general amenity and character of the area in lance with Policy LP16 of the Fenland Local Plan, 2014 and Policy B of the Planning Policy for Traveller Sites, 2015.
5.		mmercial activities, the storage of commercial materials, or the siting of es over 3.5 tonnes, shall take place on the land.
		n – In the interests of the visual appearance of the area in accordance olicies LP12 and LP16 of the Fenland Local Plan 2014.

6.	No external lighting shall be erected on the land other than in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.
	Reason – In the interests of the visual appearance of the area in accordance with Policies LP12 and LP16 of the Fenland Local Plan 2014
7.	The development hereby permitted shall be carried out in accordance with the following approved plans:
	 181/PL01 C – Location Plan, Site Plans and Proposed Elevations Design and Access Statement by Alexandra Design Flood Risk Assessment (February 2024) by Ellingham Consulting LTD Ecology Report (August 2024) by Wild Frontier Ecology
	Reason – For the avoidance of doubt and in the interest of proper planning.



