
F/YR24/0610/F

**Applicant: K Codona
Carta Developers**

**Agent : Stuart Carruthers
Carta Developers**

Land East Of Dragonfly Cottage, Seadyke Bank, Murrow, Cambridgeshire

Change of use of land for the stationing 4 x residential mobile homes on 2 x pitches, formation of hardstanding and access and post and rail boundary fence (1.5 high max)

Reason for Committee: Parish Council comments contrary to Officer Recommendation.

Government Planning Guarantee

Statutory Target Date For Determination: 17 September 2024

EOT in Place: Yes

EOT Expiry: 8th May 2025

Application Fee: £578

Risk Statement:

This application must be determined by the 8th of May 2025 otherwise it will be out of time and therefore negatively affect the performance figures.

1 EXECUTIVE SUMMARY

- 1.1 This full planning application on Land East of Dragonfly Cottage, Seadyke Bank, Murrow seeks a change of use of land for the stationing of 4 x residential mobile homes on 2 x pitches, the formation of hardstanding, a new tarmac access, and the erection of a post and rail boundary fence to a maximum height of 1.5 metres.

1.2 Two previous applications for the stationing of four static caravans on this site were refused under references F/YR15/0686/F and F/YR17/0170/F. The applications were refused on flood safety grounds and the lack of a sequential test.

1.3 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.

1.4 It is acknowledged that there is a policy conflict in respect of flood risk by virtue of the site's location in Flood Zone 3. However, it is considered that this is sufficiently mitigated by the measures set out in the submitted Flood Risk Assessment. Additionally, the proposal is considered to meet the Exceptions Test by making a direct contribution to an identified need for Gypsy and Traveller accommodation within Fenland.

1.5 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 subject to conditions controlling highway impacts, future use of the site and appropriate drainage measures.

2 SITE DESCRIPTION

- 2.1 The site is outside the built-up settlement of Murrow, in an area of linear development. The site is currently overgrown, with an agricultural access track beyond the western boundary. The site gently slopes away from Seadyke Bank before flattening out toward the rear of the site. The front and rear of the site have open boundaries, with a 2.5 metre high hedge beyond the access track to the south-west adjacent to the side elevation of Dragonfly Cottage. A hedging line of various heights is located along the north-eastern boundary, with four static caravans at a traveller site named Conifer Place beyond. This site was granted permission under reference F/0875/84/F.
- 2.2 To the south of the site are log cabins which are used in conjunction with the nearby fishing lakes. A business named GB Construction Partnership Ltd is located to the south-east proposal site. Semi-detached dwellings named Dragonfly Cottage and Daschside Cottage are located to the south-west of the site. Beyond the north-eastern rear boundary is Little Seadyke Drain and then arable fields.
- 2.3 The site and surrounding area is located entirely in Environment Agency Flood Zone 3. The centre of the site is subject to medium surface water flood risk, with low surface flood risk beyond the northern-eastern boundary along Little Seadyke Drain to the rear of the site.

3 PROPOSAL

- 3.1 This full planning application seeks a change of use of land for the stationing of four residential mobile homes on two pitches, the formation of hardstanding, a new tarmac access, and the erection of a post and rail boundary fence to a maximum height of 1.5 metres. A wildflower meadow is to be sited beyond the rear boundary of the site to provide access for North Level District Internal Drainage Board to maintain Little Seadyke Drain to the rear of the site. Two static caravan spaces are to be provided toward the rear of the site on a horizontal alignment, with two other static caravan spaces sited toward the side boundaries of the plot on a vertical alignment.
- 3.2 An indicative drawing of a static caravan has been provided that would typically be utilised on such plots. The static caravan contains two bedrooms, a bathroom, kitchen and living area. The indicative static caravan measures 3.9 metres in depth, 14.4 metres in length, has a 2.1 metre high eaves height and a ridge height of 3.25 metres. To address flood risk concerns, the finished floor levels of the caravan will be a minimum of 0.3 metres above ground level and will be secured with a ground anchor to the land.
- 3.3 Full plans and associated documents for this application can be found at:
<https://www.publicaccess.fenland.gov.uk/publicaccess/>

4 SITE PLANNING HISTORY

Reference	Description	Decision
F/YR15/0223/F	Formation of a new vehicular access to existing field.	Granted – 28/05/2015
F/YR15/0686/F	Change of use of land to form a travellers site for siting of 4no caravans, erection of 4no washroom / toilet blocks, bin store and formation of 1.5 metre high bunding to site perimeter.	Refused – 23/12/2016
F/YR17/0170/F	Change of use of land to form a travellers site for siting of 4no caravans, erection of 4no washroom / toilet blocks, bin store and formation of 1.5 metre high bunding to site perimeter.	Refused – 20/04/2017

5 CONSULTATIONS

5.1 Parson Drove Parish Council – 21st August 2024

Following on from Parson Drove Parish Council meeting recommendations were given for refusal of this planning application due to:

- * Building in open countryside - Fenland Local Plan 2014 LP3, LP12, LP16.*
- * It was noted that North Level Internal Drainage Board have objected.*

5.2 North Level District Internal Drainage Board – 13th August 2024

My Board objects to the current proposal.

The Boards Little Seadyke Drain runs along the northern boundary of the site. Therefore the Boards byelaws apply.

On receipt of consent the Board is willing to relax the byelaw to 6 metres for a fenceline providing the mobile homes are sited 9 metres from the watercourse.

5.3 Environment Agency – 23rd August 2024

Thank you for your consultation dated 05 August 2024. We have reviewed the documents as submitted and we object to this planning application on flood risk grounds. Further information on flooding and waste can be found in the relevant sections below.

Flood Risk

We object to the proposed development as it falls within “Highly Vulnerable” flood risk vulnerability category that is inappropriate to the Flood Zone 3a 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.

Reason

NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are

incompatible with certain Flood Zones. This site lies within Flood Zone 3a which is land defined as having a high probability of flooding.

Vulnerability classifications

Information on the vulnerability classifications can be found in the Planning Practice Guidance associated with the National Planning Policy Framework (Flood risk and coastal change section, Flood Zone and flood risk tables).

Link: <https://www.gov.uk/guidance/flood-risk-and-coastal-change#flood-zone-and-flood-risk-tables>

Breach Hazard Map

Although the site is located within flood zone 3, it is outside of the breach hazard map extents. If you are minded to approve this application despite our objection, we would recommend the following condition be applied:

We recommend that all static caravans/chalets/log cabins are secured to the ground using an adequate mechanism such as chains and ground anchors and the finished floor level set at a minimum 300mm above ground level.

Where no area of safe refuge is provided, your Authority should only grant planning permission if content that the risks to the future users of the site can be managed through a robust flood warning and evacuation plan. During the preparation of the Flood Warning and Evacuation Plan, we recommend entering early discussions with your emergency planners.

Given the possible risk and vulnerability of flooding on the site as outlined above and the mitigation measures proposed within the FRA, we cannot advise that this development will be safe from tidal flood risk over the lifetime of the development.

We recognise that you as the Local Planning Authority can accept the reliance on a flood warning and evacuation plan to manage the risks to future users of the site. We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

Planning practice guidance (PPG) states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to 'Flood risk emergency plans for new development' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 173 of the NPPF and the guiding principles of the PPG.

Waste

Advice to applicant

If materials that are potentially waste are to be used on-site, the applicant will need to ensure they can comply with the exclusion from the Waste Framework Directive (WFD) (article 2(1) (c)) for the use of, 'uncontaminated soil and other naturally occurring material excavated in the course of construction activities, etc....' in order for the material not to be considered as waste. Meeting these criteria will mean waste permitting requirements do not apply. Where the applicant cannot meet the criteria, they will be required to obtain the appropriate waste permit or exemption from us.

A deposit of waste to land will either be a disposal or a recovery activity. The legal test for recovery is set out in Article 3(15) of WFD as:

- any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.*
- We have produced guidance on the recovery test which can be viewed at <https://www.gov.uk/government/publications/deposit-for-recovery-operators-environmental-permits/waste-recovery-plans-and-deposit-for-recovery-permits#how-to-apply-for-an-environmental-permit-to-permanently-deposit-waste-on-land-as-a-recovery-activity>.*

You can find more information on the Waste Framework Directive here: <https://www.gov.uk/government/publications/environmental-permitting-guidance-the-waste-framework-directive>

More information on the definition of waste can be found here: <https://www.gov.uk/government/publications/legal-definition-of-waste-guidance>

More information on the use of waste in exempt activities can be found here: <https://www.gov.uk/government/collections/waste-exemptions-using-waste>

Non-waste activities are not regulated by us (i.e. activities carried out under the CL:ARE Code of Practice), however you will need to decide if materials meet End of Waste or By-products criteria (as defined by the Waste Framework Directive). The 'Is it waste' tool, allows you to make an assessment and can be found here: <https://www.gov.uk/government/publications/isitwaste-tool-for-advice-on-the-by-products-and-end-of-waste-tests>

5.4 Cambridgeshire County Council – Highways Officer – 29th August 2024

On behalf of the Local Highway Authority, I raise no objections in principle to the proposed development.

I note that the application form states that a 'new or altered access to the public highway' will be required (consistent with the application description), whereas the D&A statement at Para 3.1 states the use of an existing access.

Having reviewed aerial photography for the last 20 years, there is no evidence to suggest that an access has existed in a formal manner in the location shown on the submitted drawings.

Notwithstanding the above, the formation of an access to serve the proposed development in the location proposed is acceptable in principle, noting that adequate vehicle to vehicle inter-visibility is available within the existing public highway. Revised and dimensioned drawings will be required to address the following points in order to demonstrate the acceptability of the proposed access arrangements: 1. Access to comprise a minimum width of 5m for 10m from the carriageway edge; 2. Access to be splayed 3.0 x 3.0m either side of the 5m width at the carriageway edge;

3. Access to be constructed to CCC specification within the highway verge (for circa first 3.5m from carriageway edge). Thereafter the access should be hard surfaced, sealed and drained (away from the highway) for a length of 10m from the carriageway edge; 4. Any gates should be provided at each side of the access to the adjacent residential parcels within the site, and not across the shared access itself. It is noted that Para 3.3 of the D&A states that there is ample space within the curtilage of the site of the 'storage' of touring caravans, which implies some form of wider 'storage' use. The applicant should be invited to clarify this element. Finally, the applicant should clarify the areas to be reserved within each parcel curtilage for the turning and parking of vehicles, separate from area for accommodation etc. Simply stating an entire area for hardstanding is not acceptable in this respect. I look forward to receiving further plans in due course.

5.5 Local Residents/Interested Parties

Representations

None

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) and the Parson Drove Neighbourhood Plan (2020).

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

National Planning Policy Framework (NPPF) 2024
Chapter 5 – Delivering a sufficient supply of homes

National Planning Practice Guidance (NPPG)

Determining a Planning Application

National Design Guide 2021

Planning Policy for Traveller Sites 2024 (PPTS)

Policy B Planning for Traveller Sites

Policy C Sites in rural areas and the countryside

Policy H Determine planning application for traveller sites

Policy I Implementation

Fenland Local Plan 2014

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside

LP4 – Housing

LP5 – Meeting Housing Need

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

Parson Drove Neighbourhood Plan 2020

Policy 1 – Housing Growth

Policy 2 – Scale of Housing Development

Policy 5 – Road and Pedestrian Safety

Delivering and Protecting High Quality Environments in Fenland SPD 2014

DM2 – Natural Features and Landscaping Schemes

DM3 – Making a Positive Contribution to Local Distinctiveness and character of the Area

DM6 – Mitigating Against Harmful Effects

Cambridgeshire Flood and Water SPD 2016

Fenland Gypsy and Traveller Accommodation Needs Assessment (GTANA)

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 49 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

LP4: Securing Fenland's Future

LP5: Health and Wellbeing

LP7: Design

LP8: Amenity Provision
LP11: Community Safety
LP12: Meeting Housing Needs
LP13: Custom and Self Build
LP14: Gypsies and Travellers and Travelling Showpeople
LP18: Development in the Countryside
LP20: Accessibility and Transport
LP22: Parking Provision
LP24: Natural Environment
LP27: Trees and Planting
LP32: Flood and Water Management

8 KEY ISSUES

- **Principle of Development**
- **Layout and Design**
- **Impact on Residential Amenity / Land Users**
- **Highway Safety and Parking**
- **Flood Risk and Drainage**
- **Biodiversity Net Gain (BNG)**

9 BACKGROUND

9.1 Two previous applications for the stationing of four static caravans on this site were refused under references F/YR15/0686/F and F/YR17/0170/F. The applications were refused on flood safety grounds and the lack of a sequential test.

9.2 The reason for refusal under F/YR17/0170/F stated:

Policy LP14 of the Fenland Local Plan (2014) and paragraph 100 of the National Planning Policy Framework and seeks to direct development to areas of lowest flood risk. The development is located within Flood Zone 3, the area of highest flood risk and therefore would result in highly vulnerable development being located in the area of highest flood risk. The application is required to pass a sequential test to demonstrate there are no sequentially preferable sites reasonably available that can meet the developments need. Guidance on the application of the sequential test is given in 'The Cambridgeshire Flood and Water Supplementary Planning Document' adopted by the Local Planning Authority December 15th 2016. The application failed to demonstrate there are no reasonably available sites in sequentially preferable locations available to meet the need of the development. Therefore the sequential test is considered to be contrary to paragraph 100 of NPPF, and Policy LP14 of the Fenland Local Plan (2014) and guidance in the adopted Cambridgeshire Flood and Water Supplementary Planning Document.

10 ASSESSMENT

Principle of Development

10.1 The site is situated outside of the built-up area of the settlement of Murrow and is deemed to be open countryside. Except on statutorily designated Green Belt land (not applicable anywhere in Fenland) the Planning Policy for Traveller Sites

(PPTS) (revised in December 2024) is not opposed in principle to Traveller sites in the countryside. It does however state in Policy H (paragraph 26) that Local Planning Authorities (LPAs) should *very strictly limit* new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

- 10.2 Furthermore, paragraph 26 states that LPA's 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. In its recent decisions the Council has accepted that planning permission can be granted on sites in the countryside, having regard to Fenland Local Plan policy LP5, acknowledging that the identified need will not be met by land within existing towns and villages. As such, the principle of traveller sites in the countryside is supported. The means by which new traveller development is to be controlled are set out in further policies in the PPTS and in local policies, and these are considered below.

PPTS policies and criteria under PPTS

- 10.3 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:
- 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;
 - c) consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area (local planning authorities have a duty to cooperate on planning issues that cross administrative boundaries)
 - 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.
- 10.4 Paragraphs 23 and 24 of Policy H 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.
- 10.5 Paragraph 25 states that 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.

10.6 As such, in respect of Policy H the following is considered:

(a) The existing level of provision and need for Traveller pitches

10.7 Policy LP5 Part D states there is no need for new pitches as per the findings of the Fenland Gypsy and Traveller Accommodation Needs Assessment (GTANA) update. However, due regard has also been given to recent planning appeals wherein it has been established the Council are unable to identify and demonstrate the current need for Gypsy & Traveller plots within the district and therefore are unable to demonstrate a five-year land supply in this regard. The GTANA is due to be reviewed as part of the emerging Local Plan and until this time, Officers are unable to accurately assert what the District's need is or how this will be met. 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.

10.8 When having due regard to this position, the provision of additional Gypsy & Traveller plots in this development proposal weighs significantly in favour of the application, notwithstanding any harm identified and conflict with Fenland Local Plan policies arising from the location of the site. 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 modest contribution towards meeting this.

(b) The availability (or lack) of alternative accommodation for the applicants

10.9 Based on the current status of the GTANA, it is concluded that the Council is unable to adequately demonstrate that they have a 5-year supply of Traveller pitches at present. Therefore, it can be reasonably concluded that the Council would be unable to confirm the availability of alternative accommodation for the applicants as per part (b) of the PPTS. Policy H states that where an authority cannot demonstrate an up to date five year supply, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of planning permission.

(c) Other personal circumstances of the applicant

10.10 The application would meet the accommodation need of the applicant and family and will assist in reducing/eliminating unauthorised encampments within the District whilst meeting a current unmet need.

10.11 Given the above considerations, it is considered that the principle of development on this site is acceptable.

Layout and Design

10.12 For gypsy and traveller accommodation, Policy LP5 Part D sets out criteria as to a site's suitability for occupation by those who meet the planning definition set out in Planning Policy for Traveller Sites 2015 (PPTS). Decisions are made on a "case by case" basis subject to; no conflict with national planning policy; a peaceful and integrated coexistence with the local settled community; and no unacceptably adverse impact on local character or appearance. PPTS, Policy H also sets out similar criteria for determining planning applications for traveller sites.

- 10.13 Policy LP16 of the Fenland Local Plan (2014) requires development proposals to deliver and protect high quality environments throughout the district. Proposals must demonstrate they make a positive contribution to the local distinctiveness and character of the area, enhancing their local setting and both responding to and improving the character of the local built environment whilst not adversely impacting on the street scene, settlement pattern or landscape character of the surrounding area.
- 10.14 It is noted that there are a number of static caravans in the vicinity of the site that serve a traveller site immediately adjacent to the north-west, and a fishing lake to the south-east on the opposite side of Seadyke Bank. The development would not demonstrably detract from the rural and open character of the area and immediate surroundings given other forms of similar development within the vicinity. It is therefore considered that there will not be an adverse impact on the character and appearance of the surrounding area.
- 10.15 The size of the site relative to the amount of development proposed is not considered to constitute overdevelopment, providing acceptable levels of amenity space for each plot. Whilst the static homes would be placed on undeveloped land, it is immediately bordered by residential development to the east and west. This site forms an undeveloped gap within a strip of ribbon development. However, the proposal is of limited scale and it is considered that the proposed layout and design would not visually detract from the existing development in the surrounding area.

Impact on Residential Amenity / Land Users

- 10.16 Impact on amenity can arise as a result of a range of factors, including noise, overlooking and overbearing/overshadowing. The development is sufficiently separated from the neighbouring mobile homes and dwellings, so as not to impact on residential amenity in terms of loss of the factors outlined above. This remains the case when the raised finished floor levels of 300mm are taken into account.
- 10.17 Given, the proximity to adjacent development, consideration must be had with regard to amenity impact upon the nearest settled community. What comprises the “nearest settled community” is not described by the PPTS. The nearest settled community is not the same as the nearest settlement, or that phrase would have been repeated in the PPTS. Given the predominately rural nature of the surroundings, it is considered that the nearest settled community consists of the dwellings within the built-up settlement of Murrow, 430 metres away.
- 10.18 Notwithstanding that the site lies adjacent to an established gypsy traveller site of 4no households, there are only two dwellings from the settled community at Dragonfly Cottage and Daschside Cottage to the south-west in the immediate vicinity of the site. In this regard, the development is considered to be small scale providing a site for two pitches for static caravans in that it would not significantly further dominate the established line of dwellings at Murrow approximately 430 metres away to the south-west, where the majority of the population of Murrow reside.
- 10.19 Based on the above observations, there is not considered to be a material amenity impact arising from the proposed use of the site or the siting of four static caravans.

Highway Safety and Parking

- 10.20 The site is approximately 430 metres from the eastern edge of Murrow where key services such as a local store, public house and school are sited. It is considered that the site, whilst in relatively close proximity to these key services would not be easily accessible by foot due to the lack of footpaths which does conflict with local and national policy in respect of achieving sustainable transport options, as it would likely mean occupiers relying on private motor car for most journeys to access essential services. However, despite this, it would not be considered reasonable to conclude that the site has insufficient access to local services.
- 10.21 The PPTS identifies that traveller sites in the countryside can be acceptable and it can be reasonably assumed therefore that a reliance on a private motor car to access services would be common in these instances. As such, whilst the lack of sustainable travel options weighs against the scheme, it is not uncommon for such development to place a reliance on private motor vehicles to undertake most trips. Furthermore, those essential services are generally within 1 to 2 miles of the site which is considered acceptable and satisfactorily meet the day to day needs of the occupants.
- 10.22 There is adequate space within each pitch to provide two off road parking spaces. Whilst there is not a defined quantum for parking spaces per traveller pitch, this is considered to be acceptable amount for pitches that are likely to contain two-bedroom static caravans. The proposed access is sited on a straight road with good visibility in both directions. There is not considered to be a highway safety impact from the proposal.

Flood Risk and Drainage

- 10.23 The site and surrounding area is entirely located in Environment Agency Flood Zone 3 and is therefore considered to be at a high probability of fluvial and/or tidal flooding. National planning policy does not prohibit the granting of planning permission for developments in areas at high risk of flooding. While guidance exists to ensure that flood risk is appropriately assessed and mitigated, there are no absolute legal restrictions preventing development in such locations.
- 10.24 Policy LP14 of the Local Plan as well as Paragraph 175 of the NPPF seek new developments to adopt a sequential approach to flood risk, where new developments are steered to areas with the lowest possibility of flooding.
- 10.25 The Planning Practice Guidance (PPG) advises that a Sequential Test is required for planning applications in areas at risk from flooding from any source. In the case of river and sea flooding, this specifically includes land within Flood Zones 2 and 3. The fundamental objective of the Sequential Test is to steer new development to areas with the lowest risk of flooding (i.e. Flood Zone 1), in line with the risk-based approach advocated by paragraph 162 of the National Planning Policy Framework (NPPF, 2023).
- 10.26 The application site lies within an area of identified flood risk and, as such, the Sequential Test is engaged. However, no Sequential Test has been submitted in support of the application. While it is acknowledged that the Council cannot currently demonstrate a five-year supply of deliverable Gypsy and Traveller sites (5YHLS), this does not, in itself, disapply the requirement to undertake the

Sequential Test. As such, the application fails to satisfy the first key test for residential-led development in areas liable to flooding.

- 10.27 The Courts have confirmed that whilst it is generally accepted that the siting of development, in relation to flooding, should be lead through a sequential risk-based approach there may be times when it is acceptable to not take such an approach. However, this will need to be for very special circumstances and would be the exception rather than the norm.
- 10.28 It is, however, generally accepted that undertaking a full district-wide Sequential Test could be overly onerous and might include sites that are unrealistic or inappropriate for the type of development proposed. In such cases, a proportionate and pragmatic approach is encouraged, including through early engagement with the Local Planning Authority (LPA) to agree the scope of the Sequential Test.
- 10.29 In this case, no such engagement has taken place. The applicant has not approached the Council to agree reasonable parameters for the Sequential Test area or to discuss what alternative sites may be considered 'reasonably available'. Any such test should be informed by the Council's spatial strategy, local plan policies, and up-to-date evidence of land availability. Decisions on site suitability must be rooted in planning judgment, having regard to the specific nature of the development and the need for flexibility in site comparison.
- 10.30 As noted above, the Council cannot demonstrate a 5YHLS for Gypsy and Traveller accommodation. While this shortfall does not override the need for a Sequential Test, it is material to understanding the practical limitations in delivering such sites. Traveller sites, by their nature and planning policy position, are situated within the open countryside. Therefore, it would be appropriate for the area of search to be all open countryside areas within the District to demonstrate that there are no reasonably available sites elsewhere in sequentially preferable locations.
- 10.31 Recent appeal decisions have considered the matter of 'available' sites, citing the national Planning Policy for Traveller Sites (PPTS) document which identifies 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. The Local Plan does not allocate land for any traveller sites and there is no evidence of alternative, available sites in sequentially preferable (i.e. lower flood risk) locations that could accommodate the proposal.
- 10.32 In this context, and given the acknowledged shortfall in supply, the nature of the development proposed, and the lack of identified alternative sites, it is considered that a refusal based solely on the absence of a Sequential Test would be difficult to sustain on appeal. There is, therefore, a reasonable basis to conclude that the site may be acceptable in flood risk terms, subject to passing the Exception Test.
- 10.33 The NPPF confirms that where it is not possible to locate development in zones of lower flood risk, the Exception Test may be applied. This test provides a framework for assessing whether development can proceed safely, whilst recognising the wider sustainability needs of a community.
- 10.34 The Exception Test comprises two elements, both of which must be satisfied:

- a) Development to demonstrate that it achieves wider community sustainability benefits having regard to the district's sustainability objectives, and
- b) That it can be made safe for its lifetime and will not increase flood risk elsewhere ('flood risk management')

(a) Wider community sustainability benefits

- 10.35 The first limb of the Exception Test requires that the development provides wider sustainability benefits to the community that clearly outweigh the flood risk. The second limb requires that the development will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, reducing overall flood risk. Whilst it is ordinarily the applicant's responsibility to demonstrate compliance with both elements, the Local Planning Authority must still make its own objective assessment of the evidence and reach a reasoned conclusion on whether both parts of the test are met.
- 10.36 In this case, the proposal would make a direct contribution to meeting an identified need for Gypsy and Traveller accommodation within Fenland. The Council is currently unable to demonstrate a five-year supply of deliverable sites for Gypsies and Travellers, as required by both the Planning Policy for Traveller Sites (2015) and the NPPF. The proposed development would therefore assist in addressing the acknowledged shortfall in the provision of suitable accommodation for the Traveller community.
- 10.37 Sustainability objectives are outlined under 2.4 of the Fenland Local Plan and, relevant to this application includes, point 6.1, the aim to thrive in safe environments and decent affordable homes and point 6.3, redress inequalities related to age, gender, disability, race, faith, location and income. The proposal would align with both objectives by contributing towards a more inclusive and equitable housing strategy, ensuring that the specific needs of the Traveller community – a recognised ethnic minority group – are not marginalised. The provision of appropriate accommodation helps reduce housing inequality and supports the ability of this group to access services and participate fully in society.
- 10.38 Taken together, the scheme would deliver clear and measurable sustainability benefits in the form of social inclusion, housing provision, and reduced inequality. These benefits are considered to outweigh the flood risk, particularly when considered alongside the safeguards and mitigation measures addressed under the second arm of the Exception Test.

(b) Flood safety

- 10.39 The application was supplemented with a Flood Risk Assessment for which the Environment Agency were consulted and raised an objection. They did however confirm that the site was outside of breach extents. The Environment Agency did provide further guidance if the LPA was minded to approve the application. They recommended that all static caravans are secured to the ground and finished floor levels are set a minimum of 300mm above ground level. They also recommended a robust Flood Warning and Evacuation Plan. This can all be required through the imposition of appropriately worded conditions.

Foul and surface water drainage

- 10.40 With regard to drainage, North Level Internal Drainage Board have stated that they object to the proposal as their Little Seadyke Drain runs along the northern boundary of the site. However, they have stated that they require the applicant to apply for consent to discharge any water to their watercourse. Additionally, they are willing to relax the byelaw to 6 metres rather than 9m for the rear boundary fence line once byelaw consent has been granted and on the basis of the mobile homes being sited 9m from the drain. Due to the thickness of the lines on the plan an accurate distance to the fence line and mobile home positions cannot be accurately determined, although the measurements are close to 6 metres and 9 metres respectively. It is though considered that these minimum separation distances can be reasonably secured by condition.
- 10.41 With regard to foul water drainage this will be addressed by a package treatment plant. Further details of the treatment plant and where treated water will discharge to will be addressed by condition. Surface water drainage will be addressed by a soakaway and an existing water course. It is anticipated that surface water will discharge to Little Seadyke Drain beyond the rear boundary of the site. Further details as to how surface water will be addressed will be secure by condition.

Conclusion

- 10.42 It is concluded therefore, that the site, whilst located in an area at high risk of flooding, could be made safe from the effects of flooding through the proposed mitigation, secured by condition, and would not cause the risk or impacts of flooding to increase elsewhere in accordance with Policy LP14 of the Fenland Local Plan (2014)
- 10.43 It is also considered that the development by virtue of the natural topography, proposed permeable hardstanding and area of grassed land to the rear of the site the proposal would not increase flooding potential on Little Seadyke Drain to the rear of the site nor to the adjacent residential uses in accordance with Policy LP14 of the Fenland Local Plan (2014)

Biodiversity Net Gain (BNG)

- 10.44 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.
- 10.45 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 application was submitted prior to the requirement for statutory net gain coming into force.

11 CONCLUSIONS

- 11.1 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.
- 11.2 It is acknowledged that there is a policy conflict in respect of flood risk by virtue of the site's location in Flood Zone 3. However, it is considered that this is sufficiently mitigated by the measures set out in the submitted Flood Risk Assessment, along with conditions to be imposed to ensure compliance with this for the lifetime of the development.
- 11.3 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 subject to conditions controlling highway impacts, future use of the site and appropriate drainage measures.

12 RECOMMENDATION

Grant; subject to the following conditions:

Section 100ZA(5) of the Town and Country Planning Act 1990 provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition (except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018). The applicant has been consulted on the proposed conditions and at the time of writing their confirmation of agreement is awaited. An update will be provided to Committee regarding this.

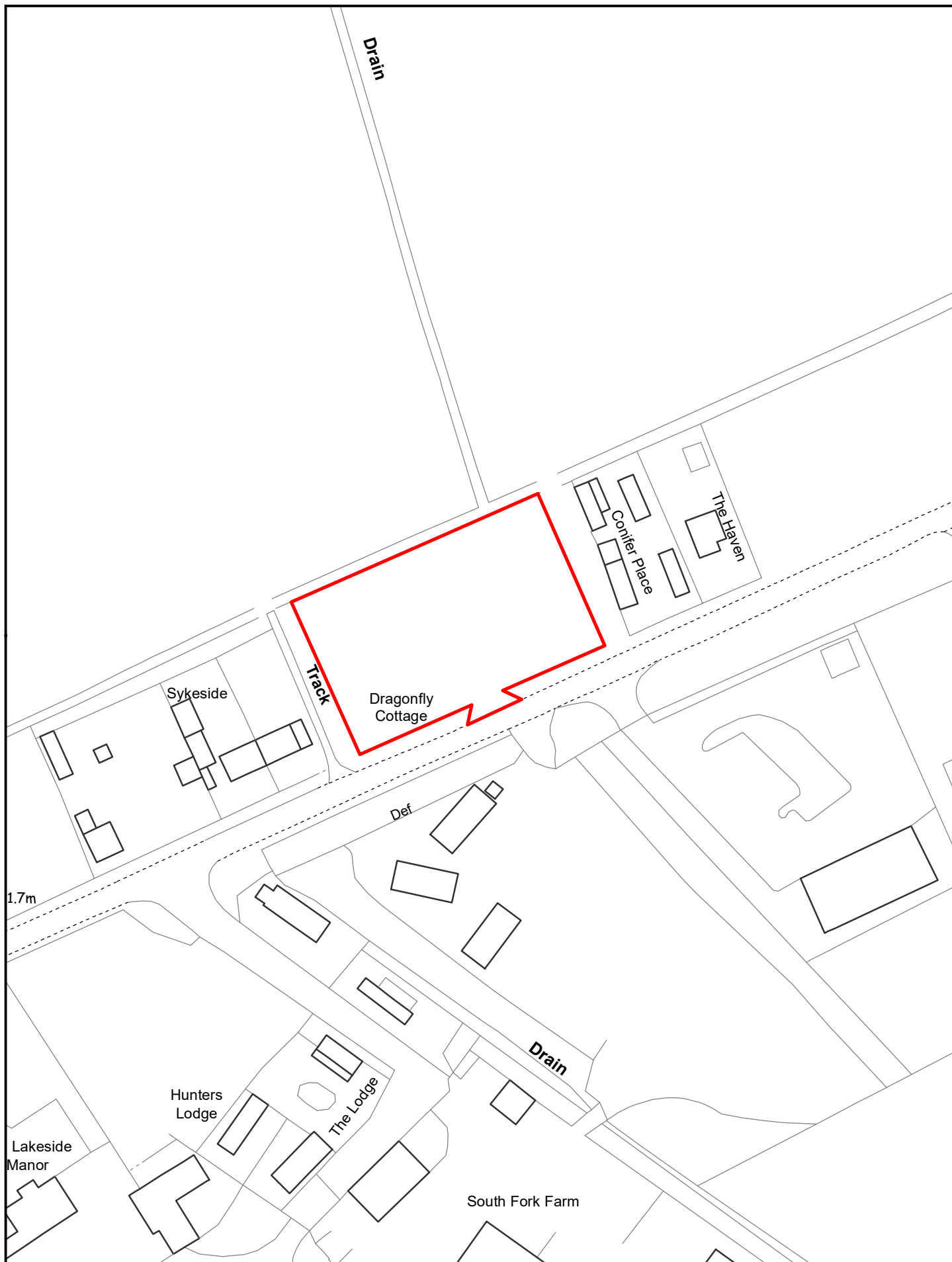
1	<p>The development must be begun not later than the expiration of one year beginning with the date of this permission.</p> <p>Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p>
2	<p>The site shall be limited to two pitches, each containing no more than two caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.</p> <p>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 Fenland Local Plan 2014.</p>
3	<p>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, December 2024), 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".</p> <p>Reason: The site is in an area where residential development other than</p>

	<p>in particular circumstances would be contrary to policy LP3 of the Fenland Local Plan, 2014. Planning permission has only been granted in order to provide accommodation for occupation by gypsies and travellers having regard to the specific policies for development of this nature in place at this time.</p>
4	<p>No development, including preparatory works, shall commence until revised and dimensioned drawings are submitted to and approved in writing to address the following points in order to demonstrate the acceptability of the proposed access arrangements:</p> <ol style="list-style-type: none"> 1. Access to comprise a minimum width of 5m for 10m from the carriageway edge; 2. Access to be splayed 3.0 x 3.0m either side of the 5m width at the carriageway edge; 3. Access to be constructed to CCC specification within the highway verge (for circa first 3.5m from carriageway edge). Thereafter the access should be hard surfaced, sealed and drained (away from the highway) for a length of 10m from the carriageway edge; 4. Any gates should be provided at each side of the access to the adjacent residential parcels within the site, and not across the shared access itself. <p>Reason: In the interests of highway safety, in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.</p>
5	<p>The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) undertaken by Stuart H Carruthers (June 2024) and the following mitigation measures it details:</p> <ul style="list-style-type: none"> · The finished floor levels of the mobile homes will be at least 0.3m above ground level. · The mobile homes shall be secured with ground anchors to the land. · All residents of the site shall register with the Environment Agency Floodline Service and shall prepare an evacuation plan as recommended by the Environment Agency. <p>These mitigation measures shall be fully implemented prior to occupation and subsequently shall be retained and maintained thereafter throughout the lifetime of the development.</p> <p>Note: The above approved plan does not constitute final approval of detailed site levels or finished floor levels.</p> <p>Reason: To reduce the risk of flooding to the proposed development and future occupants.</p>
6	<p>Prior to its installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.</p>

	<p>Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.</p> <p>Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers in accordance with Policies LP16 and LP19 of the Fenland Local Plan, 2014.</p>
7	<p>All hard and soft landscape works shall be carried out in accordance with the approved details. All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased (except those contained in enclosed rear gardens to individual dwellings) shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policy LP16 of the Fenland Local Plan 2014.</p>
8	<p>No floodlights or other forms of external lighting shall be installed to serve the proposed use/development, without first gaining the approval, in writing, of the Local Planning Authority.</p> <p>Reason: To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit.</p> <p>This Condition is imposed in accordance with Policy 16 of the Fenland Local Plan, 2014.</p>
9	<p>No development, including preparatory works, shall commence until full details of the proposed means of foul and surface water disposal to separate systems shall be submitted to and approved in writing by the Local Planning Authority and the details so approved shall be implemented in full before there are any flows into the receiving systems.</p> <p>Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.</p> <p>This Condition is imposed in accordance with Policy 14 of the Fenland Local Plan, 2014 and Section 14 of the National Planning Policy Framework, 2024.</p>
10	<p>No commercial activities shall take place on the land, including the storage of materials.</p>

	Reason: To protect the general amenity and character of the area in accordance with policy LP16 of the Fenland Local Plan, 2014 and Policy B and H of the Planning Policy for Traveller Sites, 2024.
11	<p>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.</p> <p>Reason: To protect the general amenity and character of the area in accordance with policy LP16 of the Fenland Local Plan, 2014 and Policy B and H of the Planning Policy for Traveller Sites, 2024.</p>
12	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification) no development covered by Class A to Part 2 of Schedule 2 to that Order (the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure) shall be carried out without planning permission granted by the Local Planning Authority.</p> <p>Reason: To protect the general amenity and character of the area in accordance with policy LP16 of the Fenland Local Plan, 2014 and Policy B and H of the Planning Policy for Traveller Sites, 2024.</p>
13	<p>Space shall be made available at all times to enable the turning and parking of all vehicles calling at the site.</p> <p>Reason: In order to ensure the free flow of traffic along Seadyke Bank in the interests of highway safety in accordance with policy LP15 of the Fenland Local Plan, 2014.</p>
14	<p>No development, including preparatory works, shall commence until details of measures indicating how additional surface water run-off from the site will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence.</p> <p>Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development itself; recognising that initial works to prepare the site could bring about unacceptable impacts.</p>
15	<p>In accordance with the submitted details, no development including fencing shall be sited within 6 metres of Little Seadyke Drain. No caravans shall be sited within 9 metres of Little Seadyke Drain.</p> <p>Reason: To ensure that access is made available at all times for</p>

	<p>maintenance of Little Seadyke Drain by North Level District Internal Drainage Board, in accordance with LP14 of the Fenland Local Plan, 2014.</p>
16	<p>In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA.</p> <p>No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.</p> <p>Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works. This Condition is imposed in accordance with Policies 16 and 17 of the Fenland Local Plan, 2014.</p>
17	Approved Plans



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