

[05.] Full Planning Permission

S/126/01403/ 23 **APPLICANT:** Mr. A. Gray,

VALID: 04/08/2023 **AGENT:** Philip Brown Associates Limited,

PROPOSAL: Planning Permission - Change of use of land to use as a gypsy/traveller caravan site comprising: a warden's pitch accommodating a static caravan/mobile home and, 10 transit pitches, each accommodating no more than 2 touring caravans, erection of toilet/wash block and, erection of dayroom building and laying of hardstanding (works commenced).

LOCATION: STICKNEY SHOWGROUND, EAST FEN LANE, STICKNEY, BOSTON, PE22 8DE

1.0 REASONS FOR COMMITTEE CONSIDERATION

1.1 The application is considered appropriate for consideration by the Planning Committee given the issues for consideration and the level of public interest.

2.0 THE SITE AND ITS SURROUNDINGS

2.1 The site comprises approx. 1.25 Ha (3.1 acres) of flat land to the southeast of Stickney, situated between East Fen Lane and the East Fen Catchwater Drain.

2.2 The site is located approximately 1.6km (1 mile) from the centre of Stickney, outside of the settlement and in open countryside.

2.3 It is located to the east of the East Fen Catchment Drain and largely surrounded by agricultural land. Residential properties lie immediately north and to the west on the east side of East Fen Catchwater Drain. Poultry units are also located to the north of the site and on the west side of East Fen Lane. The character of the lane is rural and has no footpath or street lighting.

2.4 The application site represents approximately 50% (by area) of a wider site that holds a Certificate of Lawfulness for the siting of a (single) residential caravan/mobile home in connection with an equestrian business, which is discussed further under Relevant Site History (section 5), below.

3.0 DESCRIPTION OF THE PROPOSAL

3.1 The proposal involves the change of use of the land to use as a gypsy/traveller caravan site providing a warden's pitch and 10 transit

pitches, each accommodating no more than 2 touring caravans, plus ancillary facilities in the form of a toilet/wash block and a dayroom building, all with associated hardstandings.

- 3.2 The proposals were amended in January 2024 to remove '6 residential pitches each accommodating no more than one static caravan/mobile home'. This was to try to address the EA objection to permanent residential accommodation in Flood Zone 3. However, the warden pitch accommodating a static caravan remains as part of the proposals and as such, the EA objection remains. This is discussed later in the report.
- 3.3 The works have already commenced and have been a matter of attention for the Council's Planning Enforcement team.
- 3.4 The application form indicates that no new or altered vehicular access is proposed, but in fact the proposal involves the creation of two new points of access onto East Fen Lane and these are among the works already implemented.

4.0 CONSULTATION

- 4.1 Set out below are the consultation responses that have been received on this application. These responses may be summarised, and full copies are available for inspection separately. Some of the comments made may not constitute material planning considerations.

Publicity

- 4.2 The application has been advertised by means of a press notice, site notice and neighbours have been notified in writing.

Consultees

- 4.3 Heritage Lincolnshire (Archaeology): no comments
- 4.4 Environment Agency: OBJECTS on the grounds of flood risk
 - National Planning Policy Framework (NPPF) Annex 3 classifies development types according to their vulnerability to flood risk. Planning Practice Guidance (PPG) Table 2 provides guidance on which developments are incompatible with certain Flood Zones. The site lies within Flood Zone 3 which is land defined by the PPG as having a high probability of flooding. The development is classed as highly vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted. The site is also at risk from a

breach from the East Catchwater Fen. Initial estimates suggest that breach depths will reach up to 0.5m on the site from the East Fen Catchwater. The initial surge of water after a breach moves rapidly and poses a risk to life. In addition, a breach event is difficult to predict and therefore it is unlikely site occupiers would be warned about the onset, therefore a flood warning and evacuation plan could not be relied upon to protect people and property.

- If ELDC are minded to approve the application contrary to their objection, that they are contacted to allow further discussion and/or representations in line with the Town and Country Planning (Consultation)(England) Direction 2021.

4.5 Lincolnshire County Council (Highways and SuDs: request additional information.

"Can the Applicant/Agent be requested to provide further evidence of how the proposed development would be safely accessed other than by motor vehicle? The Design and Access Statement advises that for most of the route between the Application Site and the village, there is a footway, whereas in reality, for more than half of the route between the site and the A16 junction, there is no footway."

4.6 Stickney Parish Council: OBJECTS

- i. ELDC already have a number of transit sites within East Lindsey that are not being used, why is there a need for another one?
- ii. The access road to this site is narrow and there is not the room for two caravans to pass. There are no streetlights along this lane.
- iii. The site is in a high-risk flood area with no existing services.
- iv. Is there an environment impact report available?
- v. The site is outside the local development area of the village.

4.7 Eastville, Midville and New Leake Parish Council: OBJECTS

- a. The site could have up to 90 residents at any one time, where will all the wastewater from the showers and toilets go?
- b. Will the transits be emptying chemical toilets and refilling with water before leaving the site, is there provision for chemical waste?
- c. The site is in Flood zone 3 and liable to flood.
- d. There are no streetlights on East Fen Lane and no footway so it is not safe to walk into the village to the shop, surgery and schools.
- e. Are there sufficient spaces at the doctors surgery and in the local schools to accommodate, possible up to 90 additional people? Stickney

had just had plans approved for 50 additional properties. The A & E in Boston is already over run.

- f. Will there be a time scale for the transits to stay on the site?
- g. Will there be a height restriction on the boundary fencing or hedging?
- h. East Fen Lane is very narrow and not wide enough for transit caravans to keep coming and going.
- i. Is there sufficient distance between the caravans to meet any fire regulations?
- j. Is there a fire hydrant in this area of the village as this site is outside the building curtilage?

4.8 Witham Fourth District Internal Drainage Board COMMENTS:

1. Board's Byelaw consent is required to directly discharge surface water to a watercourse (open or piped). A surface water development contribution (SWDC) will be charged on all rates of discharges. Please refer to the Board's Development & Consent Control Guidance for more information: <https://www.w4idb.co.uk/resources/document-library/consent-formsand-guidance/>
2. The Board does not fully support the use of subbase reservoirs and questions their suitability as an effective long term SUDS solution.
3. Whilst the Board understands Flood Risk Mitigation Policy seeks to ensure safe development and set the requirements for finished floor levels. The Board asks that due consideration is given to the possibility of increasing flood risk to those existing properties surrounding the site by raising the ground to such a degree.
4. Board's Byelaw consent is required to discharge treated water to a watercourse (open or piped).
5. Board's Section 23 consent is required to culvert, pipe, or bridge any watercourse riparian or board maintained.
6. If there is any change to the surface water or treated water disposal as stated in the application, please contact the Board to discuss the new arrangements.
7. SUDS/drainage response sent to LCC.

4.9 Caravan Licensing Officer COMMENTS

Comments for Residential Pitches including Site Warden pitch:

Please find below a few conditions from the Site Licence Conditions East Lindsey District Council issue with Site Licences for Residential Mobile Home Parks.

- Units stationed on site will be in good and proper repair and weatherproof. The units must comply with British Standard BS:3632 for residential specification to include double glazing & appropriate

insulation.

- A three-metre-wide area should be kept clear within the inside of the site boundaries which are to be clearly marked by either hedging or fencing. All roads shall not be less than 3.7 metres wide, unless they are one way traffic, one way traffic roads must be not less than 3 metres wide, one-way systems are to be clearly marked. Access for emergency vehicles shall be provided at all times.
- Every unit shall stand on a concrete hard standing which shall extend over the whole area occupied by the unit placed upon it. Every unit must be connected to the road by a footpath to ensure safe access throughout the year.
- Units must be a minimum distance apart of six metres, and all units shall be within thirty metres of the nearest fire point which should clearly be marked with a notice. A means of raising the alarm in case of emergency shall be provided at each fire point.
- Only one vehicle may be parked between adjoining units and parking spaces shall be suitably surfaced. Roads and footpaths must be suitably lit in the hours of darkness.
- All mains services must be protected from frosts.
- Some notices need to be displayed on site including a copy of the Site Licence, these must be protected from the weather.
- If permission is granted for Residential use, an application will be required for a Residential Site Licence under the Mobile Homes Act 2013. There are application fees & annual fees to pay for this type of licence. From Autumn 2021 Site Owners & Managers must also register as Fit & Proper Persons. For more information, please visit the ELDC website <https://www.e-lindsey.gov.uk/article/6167/Residential-Park-Home-Sites>

Comments for Transit Pitches:

- A space of at least 6 metres wide shall be maintained between each caravan; such space may be used for the parking of motor vehicles. However, this 6m distance must be maintained when awnings are used, so the 6m should be measured from the edge of any awning to the adjoining caravan.
- Clear access for emergency vehicles shall be maintained at all times and no caravan, motor caravan, or tent shall be sited within three metres of any boundary. Fire points must be located within thirty metres of a unit with notices displaying information as requested in the conditions. There should be a means of raising the alarm in case of emergency at all fire points.
- Sanitary blocks must be sited conveniently so that all park occupants may have reasonable access to one by means of a road or footpath. Blocks for 27 vans must provide a total for women of 2 WCs, 2 hand basins and 1 shower, and for men, 1 stall, 1 WC, 2 hand basins and 1 shower. Blocks must be securely screened and separate for men and

women.

- Some notices need to be displayed on site including a copy of the Site Licence, these must be protected from the weather.
- If permission is granted, please contact us to enquire about making a Licence Application for a Transit Site.
- For more information on Caravan Site Licensing please contact caravans@e-lindsey.gov.uk, visit our website: www.e-lindsey.gov.uk/article/5142/Caravan-Sites or call 01507 613551.

4.10 Environmental Health OBJECTS:

Having looked at the application, Can see no information regarding to the management of foul water from the site, Full detail needed to be submitted to LPA and agreed before comment, With regards to the management of surface water from the site, I can see no drainage management details and details have been submitted to the LPA of surface water running off the site to a third party land, I would like to object at this stage until full details of surface water drainage and management of drainage has been submitted and agreed by the LPA.

Neighbours and other representation

4.11 Representation have been received from 23 members of the public, 10 supporting the proposal and 13 objecting. Of the objections, 3 were anonymous.

4.12 Representations of SUPPORT can be summarised as:

- Support for the proposal as meeting the needs of the gypsy and traveller communities.
- Character support for the applicant.
- Observation that development has taken place in Stickney of conventional housing for the settled community.
- The proposal would have a positive influence on integration of the gypsy and traveller communities and settled community within the village.

4.13 Representations of OBJECTION can be summarised as:

- Highways safety; road serving development is unsuitable for caravans.
- No public footpath or streetlights on East Fen Lane.
- Cumulative impact on local healthcare and education services when taken alongside current outline approval of 50 houses and other residential development in the village.
- Flood risk
- Site is located outside of the settlement.

- Applicants name is given incorrectly on application form.
- Site floods, and development will cause flooding to the road.
- No assessment of impact on ecology
- No vehicle tracking has been demonstrated.
- Impact of foul drainage
- Control of time limits for transit pitches.
- Concerns over lack of enforcement for works already undertaken.
- Concerns over anti-social behaviour resulting from the proposal.
- Need for consistency of decision-making following refusal of a similar application on a site off Marsh Road, Kirton, on the grounds (inter alia) of flood risk.

4.14 One comment was logged as an objection, but states that the commenter 'did not know which to press' and reads as equivocal comment. This comment expressed support for the residential ('static') pitches but objected to the touring pitches. Since the residential pitches have now been omitted from the proposal, I have counted this representation as an objection.

5.0 RELEVANT SITE HISTORY

- 5.1 The application site represents part (approximately 50% by area) of a larger site which is subject to the following site history:
- S/126/01864/14 - GRANTED - Certificate of Lawful Development granted 24/11/2014 for a domestic residence in connection with the equestrian business.
 - S/126/00737/13 - WITHDRAWN - Application to remove condition no. 1 which states "The residential mobile home hereby permitted shall be occupied only by the applicants, Mr. & Mrs. Selby including any resident dependents and only in association with their ownership and management of the adjoining commercial stables/livery and showground" imposed on planning permission ref no. S126/0731/01.
 - S/126/00731/01 - APPROVED - Continue to site residential mobile home in association with equestrian business without complying with condition no. 2 (time limit condition) imposed on planning permission ref no. S126/1966/96.
 - S/126/00455/98 - APPROVED - To continue to use land as a showground on a permanent basis without complying with condition no. 1 (time limit condition) imposed on planning permission ref no. S126/1373/95.
 - S/126/01966/96 - APPROVED - To site and occupy mobile home granted consent under ref no.S126/1627/95 without complying with

condition no. 1 (time limit condition) and condition no. 2 (restricting occupancy of mobile home).

- S/126/01627/95 - APPROVED - Permission granted 14/12/1995 to site a mobile home for 2 years for use in connection with the proposed use of land for stables with tackroom for the training of horses for showjumping, for livery and for horse breeding purposes.
- S/126/01373/95 - APPROVED - Planning Permission - To continue to use land as a showground and to vary condition no. 4 (limiting the holding of equestrian events on not more than 12 days per year) imposed on planning permission ref no. S126/1523/94.
- S/128/01523/94 - APPROVED - To continue to use land as a showground, including the provision of toilet facilities and storage of equipment without complying with condition no.1 (time limit condition) and condition no. 6 (limiting the holding of equestrian events on not more than 12 days per year) imposed on planning permission ref no. S126/1071/91.
- S/126/01071/91 - APPROVED - Change of use of existing pasture to a showground, including the provision of toilet facilities and storage of equipment.

5.2 In summary, this site history can be characterised as a series of time-limited consents to use the land as an equestrian showground and for wider equestrian use, eventually supported by the additional siting of a single mobile home on the site, in connection with the equestrian use.

5.3 It should be particularly noted that the mobile home/domestic residence referred to by this previous site history is still extant, and is located on a part of the wider site that lies outside of the current application boundary and not within the applicant's control.

6.0 PLANNING POLICY

6.1 The Town and Country Planning Act 1990 ('the Act') establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications to have regard to the Development Plan, insofar as it is material to the application/appeal, and to any other material consideration. Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the Plan, unless material considerations indicate otherwise.

6.2 The Development Plan comprises of the East Lindsey Local Plan (adopted 2018), including the Core Strategy and the Settlement Proposals Development Plan Document; and any made Neighbourhood Plans. The Government's National Planning Policy Framework (NPPF) is a material consideration.

6.3 East Lindsey Local Plan

SP1 – A Sustainable Pattern of Places

SP10 – Design

SP12 – Gypsies, Travellers and Showpeople

SP16 – Inland Flood Risk

SP23 – Landscape

SP24 – Biodiversity and Geodiversity

SP26 – Open Space, Sport and Recreation

6.4 East Lindsey District Council Gypsy and Traveller Accommodation (GTAA) Final Report March 2023

6.5 **National Planning Policy**

- National Planning Policy Framework (NPPF) - 12 December 2024
- Planning Policy for Traveller Sites (PPTS) - 12 December 2024

This document sets out the government's planning policy for traveller sites. It should be read in conjunction with the NPPF.

- Planning Practice Guidance.

6.6 **Background Documents**

Appeal Ref. APP/N0410/X/17/3177980 - Qumran, Riding Lane, Beaconsfield, Buckinghamshire, HP9 1BT

Appeal Ref. APP/R0660/W/15/3137298 - The Oakes, Mill Lane, Smallwood, Sandbach, Cheshire, CW11 2GD

Appeal Ref: Appeal A: APP/J0405/C/13/2193582 - Land at Willows Park, Horton Road, Slapton, Buckinghamshire

Appeal Ref: APP/D1835/W/24/3340942 - Land to the south of Broomhall Way (A4440), Worcester.

APP/N2739/W/21/3280032 - Land north of Hillam Lane, Burton Salmon, Selby

7.0 OFFICER ASSESSMENT OF THE PROPOSAL

Main Planning Issues

- 7.1 The main planning issues in this case are considered to be:
- **Principle of development in this location – transit pitches**
 - **Wardens Pitch – permanent accommodation**
 - **Highway and pedestrian safety**
 - **Flood risk**
 - **Impact on neighbour amenity**
 - **Effect on the character and appearance of the area**
 - **Drainage**
 - **Biodiversity and Ecology**
 - **Application documents**
 - **Need and Supply of Pitches for Gypsies and Travellers**
 - **Whether any harm identified, including conflict with the development plan, would be outweighed by other considerations.**
 - **Planning balance**

Principle of development – 10no. transit pitches

- 7.2 The application site lies in open countryside approximately 1 mile to the southwest of Stickney, which is characterised as a 'large village' in the Local Plan.
- 7.3 Many traveller sites are located in rural areas beyond settlements. The application site is in open countryside but close to the edge of Stickney which includes a range of facilities. Stickney is defined as a large settlement under Strategic Policy SP1 (A Sustainable Pattern of Places) which states that the Settlement Pattern shall guide the distribution, scale and nature of future development, this is separated into Towns, Medium villas and small villages.
- 7.4 Policy SP12 states that the Council will support transit or temporary stopping Gypsy and Traveller sites and sites for Travelling Showpeople in *reasonable proximity* to the nearest town, large or medium settlements in areas of flood risk in accordance with the above criteria and provided they are only occupied between the 15th March and 31st October in any one year, or the following Sunday, if the 31st does not fall on a Sunday.
- 7.5 Paragraph 26 of the Planning Policy for Traveller Site states that local planning authorities 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.

- 7.6 Considering Policies SP1, SP12 and para. 26 of the PPTS as a whole, it is considered that the site is in 'reasonable proximity' (SP12) to the large village of Stickney (SP1) and that this therefore does not conflict with para 26 of the PPTS, which allows such development provided it is not 'away from' existing settlements. No definition is given in the PPTS of the term 'away from', but in any event the wording of policy SP12, being permissive of 'reasonable proximity' clearly infers that such development does not have to be immediately adjacent to, or contiguous with, the settlement boundary. In this respect, therefore, the site's basic location in relationship to the settlement of Stickney is considered acceptable for transit plots.
- 7.7 There is no pavement between the site and the edge of Stickney and the road is unlit. Parts of the verges are uneven and narrow. They would be particularly difficult to use during inclement weather. Vehicle speeds could make walking to Stickney hazardous, particularly outside daylight hours and for younger residents. Cycling to the village would be feasible but would also be affected to an extent by the above constraints. Therefore, there would be limited scope for walking and cycling to the nearest settlements. Most journeys, including shopping trips and visits to the school, doctors, or hospital, are likely to be undertaken by private vehicle. However, trips to access facilities would not be long and would be commonplace for a rural area. Taking into account the appeal decisions provided in the evidence, the location, in terms of accessibility, is comparable or better than other traveller sites.
- 7.8 Policy SP12 relating to transit sites does not include any criteria relating to sustainable access to services. In relation to this particular issue, there is no conflict with Government policy contained within PPTS, and in particular the requirement to very strictly limit new traveller sites in open countryside, as the site would not be 'away from existing settlements.
- 7.9 On balance, the location of the site is considered to be acceptable with regard to Policy SP12 (7) and this part of the proposal would be acceptable subject to conditions relating to occupation only by gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy), restriction on period of occupancy for transient gypsy or traveller, no more than 20 touring caravans to be stationed at any one time and seasonal occupancy as per occupancy periods set out at SP12 (7) (i.e

only occupied between the 15th March and 31st October in any one year, or the following Sunday, if the 31st does not fall on a Sunday).

Principle of development - 1no. Warden's Pitch (permanent pitch)

- 7.10 Transit sites may present particular management challenges and depending on local circumstances and sufficient usage, provision is generally made for a resident manager. In this case, the warden's accommodation is not applied for on a transit basis (where Policy 12 criteria 7 would apply) and permanent accommodation is proposed.
- 7.11 Policy SP12 (6) states: 'On Travelling Show peoples sites the Council will support a permanent occupancy except in areas of high flood risk'.
- 7.12 In flood risk terms the warden accommodation and permanent pitches would not be supported by Policy SP12 due to the sites location in FZ3. Whilst noting that the Flood Risk Assessment indicates raising of site levels and a Flood Warning Evacuation Plan, the Environment Agency (EA) has objected and does not consider the proposed mitigation to overcome the risk to life. The EA has advised that the site is at risk from a breach from the East Catchwater Fen and that initial estimates suggest that breach depths will reach up to 0.5m on the site from the East Fen Catchwater. Further, that the initial surge of water after a breach moves rapidly and poses a risk to life. In addition to this, a breach event is difficult to predict and therefore it is unlikely site occupiers would be warned about the onset. I am therefore in agreement with the position of the EA that securing the caravans, raising site levels and flood warning and evacuation plan could not be relied upon to protect people and property on a permanent all year-round basis.
- 7.13 The EA has objected to the application as a whole, if the permanent pitches and warden accommodation were to be removed then the transit pitches, subject to further discussion with the EA regarding appropriate mitigation and a seasonal condition as set out at Criteria 7, could be capable of meeting SP12 criteria.
- 7.14 In this regard, an alternative was proposed whereby the proposed warden's accommodation would be removed from the proposals (to overcome the EA objection) and then warden's accommodation would be delivered by the single residential mobile home granted lawfulness under the LDC approval ref. S/126/01864/14.

This is not considered viable because:

- a) The residential mobile home remains extant on a part of the wider site

that is neither included in the current application boundary, nor is in the applicant's ownership. To replace the current residential mobile home with a new one, serving as warden's accommodation, would require:

- i. that the existing unit be encompassed within the current application boundary, in order that ELDC could condition its removal prior to the new unit being brought into use, and;
- ii. that the applicant would need to control the existing unit (and the land it is situated upon), in order to make such a condition deliverable.

b) The Certificate of Lawfulness explicitly states in the particulars of the decision, that the unit has been judged lawful as a domestic residence in connection with the applicant's equestrian business. It is questionable whether this lawfulness could be transferred to a new and unrelated use.

- 7.15 The agent has put forward that the lawful use of the existing mobile home extends to the whole of the land to which the LDC application related. This is not disputed.
- 7.16 The agent goes on to suggest that case law allows that simply increasing the number of caravans stationed on a piece of land for residential purposes will not constitute a material change of use requiring planning permission unless it would result in a change in the character of the use. The LPAs view is that the LDC admits the lawfulness of a domestic residence (singular) and permits neither additional development, not the creation of what would amount to an additional planning unit on the site. An additional unit and associated intensification would be a material change amounting to development.
- 7.17 Furthermore, the current land registry search indicates the applicant (as set out in the application) is not the owner of the title of the land where the mobile home is located. The agent has confirmed it is owned by other family Members. The risk if the warden's accommodation is removed to overcome the EA objection and conflict with Policy SP12 is that as the applicant does not control the LDC land, they may not have a warden's pitch to rely on for future management, which they have advised is essential.
- 7.18 The proposed Wardens Pitch is permanent accommodation contrary to Policy SP12 (1), it forms part of the proposals and there is no evidence available to demonstrate that the applicant has the benefit of the LDC caravan. Policy SP12 (1) applies sustainability criteria that the proposals do not satisfy, and the site is located in FZ3.

Flood Risk

- 7.19 All the site edged in red, including the proposed transit pitches, wardens pitch and communal amenity building are shown to be located within Flood Zone 3 (High Risk Zone), as defined in Table 1 of the Flood Risk and Coastal Change section of the National Planning Practice Guidance (NPPG).
- 7.20 The proposed overall development is classified as Highly Vulnerable, in accordance with the Annex 3 of the National Planning Policy Framework (NPPF).
- 7.21 The consideration of flood risk is interwoven with definition of the overall suitability of the site, as defined by Policy SP12, but also demands separate and specific consideration under policy SP16 (inland flood risk).
- 7.22 The guidance in the PPTS on designing gypsy and traveller sites states:
13. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:
g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
- 7.23 The NPPF and the PPG indicate that residential development should be directed to areas of lowest flood risk. Paragraph 168 of the NPPF states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and this is on the basis of a sequential, risk-based approach to the location of development.
- 7.24 Paragraph 175 of the NPPF sets out that when determining any planning application, development should only be approved in areas at risk of flooding where it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk. In addition, the PPG requires the applicant to carry out a sequential test first, which steers new development to areas with the lowest risk of flooding from any source.
"The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)." (para 175)

- 7.25 Given its location in Flood Zone 3, it is necessary to carry out a sequential test, as set out in the LP policy SP16.
- 7.26 The FRA does not set out any other sites that have been considered and ruled out or whether there is any spatial variation of flood risk between other sites. There is no evidence that other sites are not available at a lower risk of flooding to provide pitches (whether transit or permanent) for gypsy and travellers.
- 7.27 Therefore, it has not been demonstrated that the sequential test has been passed as it has not been shown that sites at a lower risk of flooding are not reasonably available and the necessary steps of the sequential test have not been carried out.
- 7.28 As defined within the NPPF (Annex 3), the use of a site for caravans, mobile homes and park homes intended for permanent residential use are classified as highly vulnerable. As the sequential test has not been passed, it is not necessary to also/subsequently apply the Exception Test.
- 7.29 However, if it were to apply it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk, and that it will be safe for the lifetime of the development. Both elements of the test will have to be passed for development to be permitted.
- 7.30 Paragraph 13 of the Planning Policy for Traveller Sites (PPTS) sets out that traveller sites should be sustainable economically, socially and environmentally and should not locate sites in areas of high risk of flooding, given the particular vulnerability of caravans. However, with regard to wider sustainability benefits, the proposal would provide limited economic and social benefits for the wider community through the spending of future occupiers in the local economy. In terms of environmental benefits, the proposal would provide a settled base for transit pitches in seasonable periods that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment. However, noting the scale of the proposal, the weight given to these benefits is modest.
- 7.31 On balance, it is concluded that the wider sustainability benefits to the community should carry no more than modest weight and would not outweigh the significant risk to occupants of the site resulting from its location in a flood zone with a high probability of flooding.

- 7.32 The second limb of the exception test requires that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.
- 7.33 The PPG sets out that proposals that are likely to increase the number of people living in an area of flood risk require careful consideration, as they could increase the scale of any evacuation required and that even low levels of flooding can pose a risk to people in situ because of, for example, the presence of unseen hazards and contaminants in floodwater, or the risk that people remaining may require medical attention.
- 7.34 It also sets out that access routes should allow occupants to safely access and exit their dwellings in flood conditions and that vehicular access to allow the emergency services to safely reach the development will all be required. Wherever possible, safe access routes should be provided that are located above design flood levels and which avoid flow paths. Whilst during the course of the application the agent has provided additional information on site levels, limited topographical information is incorporated into the FRA to evidence that the raising of levels is sufficient, nor are evacuation plans proposed. Similarly, while additional topographical information has been provided in the application to regularise unauthorised ground works, the impact of these levels on flood risk has not been addressed in a FRA and therefore it has not been demonstrated the site access, which is also in Flood Zone 3, would be safe and accessible during a flood event.
- 7.35 The Environment Agency have objected to the development. They have advised informally that if all permanent accommodation were to be removed, their objection would be withdrawn as they accept Policy SP12(7) is permissive of transit plots in areas at risk of flooding, subject to a potential seasonal condition. As the Wardens Accommodation remains part of the proposals, the EAs objection to the application stands.
- 7.36 The EA also state in their objection that the site is at risk from a breach from the East Catchwater Fen, with initial estimates suggesting that breach depths will reach up to 0.5m on the site from the East Fen Catchwater. The initial surge of water after a breach moves rapidly and poses a risk to life. In addition, a breach event is difficult to predict and therefore it is unlikely site occupiers would be warned about the onset, therefore a flood warning and evacuation plan could not be relied upon to protect people and property. It is proposed that the warden's

accommodation would be occupied all year round.

- 7.37 While SP12 (7) is permissive of transit sites in areas at flood risk, being potentially subject to the seasonal condition, SP16 still requires specific consideration of flood risk. At this time, the seasonal condition alone, given the site being in FZ3 and the risk to life, is not sufficient and if planning permission were to be granted, an emergency evacuation plan would also be required to support safe occupation of the transit units.
- 7.38 Taking the site as a whole, which includes a permanent residential warden's caravan, no evidence has been provided to show that there is an absence of alternative sites at lower risk of flooding where transit sites and appropriate on-site management can be provided or why a manager's office could not provide the required management. The sequential test is not considered to be met for the proposed development which is assessed as a whole.
- 7.39 As matters stand, flood risk is considered to remain unresolved and remains a matter for refusal.

Highway Impact and Pedestrian Safety

- 7.40 The NPPF at a paragraph 116 highlights that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios." This is a high bar test that requires the decision maker to be evidential in their considerations. The December 2024 NPPF changes also signal a shift from the 'predict and provide' approach to transport to 'vision-led' where impacts are assessed to be significant.
- 7.41 When considering a development, it is generally accepted that the critical periods in terms of traffic impact on the adjacent highway network are the weekday AM and PM peak hours, when traffic flows associated with the development combined with the traffic flows on the adjacent highway network are at their greatest. The application is not supported by a Transport Statement to set out anticipated movements/traffic generation.
- 7.42 Under Appeal Ref: Appeal Ref: APP/D1835/W/24/3340942 for '*change of use of land to provide 10 permanent Travellers Pitches including the stationing of caravans for residential purposes with ancillary dayroom for each pitch*' a Transport Assessment was included which indicated

approximate number of daily movements. The comparison to similar proposals in this application led to the following assumptions about likely traffic generation:

The analysis indicates that a development of up to 10 traveller pitches is expected to generate 8 and 6 two-way vehicle trips during the AM and PM network peak periods, respectively with 92 two-way vehicle trips across the day. In real terms, this equates to one trip every eight minutes in the AM peak hour and every ten minutes in the PM peak periods, with an average of one trip every eight minutes across the day. This cannot be considered significant or likely to result in a severe impact on the local highway network. The TS states that, on this basis, it is not considered that a traffic impact assessment is required, given the low level of trip generation and the low level of vehicle trips in real terms.

- 7.43 In this instance, there are 10 pitches (two tourers per pitch) and one permanent. In peak periods it is clear that traffic movements may be high, however, there is no evidence to suggest that the level of traffic generation would be severe on the local highway network.
- 7.44 Lincolnshire County Council Highways and Planning (LCC Highways) has made the following comments:
- Can the Applicant/Agent be requested to provide further evidence of how the proposed development would be safely accessed other than by motor vehicle? The Design and Access Statement advises that for most of the route between the Application Site and the village, there is a footway, whereas in reality, for more than half of the route between the site and the A16 junction, there is no footway.*
- 7.45 Policy SP12 (7) for what constitutes an appropriate location for development of this nature requires that sites for Gypsy and Traveller sites should be in *'reasonable proximity to the nearest town, large or medium settlements*. There is no criteria relating to safe access, public transport or need for a footpath.
- 7.46 For permanent sites, SP12 (1) requires that the proposals *'Demonstrate that there is safe access to the nearest town, or large settlements amenities by means of pedestrians and vehicles being segregated or be accessible by public transport. Have safe transport access to the principal road network'*. The permanent part of the proposals, except the Wardens Accommodation, have been removed.
- 7.47 LCC Highways are correct that there is no separation between

pedestrians and traffic along East Fen Lane and Horbling Lane to give pedestrian access to local facilities in Stickney. However, there is a short distance to drive to access a range of services. Given that Policy SP12 (7) does not include criteria for public access or footpath links and the site meets the 'reasonable proximity' text, the location for the transit pitches is considered to be acceptable.

7.48 Consideration has also been given to the likely existing pedestrian movements on the highway walking into Stickney and conflict with vehicles accessing the site. Given the low number of surrounding properties, it is considered that pedestrian movements are unlikely to be high or sufficient to suggest that additional traffic using this section of highway would be of a scale that would cause harm. It is likely any existing pedestrians accessing Stickney by foot already do so with care given the character of the rural road.

7.49 Notwithstanding the fundamental issues relating to the principle of development in this location, a number of design issues are unsatisfactory in relation to the current proposal:

- The design of the accesses, which have already been implemented, are unsatisfactory. These have been constructed on land in the control of County Council Highways, as Highways verge.
- There appears to be a drainage ditch along the site frontage, within the Highways verge, which has been bridged by the two access points. These would need to be pried or culverted to construction standards agreed with Highways.
- The compacted stone surface shown for the two access points (and implemented on site) is unlikely to be satisfactory to meet Highways' construction standards. This has been confirmed by an undated letter from the agent received 23/09/24, stating it to comprise a 50mm. layer of clean limestone chippings on a base course of 400mm. crushed concrete: we would expect them to require a metalled surface for a specified distance into the site, to prevent loose stones being carried out onto the carriageway by traffic.
- No drawings have been provided for the northern access, but the gates already implemented appear to swing outwards over the bellmouth, which is not satisfactory.
- The walls built around the southern access are on Highways verge and interfere unacceptably with the necessary visibility splay. Drawings

submitted for these walls show a height of 0.8m (exclusive of the 300mm. dia. stone balls at the pier caps). It is considered that the dimensions shown on these drawings are conservative since photographs show 12 courses of brickwork (12x75mm), plus a 50mm. stone string course and a 75mm+ stone pier cap, which would suggest an actual height slightly in excess of 1m. Notwithstanding that no development should take place within the adopted highway verge without authorisation from the LHA, the maximum acceptable height of any obstruction within the visibility splay should not exceed 0.6m.

7.50 Insufficient information is available to demonstrate that safe access can be achieved, and that the applicant can manage the visibility splay.

7.51 In terms of other operational layout matters:

- Parking spaces on each pitch is not clearly marked on the submitted site plan. Guidance in the former Designing Gypsy and Traveller Sites Good Practice Guide - May 2008 (superseded by PPTS) indicates two spaces per single pitch is required. The rectangle pitches scale about 3.3m. wide x 9m. long, so are large enough to represent the largest normal touring caravans (most are limited to 7m., for towing regs.) and the spaces between them scale about 6m. wide, so are wide enough for a couple of cars side by side (and there's enough length to get two vehicles in tandem). Therefore, it is assessed the pitch can support two parking spaces per tourer.
- A bin store is shown by the northern access gate, so access and tracking within the site for a refuse collection vehicle is not necessary. The bin store is likely to be too small to store the amount of refuse 20 caravans could generate, however, there is sufficient space for this to be enlarged.
- The travel distances from the individual pitches to the bin store are well in excess of the 30m. residents' carry distance recommended by Manual for Streets (para. 6.8.9) – The submitted plans indicate approximately 132m. from the bin store to the far end of the site. However, it is proposed to have a warden on site and collection and transport from individual pitches to the bin store is likely to form part of the Warden's role, using a vehicle. This element is therefore also considered to be satisfactory.

Impact on Neighbour Amenity

7.52 Criteria f of paragraph 135 sets out the need to create places that have a

high standard of amenity for existing and future users and allow developments that do not undermine the quality of life, community cohesion and resilience.

- 7.53 Policy SP10 (5) of the Local Plan states that development will be supported if it does not, amongst other matters, unacceptably harm any nearby residential amenity.
- 7.54 PPTS 1(k) requires '*local planning authorities to have due regard to the protection of local amenity and local environment*'.
- 7.55 The site has an immediate neighbour to the north, which has a range of outbuildings located along a large portion of the shared boundary. There are also residential properties opposite on the east side of East Fen Lane.
- 7.56 Due to the location and layout of the transit pitches, there is not considered to be any direct effect on the amenity or living conditions of the occupiers of nearby residential properties in terms of causing overlooking and loss of privacy.
- 7.57 Due to the existing gap in the access and some gaps in hedge line, it will be possible to see the presence of a gypsy site from surrounding properties. However, subject to a landscape condition to provide further screening and suitable site management, there is no evidence to suggest that the proposal would have a harmful effect on the amenity or living conditions of nearby residents.
- 7.58 Representation has been made regarding the management of the site, in terms of potential anti-social behaviour. Although a material planning consideration, there needs to be evidence for conditions requiring management plans to be imposed. This is a matter that could be addressed by condition, if recommended for approval.

Effect on the character and appearance of the area and wider landscape.

- 7.59 Policy SP12 requires that development is *appropriate in scale and form to its surroundings and be capable of being integrated into their surroundings without causing unacceptable harm to the character, appearance and amenities of the area*.
- 7.60 Policy SP10 and SP23 also deals with design and landscape character. SP10 states, amongst other things, that new development should provide on-site landscaping to integrate the development into its wider surroundings and make provision for open space. Policy SP23 states,

inter alia: The District's landscapes will be protected, enhanced, used and managed to provide an attractive and healthy working and living environment.

- 7.61 PPTS states that '25. Local planning authorities 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. 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.'
- 7.62 The site is not in a protected landscape, or a valued landscape for the purposes of the Framework, but nevertheless the consideration of character and appearance is still a relevant planning consideration under the development plan and national planning policy.

Scale

- 7.63 Despite houses, farms, and the poultry units nearby, the sporadic nature of development along East Fen Road leads to gaps where fields adjoin the road. Bounded by hedges and trees, these fields support the area's open character.
- 7.64 The proposal would comprise 1 warden's pitch and 10 transit pitches (allowing up to 20 touring caravans). Along with the pitches themselves, there would be an access road to the pitches and parking and turning areas.
- 7.65 The scale of the development is higher than the scale of surrounding development. The justification for the number of pitches has not been set out in the application. The site would appear relatively built out in an area otherwise of sparse housing, save for the poultry units.
- 7.66 Although touring caravans proposed would be visible through the site access along part of the public realm along East Fen Lane, the wider local rural landscape is characterised by other small groups of buildings and hamlets. Therefore, while the scale of development proposed is greater than the existing, the combined number of pitches, their linear layout east to west and location contained at the northern end of the site, would not be out of character nor would it detract from the value of this landscape. While the scale of the development is assessed to be acceptable, it is at the higher end of impact and any further increase would dominate the site and nearest settled community.

Design, layout and details

7.67 In terms of the location and detail for the transit pitches, consultee comments from the Caravan Site Licensing Team note that '*A three-metre-wide area should be kept clear within the inside of the site boundaries which are to be clearly marked by either hedging or fencing.*' The application layout fails to address this requirement and hence is not compliant with licensing requirements. The applicant has been made aware that the layout is not compliant with Caravan Site License requirements. This may require the applicant to seek amendments or reduce the number of pitches or pull them further south into the site. There is space for this to be accommodated within the red line and greater separation from neighbour to the north would be a benefit. However, this amendment has not been proposed and, if approved, it is likely the applicant would need to apply for a material amendment under S73 in order to meet Caravan Site License requirements.

7.68 In reducing the proposal and removing the 6no, permanent caravans the layout for the 10 pitch transit site offers a poor layout and landscape details for the remainder of the site.

- The 6no residential units have been deleted from the plan and the area left blank, presumably to apply for further planning permission at a later date.
- There is no clear barrier to discourage unauthorised expansion of the site into land to the south.
- The elaborate southern entrance leads to a drive directly across to retained land in the same ownership as the application site. This entrance and drive are now redundant since the residential pitches have been omitted. Both the drive and the southern entrance should therefore be omitted unless a need for them is properly justified.
- Similarly, since the residential pitches have now been omitted, the Warden's pitch and dayroom would be better relocated closer to the transit pitches.

7.69 The above changes would affect a substantial reduction in the amount of stone hardstanding on the site and would also render the southern site access and a large amount of screen fencing in this area redundant, to the benefit of visual impact.

7.70 It is also evident from site inspection that quite extensive fencing has been erected around the site which is unattractive and out of character. While the hedging to East Fen Lane is presently quite dense, there are

areas boarding the site where views of caravans and the fencing will be visible. The PPTS at paragraph 26 sets out that sites should not be enclosed with so much hard landscaping, high walls, or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. There is clearly a balance to be struck between providing a level of privacy and security for the application site and to ensure that the site is integrated into the local community. Further consideration needs to be given to boundary treatment to the site to provide a good balance between minimising the impact on the countryside and integration into the local community.

7.71 It is considered that the above matters could be addressed via a condition being imposed requiring details for:

- proposed external lighting on the boundary of and within the site.
- the internal layout of the site, including the siting of the pitches, dayroom wardens' accommodation, hardstanding, access roads, parking, bin storage and amenity areas.
- details of proposed and existing tree, hedge and shrub planting (including details of species, plant sizes and proposed numbers and densities)
- details of works to trees and hedges on the boundary of the site (to include ecological enhancements, including specification and location).
- details for all boundaries, including access gates.
- Removal of the southern access pillars and scheme of landscaping to close the opening.

Drainage

7.72 Policy SP16 states, inter alia:

- All new development must show how it proposes to provide adequate surface water disposal, including avoiding impacting on surface water flow routes or ordinary watercourses. The Council will expect this to involve the use of Sustainable Urban Drainage Systems along with other appropriate design features, including the retention of any existing water features on a site.
- All new development must show how it can provide adequate foul water treatment and disposal or that it can be provided in time to serve the development.

- 7.73 Foul and Surface water drainage details provided are not satisfactory in the absence of supporting soakage tests and further detailed design. Ordinarily, it might have been satisfactory to condition the latter, but in view of the fact that the work has already been partially implemented on site, proof of a satisfactory drainage design becomes important prior to determination.
- 7.74 Note that Witham Fourth District IDB maintains their objection to the drainage due to the use of subbase reservoirs (the crated storage referred to with the agent's letter). The agent has also indicated the potential use of filter drains. While the drainage proposals require further consideration, all SuDs require long-term maintenance and therefore either below ground or above ground SuDs features are likely to be the solution.
- 7.75 It is noted that in addition to the conventional toilets and showers, the proposed facilities block shows a chemical waste disposal point. Detailed design of the foul drainage system will need to support both elements of foul waste. If the proposal is to have limited seasonal occupation in order to meet flood risk requirements, the design should also specify a packaged treatment plant capable of such intermittent use, as conventional PTP's can be ineffective when dealing with such an operational regime.
- 7.76 Further information has been requested some considerable time ago, seeking details of existing and proposed levels (to include details showing all locations where existing land levels have already been raised). To date, only partial information has been received, in the form of an Original Ground Level Survey (Axis Surveys Ltd. drawing AS2708/01). Representation has been submitted to indicate that existing levels on site have been increased and these are causing fluvial outfall onto adjoining land. The drainage scheme should address levels and ensure that there would be no runoff onto neighbouring land.
- 7.77 The submitted drainage details for both foul and surface water, are not satisfactory.

Biodiversity and Geodiversity

- 7.78 Although this application pre-dates the statutory requirement for Biodiversity Net Gain, Policy SP24 requires that development proposals should seek to protect *and enhance* the biodiversity and geodiversity value of land.

- 7.79 No ecological assessment was submitted with the application to show whether the site had any biodiversity value prior to the carrying out of the works. The site history indicates it had a former equestrian use and therefore likely to have been degraded due to equestrian activities/paddock. As the ground has largely been cleared, the potential for protected species is minimal, though could be present in perimeter hedge. Given the size of the site and its likely low baseline value, the negative effects are likely to be relatively limited. Moreover, there is scope for mitigation to be included in any development scheme, including the planting of native hedgerows and trees, the provision of bird and bat boxes, and precautions during construction. In addition, an ecological management plan could be secured by condition, as could any biodiversity enhancements to accord with Policy SP24.
- 7.80 Overall, the effect on biodiversity would be likely to be acceptable, subject to the imposition of conditions. There would be compliance with Policy SP24 in this regard, as the development is capable of protecting and enhancing features of biological interest, providing appropriate management and mitigating impacts.

Need and Supply of Pitches for Gypsies and Travellers – Gypsy and Traveller Accommodation Assessment (GGTA), the NPPF and PPTS December 2024 and five-year supply of land for housing.

- 7.81 On 12 December 2024, the government published their response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation. The revised National Planning Policy Framework (NPPF) and Planning Policy for Traveller sites (PPTS) have impacts on the planning regime for Gypsies and Travellers, including approach to sites and general housing, and a change to the definition.

Housing Needs

- 7.82 Councils are required by law to assess the accommodation needs of all people living in the area they are responsible for, and this includes Gypsies and Travellers.
- 7.83 The PPTS at paragraph 10 requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets; and b) identify a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15.

7.82 The PPTS continues at paragraph 28. If a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.

7.83 Paragraph 11 of the NPPF states, inter alia:

11. Plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that:

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [a lack of a 5-year supply of sites means that a policy is out of date], granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance (footnote 7) provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

7.84 The last published Gypsy and Traveller Accommodation Assessment Final Report, March 2023 (GTAA) seeks to understand the accommodation needs of the Gypsy, Traveller and Travelling Showmen population in East Lindsey through a combination of desk-based research, stakeholder interviews and engagement with members of the travelling community living on all known sites, yards, and encampments. It provides an evidence base which can be used to aid the implementation of Local Plan Policies and, where appropriate, the provision of new Gypsy and Traveller pitches and Travelling Showmen plots for the period 2022 to 2041, to meet the 15-year requirements set out in PPTS, and the period for the new Local Plan.

7.85 The GTAA states:

- Pitch Needs – Gypsies and Travellers: There is a need for 1 pitch for undetermined households. This is as a result of new household formation over the GTAA period.
- Plot Needs - Travelling Showmen: There were 12 Travelling Showmen

households identified in East Lindsey that met the planning definition;
no undetermined households that may meet the planning definition;
and no households that did not meet the planning definition.

- Transit Recommendations: Due to historic low numbers of unauthorised encampments, it is not recommended that there is a need for a formal public transit site in East Lindsey at this time. There is also a private transit site with permission for 18 pitches that has not yet been developed.

7.86 The GTAA is presently ELDCs most up to date evidence. In respect of gypsies and travellers and the proposed warden’s accommodation, the GTAA confirms there is a need for one pitch for undetermined Gypsy and Traveller households that may meet the planning definition and there is no need for pitches for Gypsy and Traveller households who did not meet the planning definition.

7.87 With regard to the stated undetermined household for one pitch, the Council has not granted permission for a pitch for gypsies or travellers since the GTAA was written and therefore at present we are unable to evidence a 5-year supply and paragraph 11d of the NPPF is engaged.

Change to Definition

7.88 There has also been a change in definition of traveller from the previous 2015/2023 PPTS to the December 2024 PPTS which will not have been factored into the Councils GTAA evidence base (undertaken 2022 and published 2023).

7.89 These definition changes are summarised in the table below:

PPTS 2023	PPTS December 2024
-----------	--------------------

<p>For the purposes of this planning policy “gypsies and travellers” means: 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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.</p> <p>2. In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters: a) whether they previously led a nomadic habit of life b) the reasons for ceasing their nomadic habit of life c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.</p>	<p>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 or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such</p>
---	--

7.90 The use of the phrase ‘cultural tradition of nomadism or of living in a caravan’, makes it considerably more inclusive and reflective of the accommodation needs of Romany Gypsies and Irish Travellers.

7.91 The GTAA survey undertaken in May 2022 does not accommodate the new definition and therefore, Members are made aware that the PPST definition would require a wider consideration of accommodation needs to be met, which is wider than the scope survey for in the GTAA. The wider definition could mean that the need for permanent pitches is higher than surveyed/reported, however, the data is not yet available as the change was only published 12 December 2024. The applicant has not come forward to evidence that they meet the new definition. The change to definition and impact on assessment of demand as set out in the GTAA is a material consideration that should carry weight in the determination of the proposals.

Impact of 5-year land supply and definitions on the proposals

7.92 The LPA cannot demonstrate a 5-year supply of sites for permanent Gypsy and Traveller sites (having regard to the current GTAA evidence base and previous definition) and therefore the presumption in favour of sustainable development under paragraph 11(d) is triggered. Permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance, provides a **strong reason** for refusing the development proposed; or*
- ii. **any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole**, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

7.93 There is no guidance on what a "strong" reason for refusal is – this is a matter of planning judgement.

7.94 Footnote 7 lists the key areas in relation to limb (i) above which includes areas at risk of flooding or coastal change.

7.95 Footnote 9 lists the key policies in relation to limb (ii) above which, where relevant, would inevitably fall within the planning balance, however there is a clear intention for extra weight to be accorded to these factors when taking a decision. Chapter 14 which covers 'Meeting the challenge of climate change, flooding and coastal change' is not listed under footnote 9.

7.96 As previously set out, the site lies in Flood Zone 3 and the proposals

have been assessed to fail the sequential and exception tests. The application of policies in the framework, regarding the vulnerable nature of the proposals and the site's location in Flood Zone 3, provides a strong reason for refusing the development.

- 7.97 It is considered that a strong justification is required to overcome the presumption against development in Flood Zone 3, and there is no compelling reason or evidence to demonstrate why the application should be allowed despite the risk. This also is contrary to the Development Plan as a whole which sequentially seeks to provide housing in areas at lowest risk of flooding.
- 7.98 It is that accepted that the change in definition, once surveyed in a subsequent GTAA, may lead to higher demand for permanent accommodation. However, until further survey work is undertaken the outcome is unknown.

Other matters

- 7.99 In exercising my function on behalf of a public authority, I am also consciously aware of my duties under the Public Sector Equality Duty (PSED) within the Equality Act 2010 which sets out to eliminate discrimination, harassment and victimisation, advance equality and foster good relations, and the protected characteristics under the PSED, including for Gypsy and Traveller groups. I am also aware of my duties under Article 8 of the Human Rights Act 1998 (Article 8) that bestows the right to private and family life and for the home, and that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Nations Convention on the Rights of the Child.
- 7.100 While the intended occupiers of the 10 transit pitches and therefore the personal circumstances are not known, the provision of pitches would be of general benefit to future occupiers. The applicant has advised they presently reside in a caravan on site which was subject to the LDC application. The proposed warden's accommodation is separate to this, though notably would also provide a settled base to the intended occupier (likely to be the applicant Mr Grey). These are matters that weigh significantly in favour of the proposal.

Application Documentation

- 7.101 As a result of Officer assessment of the application, anomalies have been identified with regard to the application documentation, amongst which:
- As identified by several public representations, the applicant's name is

given as Mr Alan Grey, and the Ownership Certificate and Agricultural Land Declaration was signed to say that the applicant was the sole owner of all the land to which the application relates. A letter from the agent is available with the application documentation, undated but received 23/09/24, further stating that the site is owned by 'Mr Gray and his sister'. Land Registry records indicate that the application site comprises two land titles, LL377880 and LL404155. These titles are registered to Miley Doran and Barbara Philomena Doran, respectively. No evidence is given, and contrary to the signed Certificate A, that appropriate notice has been served upon these individuals.

- Letters of representation from the adjoining landowner suggest that the application site (as edged in red) is on their land. There is no evidence that the red edged site boundary is on land owned by the adjoining property. If this is later found to be the case, this would be a civil matter the landowner would need to address outside of planning. The representation has been weighted in the assessment.
- The application forms indicate that no new or altered vehicular access is proposed to or from the public highway. Two new accesses have, in fact, been formed, with elaborate entrance walls surrounding the southern entrance. These are shown by the red line boundary on the Site Location Plan and are identified as 'stone hardstanding' on the Site Layout. No notice has been served upon the Highways Authority to warn them that their land formed part of the application proposal.

Planning Balance

- 7.102 A key consideration is whether any harm arising from the proposal would be outweighed by other considerations weighing in favour of the development including the need for sites, the availability of alternative accommodation and the personal circumstances of the appellant and wider family.
- 7.103 The Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary to consider whether the harms identified above would be outweighed by other considerations.
- 7.104 In so doing, it is necessary to afford substantial weight to the issues of flood risk and pedestrian safety in particular. It is considered that whilst other matters are secondary in weight and could potentially be resolved by further positive and proactive engagement between the LPA and

applicant, these two issues are fundamental to the viability of the proposal in planning terms.

- 7.105 The key benefit offered by the proposal is the delivery of 10 stopping/transit pitches. This is weighed against the Council's 2023 Gypsy and Traveller Accommodation Assessment (GTAA) which has not identified any unmet demand.
- 7.106 The Council allocated sites in the Settlement Proposals Document to meet the above needs within the first five years of the life of this plan. The Assessment did not identify a need beyond the first five years and the Council acknowledges that it must ensure that there is continuous delivery of sites.
- 7.107 PPTS paragraph 10 requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets and identify a supply of specific developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15.
- 7.108 Para 24 of the PPTS states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites. PPTS paragraph 28 states If a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.
- 7.109 PPTS paragraph 25 outlines, amongst other things, the need to consider the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation, and other personal circumstances. It also confirms that 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/plots should be used to assess applications that may come forward on unallocated sites.
- 7.110 The GTTA (March 2023) under Transit Recommendations states that '1.18 Due to historic low numbers of unauthorised encampments it is not recommended that there is a need for a formal public transit site in East Lindsey at this time. There is also a private transit site with permission for 18 pitches that has not yet been developed'.
- 7.111 With regard to paragraph 11d) of the NPPF, there is no evidence to

suggest that demand for transit pitches is so great that it would justify a location where a permanent warden's accommodation is justified in FZ3 to manage the site.

- 7.112 The GTTA identifies the need for a permanent pitch, and this is presently an unmet demand, however, the flood sequential and exception test are not passed and there is no compelling evidence presented for a highly vulnerable use within FZ3. There are further limitations to this location, as set out in its distance from the settlement, lack of pedestrian footways and lighting coupled with the scale being at the higher end and landscape impact. On balance, it is not considered that there is an evidenced demand that would outweigh the harm set out.

8.0 CONCLUSION

- 8.1 The proposal is for change of use of land to use as a gypsy/traveller caravan site comprising: a warden's pitch accommodating a static caravan/mobile home (permanent) and 10 transit pitches, each accommodating no more than 2 touring caravans, erection of toilet/wash block and, erection of dayroom building and laying of hardstanding.
- 8.2 Works have already substantially commenced on site and will be a matter for enforcement if the current application is refused.
- 8.3 The proposals as they stand are deficient in a number of respects. Several aspects could be significantly improved (notably layout design and landscaping; drainage design; design of site accesses), given continued engagement with the applicant and agent, but key issues are present that seem unlikely to be resolved.
- 8.4 These key issues can essentially be reduced to suitability in principle of the location, due to lack of safe pedestrian access from the site to the neighbouring settlement, suitable access and flood risk.
- 8.5 The proposal is clearly contrary to ELDC policy in these respects, and as such the Planning and Compulsory Purchase Act 2004 requires that the Authority refuses the application unless material considerations offering at least equal weight in the planning balance indicate otherwise.
- 8.6 As set out in the planning balance above, there are no material benefits to the proposals that are sufficient to outweigh the items of non-compliance with policy, hence it is recommended that the application is refused. While the LPA is unable to demonstrate a five year supply of housing, having regard to 11d)i) it is considered that the proposed vulnerability of the development in FZ3 is a strong reason to refuse the

development.

- 8.7 This conclusion has been arrived at having taken into account all other relevant material considerations, none of which individually or cumulatively outweigh the reasons for the officer recommendation below.

9.0 OFFICER RECOMMENDATION

9.1 REFUSE PLANNING PERMISSION

RECOMMENDATION: Refuse

for the following reasons:

- 1 The proposed permanent warden's accommodation pitch is located within Flood Zone 3, an area of high risk from flooding and is unable to deliver safe pedestrian access to the nearest large settlement, either by means of pedestrians and vehicles being segregated, or by public transport. The proposed development is therefore contrary to Policy SP12 of the East Lindsey Local Plan.
- 2 The site is located within Flood Zone 3a (a high-risk Flood Zone), as defined in Table 1 of the Flood Risk and Coastal Change section of the National Planning Practice Guidance (NPPG). The proposed development, by reference to the inclusion of an element of permanent accommodation, would be classified as Highly Vulnerable, in accordance with the Annex 3 of the National Planning Policy Framework (NPPF). No sequential evidence has been submitted to demonstrate that there is a need for the proposed development, which includes a permanent wardens accommodation pitch, in an area at high risk of flooding. The proposed development is therefore contrary to Policy SP12 and SP16 of the East Lindsey Local Plan, and guidance set out in the National Planning Policy Framework and National Planning Practice Guide.
- 3 Insufficient information has been provided to establish satisfactory foul and surface water drainage, contrary to Strategic Policies SP12 and SP16 of the East Lindsey Local Plan and guidance set out in the National Planning Policy Framework.
- 4 Insufficient information has been provided to confirm safe and satisfactory vehicular accesses to the site, contrary to Strategic Policies SP10 and SP12 and guidance set out in the National Planning Policy Framework.