

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H20-0467-26 **Applicant:** D Buchan
Proposal: Siting of static caravan to be used as annexe to main dwelling
Location: Annasfield Old Fendyke Sutton St James
Terminal Date: 15th July 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the proposed siting of a static caravan to be used as an annexe for Annasfield, which is proposed as the host dwelling in this instance.

Consent is sought under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The site comprises land to the north-east of Old Fendyke and to the north-east of Annasfield which is a dwelling located on the opposite side of the road. The site is located within a rural area, being largely surrounded by agricultural fields; however, there are some dwellings and agricultural buildings interspersed within the area. The site is located approximately 3km to the west of the Tydd St Giles and 1.8km to the south of Sutton St James.

Relevant Planning History

H20-0614-90: (Section 32) Removal of agricultural habitation condition - refused 13 July 1990

H20-0847-91: (Section 62) Retention of dwelling without complying with' agricultural habitation condition - refused 12 December 1991

H20-0728-02: (Full Application) Erection of three single storey extensions - approved 09 August 2000

H20-0516-13: (Full Application) Erection of oak framed open fronted garage - approved 14 August 2013

H20-0365-17: (Full Application) Proposed Garage/Store - approved 22 May 2017

Consultation

There is no statutory obligation for the local planning authority (LPA) to publicise an application for a certificate of lawful development and as such, no consultation has been undertaken with statutory consultees.

For lawful development certificates, planning policy guidance is clear that there is no statutory requirement to consult third parties including parish councils or neighbours (Paragraph: 008 Reference ID: 17c-008-20140306).

Notwithstanding this, a site notice has been displayed in this case in the interests of transparency and in accordance with the Council's Statement of Community Involvement. In this case, no representations from members of the public have been received during the consultation period.

Key Planning Considerations

Relevant Legislation

Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall:

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.]"

Therefore, the LPA needs to be provided with sufficient information to demonstrate that, the proposed building is lawful in planning terms and would not require full planning permission.

Assessment

In this case, it is considered necessary to consider the following factors:

-Whether the structure is a caravan;

-Whether the structure would be within the curtilage of Annasfield; and

-Whether the structure would be ancillary to Annasfield.

These matters are considered in turn below.

Whether the structure is a caravan

The application is supported by statements entitled 'Additional / Supporting Information Statement' and 'Supporting Care & Family Dependency Statement'. Within these statements, the applicant sets out that they consider that the proposed static caravan would not need planning permission as it would be located within the residential plot of Annasfield, and the caravan is proposed to be occupied by family members of the occupants of Annasfield.

Section 55 of the Town and Country Planning Act 1990 (the Act) defines development as the "carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land" (1).

The siting of a caravan as an ancillary structure within the residential curtilage of a dwelling does not comprise operational development or a material change of use.

Section 29(1) of The Caravan Sites and Control of Development Act 1960 (as amended) defines a caravan as follows:

"any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include:

*(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or
(b) any tent".*

The siting of a caravan or mobile home on land therefore comprises a use of land rather than operational development."

According to the submitted statement, the caravan is proposed to be transported to the site as two independent frames that align and bolt together on-site. As such, it is considered that the structure would be considered as a 'twin-unit' caravan.

Section 13 (1) of The Caravan Sites Act 1968 (amended 2006) defines twin-unit caravans as follows:

*"1)A structure designed or adapted for human habitation which -
(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and
(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer),
shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a when assembled."*

Section 13(2) of The Caravan Sites Act 1968 (amended 2006) sets out that the maximum dimensions for a caravan are 20m in length, 6.8m in width and 3.05m in height (internal height).

In this case, no plans have been provided for the proposed mobile home; however, the measurements of the structure are set out within the submitted document 'Additional / Supporting Information Statement'. According to this document, the mobile home is proposed to measure 13.17 metres in length, and 6.62 metres in width. Initially, the internal height of the caravan was unconfirmed; however, this was queried with the applicant, and it has been confirmed that the floor-to-ceiling height of the caravan would be up to 2.6m.

Therefore, it is considered that the proposed caravan would not exceed the maximum allowances in terms of its dimensions. Furthermore, as set out above, the caravan can still be considered as a caravan even though once assembled it would likely be too large to be transported on a highway.

Overall, the LPA agrees that the proposed structure would be identified as a caravan as it would be designed for human habitation, it would be capable of being moved by road once disassembled, and it would not exceed the size limitations set out within Section 13 of The Caravan Sites Act 1968

(amended 2006).

Whether the structure would be within the curtilage of Annasfield

According to the submitted statement entitled 'Supporting Care & Family Dependency Statement', the applicant considers that the land where the mobile home is proposed to be sited is within the residential curtilage of Annasfield. For example, the statement sets out the following:

"The residential status of this specific plot was formally established and recognized by South Holland District Council under planning permission H20-0365-17 for a "Proposed Garage/Store". The 2017 Decision Notice explicitly designated the development under the address of Annasfield and contains no restrictive planning conditions."

Whilst planning permission was granted for a garage / store in 2017 under application H20-0365-17, there have been no planning permissions for a change of use of the land to a garden. The 2017 permission included the land; however, the permission did not specify its proposed use. There are also no other planning applications that establish the use of the land.

Furthermore, there is a difference between garden land and land that is considered to be within the curtilage of a dwelling. If the area where the caravan is proposed to be sited is not within the curtilage of the dwelling, then full planning permission is likely to be required for the structure.

"Curtilage" does not have a comprehensive definition in planning legislation. Instead, its meaning has developed through case law and is applied as a matter of planning judgment in each case.

Within the Court of Appeal decision *Dyer v Dorest CC* 3 WLR 213, the term 'curtilage' was considered to comprise a small area forming part and parcel with the house or building which it contained, or to which it was attached.

Subsequently, in *McAlpine v SSE* 159 L.G. Rev. 429 it was considered that "there is no rigid definition to a curtilage" and instead it was established that it is a feature constrained to a small area around a building, in "intimate" association such building, and no physical enclosure is necessary to define it "but the considered land must be part of the enclosure with the house".

In *Lowe v First Secretary of State* EWHC 537 (Admin), it was found that:

"The expression 'curtilage' is a question of fact and degree. It connotes a building or piece of land attached to a dwelling house and forming one enclosure with it. It is not restricted in size, but it must fairly be described as being part of the enclosure of the house to which it refers. It may include stables and other outbuildings, and certainly includes a garden, whether walled or not. It might include accommodation land such as a small paddock close to the house."

The concept of "curtilage" was more recently reviewed by the High Court in *Burford v SSCLG* J.P.L. 1300 where it was noted that the use of land as incidental to the enjoyment of a dwelling house is not determinative of the land being curtilage.

Whilst proximity and enclosure may be relevant, the key question remains whether the land is so "intimately associated" with the dwelling such that it forms part of its curtilage. That approach was taken in the case of *Hampshire County Council v Secretary of State for Environment, Food and Rural Affairs & Ors* EWHC 959 (Admin).

Within relevant case law, it is emphasised that defining curtilage is a matter of fact and degree, with no single determinative test and each case needs to be considered on its own merits. Notwithstanding this, four recurring considerations can be identified from case law:

1. Physical relationship / proximity;
2. Layout and enclosure (including barriers and fencing);
3. Historic and current ownership; an
4. Functional use.

For example, in *Attorney General ex rel Sutcliffe v Calderdale BC* (1983) 46 P&CR 399, three factors were identified as necessary to be taken into account in determining what constitutes the "curtilage" of a building in any given case; layout, ownership and function.

Whether something falls within a "curtilage" is a question of fact and degree and thus primarily a matter for the decision maker.

In this case, the land where the mobile home is proposed to be sited is located on the opposite side of Old Fendyke to the proposed host dwelling of Annasfield, which is located to the south-east of the road. Annasfield is set within a relatively enclosed plot that is demarcated by hedgerows and other boundary treatments. There appears to be grazing land to the north and west of the plot and agricultural land to the south.

Whilst the parcel of land where the mobile home is proposed to be sited is within walking distance of Annasfield, it is considered that Old Fendyke provides a clear boundary between the parcels of land. In addition, the site is partly enclosed with a hedgerow that runs along the road frontage on Old Fendyke and access gates that provide a further degree of containment and separation from Annasfield. As set out previously within the case of *Lowe v First Secretary of State* EWHC 537 (Admin), curtilage can be defined as a "piece of land attached to a dwelling house and forming one enclosure with it". In this case, the site is considered to form a separate enclosure that is not attached to the main dwelling.

The historic ownership of the parcel of land is unclear; however, it appears that the land has been within the same ownership as Annasfield since at least 2017 based on a review of the planning history for the site.

The applicant sets out that the land has been used as garden land for Annasfield; however, it is unclear when this use began precisely. Furthermore, as set out previously, even if the land is used as garden land that is ancillary to Annasfield, this does not necessarily mean the land is within the curtilage of the dwelling. In *Burford v SSCLG* J.P.L. 1300, Supperstone J held it was open to the Inspector to find that the land in question was not curtilage even though in that case the land was in common ownership with the dwelling house and it was certified as having been used for purposes incidental to the enjoyment of the dwelling house.

The site forms a distinct piece of land which does not have the necessary intimate association with the dwelling house. It is considered that there is not a sufficiently close spatial relationship with Annasfield due to the separation of the land parcels with a hedgerow, fencing, gates and highway land.

Although a functional relation appears to exist if the land is being used as garden land, the land is not part of the land that is attached to the dwelling, nor can it be described as forming one enclosure with it.

Based on an overall assessment of the site, it is considered that the residential curtilage of Annasfield ends on the south-western side of Old Fendyke. As such, the parcel of land where the caravan is proposed is not considered to be within the curtilage of the dwelling. As the land is not considered to be within the curtilage of Annasfield, it is considered that planning permission would be required for the siting of the caravan in this instance.

Whether the structure would be ancillary to Annasfield

Notwithstanding the above assessment, in the interests of completeness, the degree to which the structure would be ancillary to Annasfield has also been considered.

The caravan would contain its own kitchen, living room, bathroom and two bedrooms. There is also a vehicular access from Old Fendyke to the site. This is separate from the main vehicular access to Annasfield which is on the south-western side of the road.

It is considered that due to the size of the caravan and the degree of self-containment that would be provided, the caravan would effectively be able to function as a separate residential unit. Based on the amount of living space and the facilities that are proposed, there would be limited need to rely on facilities within the host dwelling. Typically, for residential annexes, there should be a degree of reliance on the host dwelling, and the annexe should be of a proportionate scale to the host dwelling to ensure that it functions only as ancillary accommodation and not as a separate unit.

According to the submitted statement 'Supporting Care & Family Dependency Statement' the caravan will not have a 'separate front gate' or 'a separation driveway'. Whilst a driveway and gate are not proposed as part of the current application, there is already a separate driveway and

boundary gate within the site that is separate from the driveway area for the dwelling at Annasfield. Therefore, the separate access and driveway area also reduce the reliance on the host dwelling in this case.

Notwithstanding this, the application must be assessed on the basis of the stated purpose and not what might potentially occur. A lawful development certificate can only certify the use that is applied for.

In this case, the applicant is proposing to provide care to the proposed occupants of the caravan who are relatives. The caravan will also not have separate utility meters or separate services. For example, the caravan will connect to the domestic power supply of Annasfield and connect to the private sub-surface water line that runs from Annasfield.

The caravan would contain all of the facilities required for day to day living such that it could, in theory, be occupied independently of the main house. However, the applicant has clearly stated that this would not be the case. On the balance of probability, the circumstances set out within the supporting statement appear to indicate that the occupation of the caravan would be ancillary to Annasfield, such that no material change of use would occur. If the caravan was occupied in a different manner in future that the council would need to consider if material change of use had occurred.

Although this has been taken into account, as the land is not considered to be within the curtilage of Annasfield, the structure would nonetheless require planning permission.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary

to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

The proposed static caravan would not be within the curtilage of the host dwelling Annasfield and as such, full planning permission is required for the proposed siting of the caravan.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be deemed unlawful under delegated authority.