DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0392-26**	**Applicant:**	**Mrs V Hillier**
Proposal:	Siting of caravan ancillary to main dwelling		
Location:	40 Bicker Road Donington Spalding		
Terminal Date:	2nd 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

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the siting of a caravan that is ancillary to a dwelling. In this case, the dwelling comprises 40 Bicker Road in Donington.

The application is submitted under Section 191 of the Town and Country Planning Act (1990) (as amended).

Site Description

The application site comprises land at 40 Bicker Road in Donington. The site includes a dwelling and its associated driveway, garden and outbuildings. The site is located to the north-east of Donington, on the northern side of the A52 (Bicker Road). 38 Bicker Road, another residential dwelling, is located to the west of the site; however, the site is otherwise mostly surrounded by agricultural land.

Planning History

No planning applications have previously been submitted within the site.

Consultation

There is no statutory obligation for the local planning authority (LPA) to publicise an application for a certificate of lawful development; however, a site notice has been displayed next to the site for 21 days. No representations have been received from members of the public during the consultation

period.

Key Planning Considerations

Relevant Legislation

Section 191 of the Town and Country Planning Act (TCPA) (1990) (as amended) - sets out the following:

"(2) For the purposes of this Act uses and operations are lawful at any time if:
- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."

Section 191(4) further sets out that:

"(4) If, on an application under this section, the local planning authority is provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

National Planning Practice Guidance clarifies that it is the responsibility of the applicant to provide sufficient information to support the application (Paragraph 006 Reference ID: 17c-006-20140306). The evidence provided needs to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability rather than beyond reasonable doubt.

Section 171B(3) of the TCPA further sets out the following:

"(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of:
(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed."

Assessment

Section 55 of the Town and Country Planning Act 1990 (TCPA) 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).

In this case, the proposal relates to the siting of a caravan within the site. The siting of a caravan within a site is not generally considered to comprise operational development.

A caravan is defined within The Caravan Sites and Control of Development Act 1990, under Section 29 (1) 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."

In this case, the structure is set on raised ground on brick plinths and the structure appears to be moveable.

Section 13 of The Caravan Sites Act 1968 (amended 2006) sets out that the maximum dimensions for a structure to be considered as a caravan are 20m in length, 6.8m in width and 3.05m in height (internal height). According to Appendix A of the submitted document 'Response to Invalidation

Letter and Supporting Evidence', the caravan measures 11m in length and 3.7m in width. During the determination of the application, the applicant has confirmed that the internal height of the caravan is 2.1m. As such, the caravan would not exceed the maximum allowances in terms of its size.

Furthermore, the submission sets out that the caravan has been used as an ancillary structure that is used by the host property. For example, the application form sets out that the previous owners of the site installed the caravan and it has been used by family members and friends. The caravan has not been used for commercial purposes and it is reliant on the main house for water and electricity supplies.

The caravan also appears to be within the curtilage of the dwelling. For example, it appears that the caravan is within the residential garden of 40 Bicker Road. Therefore, it is considered that the use of the caravan as an ancillary structure has not resulted in a material change of use of the land.

According to the submitted information, the static caravan has been within the site since at least 2004. The applicant has provided photographs of the caravan and aerial imagery dating back to 2004 which appears to show the caravan being in place since 2004. As such, the structure would be immune from enforcement action even if it was deemed necessary that permission should have been obtained for the structure.

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

Having regard to the above and taking the submitted supporting evidence into account, it is considered that the caravan meets the definition of a caravan as outlined within the Caravan Sites Act 1968 (as amended). Furthermore, the use of the caravan as an ancillary structure for the host property has not resulted in a material change of use of the land. Therefore, the proposal would not constitute development as defined in Section 55 of the Town and Country Planning Act 1990 and it is not deemed necessary to obtain full planning permission for the caravan.

Recommendation

It is recommended that a certificate of lawfulness can be issued under S191 of the Town and Country Planning Act, 1990.