

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H05-0148-25 **Applicant:** Mr J Connors

Proposal: Change of use of land for an extension to existing caravan site for seasonal touring use - approved under H05-0980-23 (allowed on appeal). Modification of Condition 3 to remove the word 'touring' from the description.

Location: Heron Orchard Caravan Park Frostley Gate Holbeach

Terminal Date: 12th June 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
29	The Historic Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1

HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is an application made under Section 73 of the town & Country Planning Act 1990, to allow for a change of use of land for an extension to existing caravan site for seasonal touring use - approved under H05-0980-23 (allowed on appeal). Modification of Condition 3 to remove the word 'touring' from the description.

Site Description

The application site (some 0.9ha) is located on the western side of Frostley Gate and is currently grassland. The existing caravan site (Heron Orchard Holiday Park) is located immediately to the north, with dense planting and a drain on the common boundary.

The nearest properties include Bloodfold Cottages and Heron Cottages to the south-east and Riverside House to the south-west, which is grade II listed. Heron Cottage Caravan Park is situated on the opposite side of Frostley Gate.

History

H05-0980-23 - Change of use of land for an extension to existing caravan site for seasonal touring use - approved under H05-0027-21 (allowed on appeal). Modification of Condition 3 to allow touring caravans to be used as holiday accommodation only. They shall not be occupied as a person's sole or main place of residence. Appeal Allowed 19-09-24

H05-0847-10 - Full - Provide 7 additional holiday homes on existing site - Granted 3 December 2010. H05-0622-18 - Modification of Conditions 2 and 5 of H05-0847-10 to allow amendments to previously approved plans and increase the number of caravans on site from 23 to 28 - Granted 23 August 2018.

H05-0943-18 - Modification of Conditions 1 & 4 of H05-0622-18 to allow amendments to previously approved plans and increase the number of caravans from 28 to 38 - Granted 20 March 2019. H05-0412-19 - S73A - Modification of Condition 3 of H05-0943-18 to allow all year-round occupation of static holiday caravans - Granted 12 July 2019.

H05-0027-21 - Full - Change of use of land for an extension to existing caravan site - Refused 20 May 2021. Allowed on appeal 6 July 2022.

H05-0181-23 - Details of landscaping & tree planting, ecological biodiversity measures and foul water drainage. (Conditions 5, 7 and 8 of H05-0027-21) - allowed on appeal

Consultation Responses

Parish Clerk

To remove condition 3 which specifically mentions touring caravans only would allow seasonal residential usage, something that could increase the foul water amounts from the site. While not objecting to the touring caravans, residential usage could encourage a new application for all year round use of the extra spaces, something the applicant has tried to increase before

South Holland Drainage Board

Having reviewed the Cover Letter, whilst the site in question lies within the Internal Drainage District of the South Holland Internal Drainage Board, the proposed application does not meet our threshold for commenting as per our Planning and Byelaw Strategy. Therefore, the Board has no comments to make.

Whilst the site falls below our threshold for commenting, I'd like to ensure the applicant is aware of the riparian watercourse's adjacent to the site and the associated riparian responsibilities. Guidance on owning a watercourse is available on the Government website - <https://www.gov.uk/guidance/owning-a-watercourse>. Please note that consent would be required from the Board for any alterations or discharges to a watercourse, more information can be found on our website - <https://www.wlma.org.uk/>.

Environment Agency

We have reviewed the submitted documents and on the basis that there are no changes to the occupancy restriction proposed, we have no objection to the variation of Condition 3.

Highways & SuDs Support

The proposal is for minor amendments to condition 3 that already has approval under H05- 0980-23. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Environmental Protection

The premises are subject to regulation 8 of Private water regulations 2016 regarding onward distribution of water supplies. a suitable risk assessment and sampling will be required in due course to reflect the alterations

Representations

This application has been advertised in accordance with the Development Management Procedure Order 2015 (as amended). It has been subject to an objection which gives rise to the following material points:

- The definition of touring is a lightweight structure, the objector concludes that this will result in static caravans on site.
- The proposal would be an extension of the existing caravan/holiday park. No screening either visual or noise abatement has been implemented to date. Concerns exist over an application for static caravans coming forward.

Evaluation, scope of S73

This application relates to the removal of the word 'touring' from condition 3 attached to planning permission H05-0980-23. The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The effect of granting permission would be to issue a new permission with the conditions amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission. Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

Planning Considerations

In their planning statement (RPS) the appellant confirms that the original consent is 05-0027-21. This is agreed and it is taken that this application which was for full permission governs this application site along with H05-0980-23, which was a subsequent S73 used to vary the wording of condition 3, of the original consent.

Planning permission H05-0980-23 was allowed at appeal. This proposed to vary the wording of condition 3, which originally stated:

"The touring caravans shall be used as holiday accommodation only and shall not be located on site between 1 November and 14 March of the following year. They shall not be occupied as a person's sole or main place of residence." It was proposed by the applicant to change to the following:

"The touring caravans shall be used as holiday accommodation only. They shall not be occupied as a person's sole or main place of residence."

In the appeal decision (which was allowed) the inspector reworded condition 3 to the following:

"The touring caravans hereby permitted shall be available for year-round holiday occupation until 31 December 2049. From 1 January 2050 onwards, no caravan shall be occupied between 1 November in any year and 14 March in the succeeding year. They shall not be occupied as a person's sole or main place of residence."

Terms of the permission

The terms of permission given under H05-0027-21 was set out in the following way:

The appeal is allowed, and planning permission is granted for the change of use of land for an extension to existing caravan site at Land adjacent to Heron Cottage Camping and Caravanning, Holbeach PE12 8SR in accordance with the terms of the application, Ref H05-0027-21, dated 24 December 2020, and the plans submitted with it, subject to the conditions within the attached schedule.

Within the application form the description of proposal was for "Change of use of land for an extension to existing caravan site". Within the Planning Statement by RPS under paragraph 1.9 the proposal was described in the following way:

It is proposed to change the use of the land from agriculture to an extension of the existing caravan site. It is proposed to use it on a seasonal basis for touring caravans. Access will be obtained through the existing site to the north.

Key to the assessment therefore is to understand what the terms of the permission granted were for, and so, whether this assessment is within the scope of a Section 73 application.

Terms of the permission granted to this site

In terms of restrictions on what a S73 can be used for Planning Practice Guidance states "Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Section 73 cannot be used to change the description of the development." (Paragraph: 014 Reference ID: 17a-014-20140306)

The application (H05-0980-23) sought planning permission for change of use of land for an extension to existing caravan site without complying with a condition attached to planning

permission H05-0027-21, this was a S73 application and was allowed at appeal. This permission therefore in effect varied condition 3 of planning permission H05-0027-21 only, making no other changes. Planning permission H05-0027-21 as well as S73 permission H05-0980-23 are considered to govern this application site.

Permission H05-0027-21

Planning Permission H05-0027-21 allowed for *'the change of use of land for an extension to existing caravan site'*, allowed at appeal (6th July, 2022, APP/A2525/W/21/3281764). This application was for full planning permission and is the permission that governs the site. In their planning statement (RPS) the appellant confirms that the original consent is 05-0027-21.

However, on consideration of the appeal decision itself, under paragraph 2 (APP/A2525/W/21/3281764), the inspector describes the proposal in the following way:

The proposal relates to a change of use of land for the purpose of the siting of touring caravans during the summer months AND

The siting of touring caravans on the site during the summer period may raise noise levels. (para, 20) AND

Conditions are necessary to limit the appeal site to be used for touring caravans only (para 25)

Condition 3 of the said appeal was subsequently attached:

The touring caravans shall be used as holiday accommodation only and shall not be located on site between 1 November and 14 March of the following year. They shall not be occupied as a person's sole or main place of residence.

This appeal decision sets out that the terms of the permission are for the *change of use of land for an extension to existing caravan site*. Whilst the assessment indicates that the permission relates to 'touring' caravans in both its text and conditionality, the key weight is given to the permission granted. Moreover within the application form, the proposal was for 'an extension to the existing caravan site'.

Permission H05-0980-23

Planning permission H05-0980-23 was allowed at appeal. This proposed to vary the wording of condition 3, which originally stated:

"The touring caravans shall be used as holiday accommodation only and shall not be located on site between 1 November and 14 March of the following year. They shall not be occupied as a person's sole or main place of residence." It was proposed by the applicant to change to the following:

"The touring caravans shall be used as holiday accommodation only. They shall not be occupied as a person's sole or main place of residence."

In the appeal decision (which was allowed) the inspector reworded condition 3 to the following:

"The touring caravans hereby permitted shall be available for year-round holiday occupation until 31 December 2049. From 1 January 2050 onwards, no caravan shall be occupied between 1 November in any year and 14 March in the succeeding year. They shall not be occupied as a person's sole or main place of residence."

Given the planning inspectorate arrived at this conclusion, that the 'seasonal' element could be removed, in so, with regard to what can be achieved under S73, it suggests that the term 'seasonal touring use' does not form part of the original permission issued under H05-0027-21. If that was considered to be the case, the application would have been refused as it would have been beyond what a S73 can achieve (i.e. change the terms of the permission). Moreover the LPA did not consider this point in the assessment and instead refused the application on flooding grounds.

Notwithstanding the term 'touring' having weight in the assessment and once again in the conditions, it appears that the inspector (and LPA) considered that it was within the remit of the S73

to remove the 'seasonal' element of the permission. This reaffirms that the terms of the permission given (under H05-0027-21) was for the change of use of land for an extension to existing caravan site (with the terms 'for seasonal tourers' being excluded).

Summary

It is therefore considered that given the planning history of this site the terms of the permission granted was for:

The change of use of land for an extension to existing caravan site.

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development, in its strictest sense. In the case of *R (Vue Entertainment Limited) v City of York Council*, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Planning Assessment

Given the proposal is to vary the wording of a condition there is no requirement to consider matters of planning principle. The following issues are relevant to this assessment:

- Flood Risk & Drainage
- Historic Environment
- Landscape Character
- BNG/Ecology

Flood Risk and Drainage

Section 14 of the NPPF sets out the national policy basis for making assessments in relation to flood risk.

SELLP Policy 4 sets out South Hollands approach to Flood Risk. The application site lies within Flood Zone 3 in accordance with EA Mapping. The South East Lincolnshire Strategic Flood Risk Assessment (March 2017), indicates that the site has a hazard classification of 'danger to some'. The site could experience flood depths of up to 0.5m arising from a breach in the defences during a flood that has a 0.1% chance of occurring in any one year up to 2115.

Planning permission has already been achieved for the year rounds occupation of caravans on this site until 2049. Previous appeal decisions have confirmed that this proposal meets/passes the exception test. In the latest appeal decision the inspector highlighted that *the Environment Agency ('the EA') raised objection on the basis that the site could experience flood depths of up to 0.5 meters arising from a breach in coastal defences during a flood event that has a 0.1% chance of occurring in any one year up to 2115. It also clarified that the likelihood of low-pressure weather systems and higher tides occurring significantly increases between November and March. AND Subsequently, however, the EA has refined its position, stating that modelling data indicates that the site would not be affected by the breaching of defences in the present day (2006) scenario. It is further stated that it considers that the 2006 scenario is applicable to 2050. Beyond 2050, the EA indicates that the level of risk may increase, and the data provided by the appellant for the 2115 scenario demonstrates that this is likely to be the case. There is no indication that the level of flood risk in the 2006 scenario increases in winter months.*

The inspector subsequently attached a condition removing the seasonal restriction until 2049, whereafter it will be reinstated. Given this assessment has concluded that the terms of the permission, whilst alluding to, does not enforce that the caravans on site must be tourers, and based on the position set out by the inspectors, the removal of the word 'touring' would not give rise to any additional flood considerations providing the seasonal element is removed only until 2049.

In terms of flood principle then, given the scope of this assessment, providing the seasonal use is reinstated from 2050 the proposal is considered acceptable.

Drainage

The most recent appeal decision (ref: APP/A2525/W/24/334305) the inspector added a condition (condition 8), which required:

Prior to the commencement development, foul water drainage details shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme shall be implemented prior to the first use of the site

This condition is necessary to reinstate to any permission achieved under this application.

Historic Environment

Policy 29 of the SELLP, alongside Section 16 of the NPPF, relates to the preservation of the historic environment. Both outline that all applications within the Conservation Area or which effect heritage assets, such as listed buildings, should preserve or enhance these assets.

Section 16 of the NPPF states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Paragraph 213 of the NPPF outlines that "any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification." In other words, should a proposal result in harm to an asset, this should be weighed against the public benefits arising from the proposal.

Paragraph 215 expands upon this, stating that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

The application site is situated close to a Grade II listed building known variously as Riverside House and Bloodfold House. In both appeals the inspector considered that the proposals would not harm the setting of the listed building and would preserve its significance. Notwithstanding the second appeal leading to the application site being occupied on a more regular and potentially longer basis, the inspector considered that this would not lead to additional harm to the setting of the heritage asset. On both appeals it was concluded that the proposal would preserve the setting and significance of the listed building. However weight is given to the fact that the assessment was basing these externalities (or effects) on the scheme being for touring caravans.

The removal of the word 'touring' from the conditions, which in effect would allow for static caravans has potential depending upon their siting/location to have a greater impact upon the historic asset, due to the likely increased scale of the caravans. It is therefore necessary to understand the layout of the proposal. Therefore, a condition which will read, prior to the occupation of any caravan, that is not a touring caravan, a site layout plan showing the number and arrangement of caravans to be sited and methods to protect any impacts to the setting of the listed building shall first be submitted to and agreed in writing with the local planning authority.

It is considered with such mitigation the LPA can mitigate the impact upon the nearby heritage assets.

Landscape Character

Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it states that "Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable"

The landscaping to this site has already been approved, under H05-0181-23. This shows that the

southern boundary will be screen by a mix of native trees and native species hedge. This plan is considered acceptable, as regards the consideration that this site is to be for tourers, however the landscaping, should this scheme be solely for static caravans, may need to be made more robust. More softening around the southern boundary and south eastern corner. Therefore, a landscaping condition will be attached in order to reflect the likely increased impacts upon both the open countryside and the nearby heritage assets, that would follow from having a scheme of static caravans across the site.

Subject to the aforementioned mitigation the proposal is considered to accord with SELLP Policies 2 and 3.

Highway Safety

SELLP Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

SELLP Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

SELLP Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

Highways have no objections to the scheme. The scheme appears to utilise the existing access arrangement to Heron Orchard Caravan Park. Moreover, the topic of highway safety was not a cause for further assessment in any of the previous appeals.

On this basis the proposal would accord with policies 2, 3 and 36 of the South East Lincolnshire Local Plan

BNG/Ecology

SELLP Policy 28 is concerned with the Natural Environment points 2 and 3 are relevant to this assessment, point 2 is concerned with Nationally or locally designated sites and protected or priority habitats and species and point 3 with addressing gaps in the ecological network.

This application is a variation, and therefore not subject to mandatory net gain. However, a biodiversity management plan has been submitted to and agreed in writing with the LPA, under H05-0181-23. This scheme may no longer be appropriate given the requirement to update the landscaping scheme in order to protect the open countryside and nearby listed buildings from the increased character impacts that would follow from the potential siting of static caravans. Therefore, such details will needed to be provided again, that are succinct with the updated landscaping scheme.

On this basis the proposal would accord with SELLP Policy 28.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

Having considered the complex planning history of this scheme and giving weight to recent appeal decisions. It is considered that the proposal to remove the word 'touring' from condition 3 of H05-0980-23, is within the Scope of a Section 73 application. It is considered, that the original terms of the permission were for *The change of use of land for an extension to existing caravan site*.

Having considered that the removal of the word touring, from condition 3 is likely to allow for a scheme of static caravans to be located on this site, the increase in scale and monotony of such fixtures are likely to required additional mitigation in order to protect the open countryside as well as the historic environment. This would also necessitate an updated biodiversity management plan.

Lastly, given the considerations on flood risk in the previous appeal, a condition will be attached ensuring that the site is reduced to seasonal occupation from 2050 onwards.

In this instance then, there are material considerations that weigh in favour of the proposal and as such, the planning balance is in support of the development.

Conclusion

Taking into consideration these factors, the proposal is considered to be acceptable. The proposal would comply with Policies 1, 2, 3, 28, 29, 30 and 36, along with Appendix 6, of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). On this basis the proposal is recommended for approval

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.