

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H05-0412-19 **Applicant:** Mr John Conners -
 Heron Orchard Holiday Park

Proposal: Modification of Condition 3 of H05-0943-18 to allow all year round occupation of static holiday caravans.

Location: Heron Orchard Caravan Park Frostley Gate Holbeach

Terminal Date: 12th July 2019

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
09	Promoting a Stronger Visitor Economy
30	Pollution
32	Community, Health and Well-being

National Guidance

National Planning Policy Framework 2019

Sections 2, 4, 6, 8, 9, 12, 14, 15, 16

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The site has planning permission for 38 static caravans (ref. H05-0943-18), which was granted in March 2019. Condition 3 of this permission indicates the following:

"The static caravans shall be used as holiday accommodation only and shall not be occupied during the period 1 April and 30 April in any one year. They shall not be occupied as a person's sole or main place of residence.

Reason: To ensure that the development is restricted to holiday use only and not used for residential purposes. Residential use would be contrary to the provisions of Policies 1 and 9 of the South East Lincolnshire Local Plan, 2019 and advice within the National Planning Policy Framework, 2019."

The applicant seeks to modify this condition to allow all year round use of the static caravans as holiday accommodation.

Description

The site is part of an existing static caravan holiday park located on the western side of Frostley Gate. The park includes a small lake and dense boundary planting.

The nearest properties include Frostley Gate Nursery opposite the entrance, Bloodfold Cottages to the south-east and Bloodfold House (grade II listed) to the south-west. A static caravan site (Heron Cottage Caravan Park) is situated opposite.

Policies/Constraints

Outside a defined settlement limit as defined in the South East Lincolnshire Local Plan, 2019.

The site is within Flood Zone 3 on the Environment Agency Flood Maps and within an area identified as "Low Hazard" within the SHDC Strategic Flood Risk Assessment, 2017.

Recent Planning History

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.

Condition 3 - The static caravans shall be used as holiday accommodation only and shall not be occupied during the period 1 April and 30 April in any one year. They shall not be occupied as a person's sole or main place of residence.

Condition 4 - An up-to-date register of the names, main home addresses, visiting dates and length of stay of all visitors to the site shall be maintained at all times and be available for inspection by the Local Planning Authority at all reasonable times.

Condition 5 - No more than 38 static caravans shall be allowed on the whole of the holiday park (as outlined in red on the submitted plans) at any one time.

Condition 10 - Floor levels of the caravans shall be set a minimum of 500mm above existing ground level.

Representations

LCC Highways/SUDS - Does not wish to restrict the grant of permission.

Environment Agency - Objection. The vulnerability classification is 'More Vulnerable' and in line with

the South East Lines flood risk standing advice matrix, should be subject to an occupancy restriction. Request that no caravans on the site shall be occupied between 1 November (or the following Sunday, if half terms extends into November) in any one year and 14 March in the succeeding year.

It should be noted that in respect of application H05-0943-18 the Environment Agency indicated the following:

"The conditions that this application seeks to modify were not imposed for any reasons that fall within the Environment Agency's remit. Therefore, I would advise that we have no comments to make on it."

Information from Applicant's agent (summarised);

Proposal restricts the operating model of the business. There is no need for the period of occupancy of the individual self-catering apartments at Heron Orchard to be restricted, as stipulated under the vacancy condition. Restricting it on this basis is contrary to the key policy and its supporting text in the Development Plan, and unnecessary and unreasonable judged against the tests in PPG, as the amended conditions will clearly state that the caravans can be used for holiday purposes only, along with a requirement to maintain a register of occupiers, will achieve the aim stated in the reasons given for the conditions. We have drawn attention to a number of appeal cases where the approach proposed by the Applicant has been tested by Inspectors and found to be reasonable.

Material Considerations

The main issues in this case are:

- Policy/principle;
- Flood risk.

Policy/principle

Condition 3 was imposed to ensure that the development is restricted to holiday use only and not used for residential purposes. This was because residential use in this countryside location would be contrary to the provisions of the Development Plan, presently Policies 1 and 9 of the South East Lincolnshire Local Plan, 2019 and relevant advice within the National Planning Policy Framework, 2019.

However, central government has indicated that conditions restricting the period of occupancy are unduly restrictive given the increasingly diverse nature of holidays, with many people going away on self-catering breaks several times a year, the length of school holidays, and the support given to sustainable rural tourism in the National Planning Policy Framework. This was reflected in an appeal decision relating to Foreman's Bridge Caravan Park (ref H20-0359-13). The applicant has also submitted more recent appeal decisions would take this approach.

Given the support for economic growth and rural tourism in the Framework and recent appeal decisions it is therefore considered that there is not sufficient reason to resist this application. Appeal decisions have indicated that a holiday accommodation only condition would be sufficient to restrict occupancy and would therefore accord with policies that seek to control residential development in the countryside.

Flood Risk

The Environment Agency has indicated that the application is for the extension of the caravan park open season outside the period that they normally recommend they should not be occupied; namely, between 1 November and 14 March. Consequently they are of the opinion that it would be unreasonable to resist occupancy during April on flood risk grounds. This is subject to use as holiday accommodation only and not a person's sole or main residence.

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 to grant permission 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 to grant permission 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 to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

Given the support for economic growth and rural tourism in the Framework and recent appeal decisions it is considered that there is not sufficient reason to resist this application. Appeal decisions have indicated that a holiday accommodation only condition would be sufficient to restrict occupancy and would therefore accord with policies that seek to control residential development in the countryside.

The Environment Agency has raised no objections on flood risk grounds subject to the static caravans being used as holiday accommodation only and not a person's sole or main residence.