

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H05-0980-23	Applicant:	Mr J Conners
Proposal:	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.		
Location:	Heron Orchard Caravan Park Frostley Gate Holbeach		
Terminal Date:	28th December 2023		

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
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2. Achieving sustainable development.
Section 4. Decision making.
Section 6. Building a strong competitive economy.
Section 8. Promoting healthy and safe communities.
Section 9. Promoting sustainable transport.
Section 12. Achieving well-designed and beautiful 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	0	0	0	0

WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Full planning permission was granted on appeal in July 2022 for the change of use of land for an extension to existing caravan site (Heron Orchard Holiday Park). Application ref. H05-0027-21 refers. The Planning Supporting Statement accompanying the application stated that "it is proposed to use it on a seasonal basis for touring caravans."

This application is to remove the time period specified within condition 3 of H05-0027-21, which states the following:

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.

Site Description

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

Recent Planning History

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.

Consultation Responses

Fleet Parish Council

No response.

LCC Highways/SUDS

No objections.

South Holland Internal Drainage Board

No comments.

Environment Agency

Object on flood risk grounds.

Environmental Protection

No comments or observations.

Public

Objection received (main points summarised):

- Application in readiness for the ultimate goal of extending the existing static caravan site to north.
- No screening either visual or noise abatement has been implemented to date.
- Site plan inaccurate. Smaller. Doesn't show static caravans to north and encroaches onto neighbouring land.
- Approval for continuous residence removes all possible future control of the site.
- If approved the next application will be for static caravans that already has precedence for continuous residence.

Key Planning Considerations

The requirement for touring caravans to not be located on the site over the winter period was imposed by the Inspector "to limit the use of the site to seasonal use only, to comply with the appellant's flood risk and landscape impact assertions, advice within the PPG and to comply with LP policy 4."

The main issue, therefore, is whether condition 3 is justifiable on flood risk and landscape grounds.

Evaluation

Section 38 (5), (5A), (5B) and (5C) of the Planning and Compulsory Purchase Act 2004, as amended through the Levelling-up and Regeneration Act 2023, requires for the purposes of any area in England, that the Local Planning Authority makes decisions in accordance with the adopted Development Plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

In this case, the South East Lincolnshire Local Plan (SELLP) 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated December 2023) are also a material consideration in the determination of planning applications, alongside

adopted Supplementary Planning Documents.

Flood Risk

Section 14 of the National Planning Policy Framework (December 2023) requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by a) applying the sequential test and then, if necessary, the exception test".

Paragraph 168 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the sequential test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the exceptions test can be applied if appropriate.

In this case, the site is within Flood Zone 3 of the Environment Agency's Flood Map. SELLP Policy 4 states that development within Flood Zone 3 will be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding and that more vulnerable development would provide wider sustainability benefits to the community that outweigh flood risk. Moreover, an application is supported by a site-specific flood risk assessment (FRA) which, amongst other matters a) demonstrates that the vulnerability of the proposed use is compatible with the flood zone and b) identifies flood mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source.

Addressing the above, the Inspector opined that the proposed use could not be located elsewhere as it would be intrinsically connected to the existing business. Accordingly, the proposal passed the sequential test. However, the exceptions test also needed to be applied because the proposal is classified as 'More Vulnerable' and is in Flood Zone 3.

The NPPF and the PPG set out two elements to the Exceptions Test. First, proposed development is required to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and second, that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. This is aimed at allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available whilst helping ensure that flood risk to people and property will be managed satisfactorily.

In consideration of the requirements of the exceptions test, the Inspector considered that the facility would assist the local community through providing a boost to local tourism and in growing a rural business. In terms of part 2, he noted that the site would "only be in use over the summer months, avoiding winter when the flood risk would be greater". Condition 3 was therefore imposed accordingly.

The Environment Agency has been consulted and considers the condition to be necessary on flood risk grounds. The Agency has stated 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".

It goes on to stress that "one of the most effective tools for managing flood risk is avoidance; in this case the use of a restricted occupancy for these types of development which are particularly vulnerable to the effects of flooding. An occupancy restriction is necessary in this instance as other mitigation measures are not achievable; for example, finished floor levels cannot be raised above the likely flood depths and flood resilient and resistant construction cannot be incorporated in the way we would expect if a new dwelling was being built. In addition, due to their temporary nature, caravans are more susceptible to the consequences of flood risk as they become unstable during flooding, putting future occupiers at significant risk."

The current occupancy period that the Environment Agency support allows occupation between 15 March and 31 October (except when half term falls in November, when it supports occupancy until the first Sunday in November), as evidence shows the likelihood of those factors, such as low

pressures systems and higher tides, which contribute to tidal flood risk, increases significantly between November and March.

The occupancy period in the above strategy represents a balance between the demands of tourism and ensuring that this type of development, which is particularly vulnerable to the harmful effects of flooding, is not occupied at the times of year when flood risk is highest. Consequently, this is the maximum occupancy that the Agency would support for any site. As such. It does not support an extension of the occupancy period into a time of year when the likelihood of flooding would be greater.

In light of the above considerations, therefore, the proposal conflicts with Policy 4 of the SELLP, 2019 and advice within both the NPPG and National Planning Policy Framework, December 2023.

It is noted that permission was recently granted for 12-month occupancy in respect of the associated static holiday caravan site immediately to the north (ref. H05-0412-19). However, in that case the period of non-occupancy specified within the condition was solely April and not the winter period when flood risk is at its greatest. The condition was originally imposed prior to the current stance on flood risk. Additionally, the site to the north is mainly classified as no hazard within the South East Lincolnshire Residual Flood Hazard map (1% Fluvial/0.5% Tidal Event Probability), Feb 2017.

Landscape Character and Appearance

Policies 2, 3 and 29(A) of the SELLP seek, among other matters, for development to respect the character and appearance of an area and preserve the significance of a listed building.

When assessing the appeal, the Inspector noted that the site consists of around half a field, subdivided along its length. It is adjacent to Riverside House and two parcels of land used to accommodate static caravans. The site is recessed from the Little South Holland Drain. It is bound to the north by hedging and mature tree planting. Views of the site and its surroundings are most overt from Raven's Bank. From the highway the surrounding area includes existing static caravan parks, Riverside House and Willow Tree Cottage and Heron Cottage. Consequently, the local area accommodates various types of residential activity. The site appears as an area of open land between built form, making a positive contribution to the rural character of the surrounding area.

The proposal related to a change of use of land for the purpose of the siting of touring caravans during the summer months. It would operate as an extension to the existing camp site located behind the site. The Inspector opined that "the appeal site is recessed from River's Bank and would be largely obscured from long views. This would be largely due to mature tree and hedge screening located on pockets of land to the sides of the site. The caravans would also be framed by planting to the rear of the site, providing a dense and verdant backdrop. These features would limit wider views of the proposal from a distant vantage and reduce its visual impact within the landscape."

He went on to stress that "hedge and tree screening could be introduced along the southern boundary to the front of the site. This would soften views from Riverside House and River's Bank and better integrate the development with the surrounding context. Furthermore, being substantially recessed from Little South Holland Drain, the majority of the field would remain open and absent of caravans. This would maintain the more exposed parts of the field, retaining the open character of the majority of the site and the positive contribution it makes to the surrounding countryside."

Moreover, he concluded that "the proposed caravan park would be alongside but set behind the plot occupied by Riverside House. Whilst there are several side windows in the rear return of this building it mainly addresses Raven's Bank. Views are largely obscured by mature landscaping found on the shared boundary. Therefore, only parts of the building can be seen in views from the appeal site. Furthermore, although the appeal site forms part of the setting of Riverside House it is some distance from this building. Moreover, its orientation and relationship to its own plot limits its relationship with the appeal site. As a consequence, the proposal would not harm to the setting of the listed building and would preserve its significance."

Whilst it is accepted that some of the existing/proposed planting would be less effective during the winter months it is not considered to be such as to justify refusal on grounds that the proposal would materially harm the rural landscape or setting of the nearby listed building in view of the Inspector's comments.

The proposal satisfactorily complies with Policies 2, 3 and 29(A) of the SELLP in terms of landscape impact.

Other Matters

Condition 3 was imposed solely on flood risk and landscape grounds. It makes no reference to other matters such as highway issues or impact upon the amenity of nearby residents.

In terms of amenity, the Inspector concluded that "the siting of touring caravans on the site during the summer period may raise noise levels. However, noise levels caused by further visitors in the area would be unlikely to be substantive and would be intermittent, resulting in a negligible impact overall."

Concerning highway matters, the Inspector opined that "traffic associated with the proposal would be relatively limited and would not pose an appreciable increase to the risk of accidents on local highways. I also note that no objection was raised by the Highway Authority, a point of significant weight in support of the proposal." Similarly, the Highway Authority has raised no objections in respect of the current proposal.

An objector has raised various concerns. In response, the location plan appears to be consistent with the original proposal. To date, the site does not appear to have been brought into use. The proposal is still for holiday accommodation. Any future or alternative use of the site would require planning permission and would be assessed on its own merits. Any boundary dispute is a civil matter between the respective parties.

Planning Balance

As detailed above, Section 38 (5) and its subsections of the Planning and Compulsory Purchase Act 2004, as amended through the Levelling-up and Regeneration Act 2023, requires for the purposes of any area in England, that the Local Planning Authority makes decisions in accordance with the adopted Development Plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

Whilst there are no objections on landscape impact, amenity or highway grounds, the site is within Flood Zone 3 of the Environment Agency's Flood Map. SELLP Policy 4 states that development within Flood Zone 3 will be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding (sequential test) and that more vulnerable development would provide wider sustainability benefits to the community that outweigh flood risk (exceptions test - part 1). Moreover, an application should be supported by a site-specific flood risk assessment (FRA) which, amongst other matters a) demonstrates that the vulnerability of the proposed use is compatible with the flood zone and b) identifies flood mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source (exception test - part 2).

Addressing the above, the proposed use could not be located elsewhere as it would be intrinsically connected to the existing business. Accordingly, the proposal passes the sequential test. However, the exceptions test also needs to be applied because the proposal is classified as 'More Vulnerable' and is in Flood Zone 3.

Applying the exceptions test, it is recognised that the facility would assist the local community through providing a boost to local tourism and in growing a rural business. However, in terms of part 2 of the exceptions test, an occupancy restriction is considered necessary in this instance as other mitigation measures are not achievable; for example, finished floor levels cannot be raised above the likely flood depths and flood resilient and resistant construction cannot be incorporated. In addition, due to their temporary nature, caravans are more susceptible to the consequences of flood risk as they become unstable during flooding, putting future occupiers at significant risk.

The current occupancy period that the Environment Agency support allows occupation between 15 March and 31 October (except when half term falls in November, when it supports occupancy until the first Sunday in November), as evidence shows the likelihood of factors such as low pressures systems and higher tides, which contribute to tidal flood risk, increases significantly between November and March.

The occupancy period in the above strategy represents a balance between the demands of tourism

and ensuring that this type of development, which is particularly vulnerable to the harmful effects of flooding, is not occupied at the times of year when flood risk is highest.

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

Taking the above considerations into account, the proposal is not in accordance with Policy 4 (Approach to Flood Risk) of the South East Lincolnshire Local Plan (2019), along with advice within National Planning Practice Guidance and Section 14 of the National Planning Policy Framework (December 2023). The latter requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by a) applying the sequential test and then, if necessary, the exception test. Paragraph 171 states that both elements of the exceptions test should be satisfied for the development to be permitted.

There are no significant factors in favour of the proposal that outweigh the aforementioned concerns.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.