

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H05-1200-19	Applicant:	H & B J Management Ltd
Proposal:	Variation of condition 4 of H05-0612-10, condition 5 of H05-0862-13 and condition 5 of H05-0612-15 to allow all year-round occupation of caravans.		
Location:	Heron Cottage Camping And Caravanning Frostley Gate Holbeach		
Terminal Date:	24th February 2020		

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
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 4, 6, 8, 9, 12 and 14

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application is to vary condition 4 of H05-0612-10, condition 5 of H05-0862-13 and condition 5 of H05-0612-15 to allow all year-round occupation of static caravans at Heron Cottage Caravan Park.

Description

The site is part of an existing static caravan holiday park located on the eastern side of Frostley Gate close to the junction with Raven's Bank. The Little South Holland Drain is situated immediately to the south.

The nearest residential properties include Willow Tree Cottage to the south-west, Frostley Gate Nursery to the north and The White House to the south on the opposite side of Raven's Bank. Bloodfold House (grade II listed) is situated further to the west. A static caravan site (Heron Orchard Caravan Park) is situated to the north-west on the opposite side of Frostley Gate.

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. The southernmost section is within an area identified as "Low Hazard" within the South East Lincolnshire Strategic Flood Risk Assessment, 2017.

Relevant Planning History

H05-0612-10 - Full - Replacement of 11 touring caravans with 9 static caravans - Granted 22 September 2010.

H05-0862-13 - Full - Proposed replacement of 19 touring/camping pitches to 16 static caravan pitches - Granted 22 January 2014.

H05-0612-15 - S73 - Proposed replacement of 19 touring/camping pitches to 16 static caravan pitches - approved under H05-0862-13. Modification of condition 2 (approved layout) and wording to Condition 5 (occupancy) - Granted 12 October 2015.

Consultation Responses

Fleet Parish Council - No response received.

LCC Highways/SUDS - No comments received.

Environment Agency - No comments.

Information from Applicant's agent (summarised);

The conditions identified above unnecessarily restrict the period of occupation within any given year, and go well beyond preventing residential use of the caravans. Imposing conditions that restricts occupancy to maximum periods of a number of weeks makes sites unattractive as investment opportunities as it severely limits the business models that most operators use for such sites. In this instance, the current restriction will undermine the operator's business objectives for a more secure and consistent year-round operation and will hamper the overall viability of the site. It also makes funding more difficult, as funders are often concerned with these types of condition, which restrict the operator's flexibility in selling spaces, and can prevent operators from responding to all the opportunities that present themselves.

If the reason for the conditions is solely to prevent permanent residential occupation, this can still be secured by conditions which states that the units can only be occupied for holiday purposes only, coupled with the existing conditions which require the keeping of a register of occupants. This framework alone will prevent permanent residential occupation without unnecessarily restricting the flexibility of the business to offer different holiday accommodation packages, by imposing the additional, and somewhat arbitrary, 4 week restriction. It is our position, therefore, that Condition 16 fails the tests in Planning Practise Guidance (PPG).

Planning Considerations

The main issues in this case are:

- Policy/principle;
- Flood risk

Policy/principle

The relevant conditions were imposed to ensure that the development was restricted to short term holiday use only and not used for residential purposes. This was because permanent 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.

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 Framework (para 83). 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 which take this approach.

Given the support for economic growth and rural tourism in the Framework and recent appeal decisions, therefore, it is considered that there is not sufficient reason to resist this application. Paragraph 83 of the Framework indicates that planning decisions should enable sustainable tourism and leisure developments. 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.

For the reasons given above, the proposal satisfactorily complies with Policies 1 and 9 of the South East Lincolnshire Local Plan, 2019 and advice within the Framework.

Flood Risk

The site is within Flood Zone 3 on the Environment Agency Maps. However, the statics are already in situ on an established caravan site and Central Government advice promotes rural tourism/leisure. Moreover, the site is primarily designated as no hazard within the South East Lincolnshire Strategic Flood Risk Assessment, with only the section close to the Little South Holland Main Drain being low risk. Taking these factors into consideration it is considered that the sustainable benefits of the scheme outweigh flood risk in this case. In terms of the exceptions test, and in particular making the development safe, the Environment Agency has not objected.

The proposal therefore satisfactorily complies with Policy 4 of the Local Plan and advice within Section 14 of the Framework.

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. For the reasons given above, the proposal satisfactorily complies with Policies 1 and 9 of the South East Lincolnshire Local Plan, 2019 and advice within the Framework.

In terms of flood risk, it is considered that the sustainable benefits of the scheme outweigh flood risk in this case. The proposal therefore satisfactorily complies with Policy 4 of the Local Plan and advice within Section 14 of the Framework.

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.