

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0527-25 **Applicant:** Mr & Mrs Bryan

Proposal: Use of the land to site a mobile home for ancillary use to the main dwellinghouse

Location: 8 Washway Road Holbeach Spalding

Terminal Date: 1st August 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
RESIDENTS	0	1	0	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the use of the land to site a mobile home for an ancillary use to the main dwellinghouse of 8 Washway Road, Holbeach. Consent is sought under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The site is located at 8 Washway Road, Holbeach. The site features a two-storey semi-detached dwelling and its associated garden and front driveway. Washway Road is located to the north of the A17 and features various house types set within a mixture of plot sizes.

Relevant Planning History

H09-0828-24: (S192 Application) Loft conversion to form dormer with flat roof at the rear - approved 18 November 2024

Consultation

There is no statutory obligation for the local planning authority (LPA) to publicise an application for a certificate of lawful development. Therefore, no consultation has been undertaken with statutory

consultees.

For lawful development certificates, planning policy guidance is clear that there is no statutory requirement to consult third parties including parish councils or neighbours (Paragraph: 008 Reference ID: 17c-008-20140306). A site notice has however been displayed in this case for transparency.

Key Planning Considerations

Relevant Legislation

Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether -

(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall -

(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.]"

Therefore, the LPA needs to be provided with sufficient information to demonstrate that, the proposed building is lawful in planning terms and would not require full planning permission.

Assessment

The application is supported by a Planning Statement prepared by NAPC Ltd which references various pieces of legislation, caselaw, and appeals to support the applicant's case. Plans have also been submitted confirming the proposed dimensions of the mobile home.

The mobile home is proposed to be located within the rear garden of the dwelling, on top of a 20cm high timber base. As such, the mobile home would be located within the residential curtilage of the dwelling of 8 Washway Road.

Whether Operational Development is Proposed

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

The planning statement sets out that the siting of a mobile home for ancillary purposes does not comprise operation development, or a material change of use.

A mobile home generally falls under the definition as a caravan. The Caravan Sites and Control of Development Act 1990, under Section 29 (1), details that for the purposes of the Act, a caravan means:

"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."

The planning statement sets out how the applicant considers that the mobile home would be categorised as a caravan. The LPA agrees that the mobile home would be classed as a caravan as it would be designed for human habitation, it would be capable of being moved by road and it would not exceed the size limitations set out within Section 13 of The Caravan Sites Act 1968 (amended 2006). For example, Section 13 of The Caravan Sites Act 1968 (amended 2006) sets out that the maximum dimensions for a caravan area 10m in length, 6.8m in width and 3.05m in height (internal height). The mobile home in this case measures 6.42m in length, 4m in width and 2.65m in internal height.

Therefore, planning permission is not required for the stationing of the mobile home within the residential curtilage of the dwelling. It is however still necessary to consider whether the proposed use would be ancillary to the main dwelling, or if a material change of use is proposed.

Whether a Material Change of Use is Proposed

The current use of the site is residential. Whether planning permission is required to occupy a mobile home as an annexe is a matter of fact and degree, and largely depends on the intended use. Various factors are relevant, however, it is established planning law that a material change of use will only have occurred if there has been a change in the definable character of the use of the site. Assessments need to be made on a case-by-case basis and the change needs to be one of substance.

According to the planning statement, the mobile home will be used by the applicant's son and will allow the applicant and the wider family to provide care and support. Further information regarding this requirement is set out within a supporting letter prepared by the applicant which is contained within Appendix H of the planning statement. The proposed use of the mobile home by a family member is therefore considered to be ancillary to the main dwelling.

The proposed mobile home would not result in the provision of a separate unit. The mobile home would provide a degree of independent living space, however, there would still be a general reliance on the host dwelling. The scale of the mobile home would also be subservient to the host dwelling in this case.

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

The proposed use of the mobile home would be incidental to the residential use of the planning unit and would not constitute operational development for which a grant of planning permission would be required. As such, it is considered that the proposed development would be lawful, and that a certificate of lawfulness can be issued under S192 of the Town and Country Planning Act, 1990.

Recommendation

A certificate of lawfulness should be issued under S192 of the Town and Country Planning Act, 1990.