

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H09-1088-19	Applicant:	The Rose and Crown
Proposal:	Erection of new swimming pool, plus associated decking, balustrading/fencing and external equipment (retrospective)		
Location:	The Rose And Crown Low Road Holbeach Hurn		
Terminal Date:	20th April 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

Section 2 - Achieving Sustainable Development;
 Section 3 - Plan Making;
 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 Places;
 Section 14 - Meeting the Challenge of Climate Change, Flooding and Coastal Change;
 Section 15 - Conserving and Enhancing the Natural Environment;

Representations:

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

HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	4	0	0	1

CASE OFFICER ASSESSMENT

REASON FOR PANEL CONSIDERATION

The application raises issues that warrant consideration by Chairman's Panel.

PROPOSAL

Full planning permission is sought for the erection of a new swimming pool, plus associated decking, balustrading/fencing and external equipment. The pool itself has dimensions of 14.8m x 9.6m and a depth of 1.25m. The application is retrospective because work has commenced and is close to completion.

The applicant has indicated that the swimming pool would be open to visitors of the site and that the hours of use would be from 9am to 7pm, or dusk (whichever is the earlier).

The application is accompanied by a flood risk assessment.

SITE DESCRIPTION

The Rose and Crown Public House is located on the north-eastern fringe of Holbeach Hurn, close to the junction of Low Road and Marsh Road. Vehicular access to the associated caravan site is off Marsh Road.

A house (The Spinney) is situated to the north-east off Baileys Lane. It is approximately 100 metres from the caravan site and 160 metres from the proposed swimming pool. Residential properties are also situated further to the east off Bailey's Lane, to the south and south-west off Low Road and to the west off Marsh Road.

RELEVANT PLANNING HISTORY

H09-0520-88 - Touring caravan park for 43 units together with toilet and shower block - Granted

H09-1209-95 - Continuation of use of caravan site without removal of unoccupied caravans during winter months - Granted

H09-1131-08 - LDC - Use of site for caravans to be occupied by seasonal workers and for touring holiday caravans - Refused

H09-1175-08 - Change of use of part of existing caravan site for stationing of 7 static caravans for occupation by seasonal agricultural workers and/or tourists - Refused

H09-0827-09 - Removal of condition 5 of H09-0520-88 prohibiting use of site between 31 October and 1 March - Refused

H09-0908-09 - LDC - Use of the site for the stationing of up to 12 caravans for occupation by seasonal workers and for touring holiday caravans - Granted

H09-0925-10 - S73A Continuation - Variation of condition 5 of H09-0520-88 to allow caravan site to open between 20 March in one year and 20 February in the succeeding year - Granted subject to the following conditions:

- 1) No caravan on site shall be occupied between 21st February and 19 March of any year.
- 2) No more than 12 static caravans and 15 touring caravans shall be retained/stored upon the site between the 21 February and 19 March of any year. Touring caravans shall only be stored within the allocated area approved by virtue of planning permission reference H09-1209-95.
- 3) During the period 31 October in one year and 20 February in the succeeding year, all caravans upon the site shall be used for holiday purposes only and not as accommodation for seasonal workers.

H09-1052-13 - Full - Extension to Rose and Crown Public House and extension to caravan site Refused and dismissed on appeal (ref. APP/A2525/A/14/2218991) on 13 February 2015.

H09-0413-16 - Full - Erection of site office and improvements to road (retrospective), Rose & Crown Inn - Granted

H09-1164-16 - Full - Siting of storage unit at existing caravan site (retrospective), Rose & Crown Inn - Granted (temporary)

H09-1165-16 - Full - Siting of marquee at existing caravan site (retrospective) - Refused 11 January 2017. Dismissed on appeal.

H09-1171-16 - Full - Proposed extension to existing caravan site, Rose & Crown Inn, Low Road - Refused 6 April 2017 and dismissed on appeal (ref. APP/A2525/W/17/3179712) on 30 October 2017.

H09-1127-17 - Full - Proposed extension to existing caravan site (re-submission of H09-1171-16), Rose & Crown Inn, Low Road - Refused 13 March 2018 and dismissed on appeal (ref. APP/A2525/W/18/3199267) on 15 January 2019.

REPRESENTATIONS

Holbeach Parish Council

Support. No objections.

LCC Highways/SUDS

Does not wish to restrict the grant of permission.

SHDC Environmental Protection

No objections.

Environment Agency

Please consider the proposal against the guidance of the standing advice

LCC Archaeology

No archaeological input required.

Public

Resident objections received (summarised):

Inappropriate in scale and nature; Site within quiet rural location where background noise levels are low; Increased noise/disturbance, including late in the evening; Previous applications on this site dismissed at appeal on amenity grounds; Within Flood Zone 3; How will pool be drained. Chlorinated water previously pumped onto road - exacerbate flooding; Contamination/pollution;

Management of pool has not been evident - no lifeguards/buoyancy aids; Solar panels used to heat pool do not have permission; Retrospective.

CONSIDERATIONS

The main issues in this case are:

- Policy/principle;
- Character/appearance;
- The likely effect upon the amenity of neighbouring residents;
- Highway issues;
- Other material considerations such as drainage and flood risk.

Policy/principle

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed development is outside a defined settlement limit within the South East Lincolnshire Local Plan, 2019. It is therefore within an area regarded as countryside. Policy 1 of the South East Lincolnshire Local Plan is therefore applicable. It states that development will be permitted in the countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

Policy 9 is also of relevance. It indicates that outside a settlement boundary small-scale development to support the visitor economy will be supported that does not conflict with neighbouring land uses, is in keeping with the character of the locality and demonstrates a functional link with an existing attraction or farm enterprise.

The above policies are in accordance with advice within the National Planning Policy Framework, 2019. Paragraph 83 states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas and also sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 92 indicates that planning decisions should plan positively for the provision of community facilities. Paragraph 11 indicates that decisions should apply a presumption in favour of sustainable development providing any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

In terms of Local Plan Policy 9, the proposal has a functional link with the existing caravan park and public house. The other issues relating to character/appearance and neighbouring land uses are assessed below.

Character/appearance

Policy 2 of the South East Lincolnshire Local Plan, 2019 indicates that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met in relation to, inter alia, size, scale and impact on the amenity, character and appearance of the area. Policy 3 indicates that it should create a sense of space and respect the character of the area within which it is situated.

The swimming pool and associated decking, balustrading/fencing is located alongside the public house adjacent the caravan and camping site. It is in relatively close proximity to the site boundary with Marsh Road. However, it is not a high structure and is partially concealed from Marsh Road by existing hedging fronting the site. Likewise, it is not readily visibly from nearby dwellings because of its scale and the presence of existing trees, hedging, buildings and other features. Even where it is visible, it is seen against a back drop of the existing caravan site, associated facilities and/or the public house.

Taking the above factors into account and the scale of the development it is considered that the proposal does not materially harm the character or appearance of the rural locality or constitute a visual intrusion. In this respect, therefore, it satisfactorily accords with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Amenity/living conditions

Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 indicate that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met in relation to, inter alia, residential amenity and impact upon neighbouring land uses by reason of noise, odour and disturbance.

The above policies are in accordance with the Framework, which includes seeking to secure a good standard of amenity for all existing occupants of buildings. This includes from unacceptable levels of noise pollution. The Planning Practice Guidance (PPG) also recognises that noise exposure can have an adverse effect on health and quality of life for local residents and therefore seeks to minimise this.

The applicant has indicated that the pool would be used solely by visitors to the caravan park. Whilst it is noted that the site is in a rural location where ambient noise levels are low and that activity associated with a swimming pool can result in noise/disturbance, in this case the pool is relatively small and solely ancillary to the existing caravan park. The proposed opening hours are from 9am to 7pm, or dusk (whichever is the earlier). Environmental Protection has raised no objections. It is considered that the nature and scale of the proposed development is such that the amenity of neighbouring residents would not be materially harmed in terms of noise and general disturbance, subject to conditions restricting the use of the pool and hours of use.

Taking the above factors into account and the scale of the development it is considered that the proposal will not materially harm the amenity of nearby residents in terms of noise and general disturbance. In this respect, therefore, it satisfactorily accords with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

It has been noted that a previous application for a marquee (ref. H09-1165-16) was refused and dismissed on appeal on grounds that noise levels from discos, live events, etc may well have a material effect upon the amenity of nearby residents in terms of noise and disturbance. However, no real comparison can be made with the current proposal which is more low key.

Concern has been raised concerning management of the pool. However, this falls within health and safety legislation.

Highway Issues

Policy 36 of the South East Lincolnshire Local Plan indicates that all new development should provide vehicle and cycle parking in accordance with the minimum parking standards adopted by the Local Planning Authorities. The parking standards within Appendix 6 indicate that leisure development such as this should be assessed on a site by site basis.

Satisfactory parking facilities are available within the existing public house car park and also on the caravan park itself. LCC Highways does not wish to restrict the grant of permission on highway safety grounds. The proposal satisfactorily accords with Policy 36 of the South East Lincolnshire Local Plan, 2019.

Other Matters

Drainage - The applicant has indicated that waste water from the pool is to be disposed of by a contractor. This matter can be addressed by means of a condition. The proposal satisfactorily complies with Policy 30 of the South East Lincolnshire Local Plan.

Flood Risk - The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken.

The Environment Agency's Flood Maps have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test

The SFRA indicates that the site is within an area identified as "Danger for Some". However, it is not

possible, consistent with wider sustainability objectives, for the development to be located elsewhere within the district because it needs to be located next to the existing caravan park and public house. Planning Practice Guidance indicates that "when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere."

The exceptions test is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. 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 terms of the first element, the proposal will provide wider sustainability benefits to the community that outweigh flood risk in the sense that it is enhancing an existing leisure/tourist related facility within the district in accordance with Policy 9 of the South East Lincolnshire Local Plan and advice within the Framework.

Concerning the second element, the proposal is classified as "water compatible". The Residual Peak Depth Map shows a peak depth of 0.25m. The concrete surround of the pool is above this level and unlikely to be flooded. The occupiers of the site are advised to sign up to the Environment Agency's Floodline Warnings Direct Service. It is recommended that the operators of the site should produce a flood plan which would detail the precautions and actions to be taken if a flood warning were to be received from the Environment Agency.

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

Policy 9 of the South East Lincolnshire Local Plan, 2019 indicates that outside a settlement boundary small-scale development to support the visitor economy will be supported that does not conflict with neighbouring land uses, is in keeping with the character of the locality and demonstrates a functional link with an existing attraction or farm enterprise. It is in accordance with advice within the National Planning Framework, 2019.

In terms of the above, the proposal has a functional link with the existing caravan park. It is considered that the nature and scale of the development is such that the proposal does not materially harm the character or appearance of the rural locality or the amenity of nearby residents in terms of such matters as noise and general disturbance, subject to conditions. The proposal therefore satisfactorily accords with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 in this respect.

LCC Highways does not wish to restrict the grant of permission on highway safety grounds. Waste water would be removed by a registered contractor. The proposal is considered acceptable on flood risk grounds and falls within the category of "water compatible".

The recommendation is for delegated approval, subject to conditions.