

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H11-0075-20 **Applicant:** Mr Hoey

Proposal: Mixed use development comprising of static caravans, cottages, fishing lake, site office, workshop and caravan sales - approved under H11-0420-18. Removal of Condition 11 to allow 12 month holiday season.

Location: Land West Mcdonalds Restaurant Ltd Vicarage Lane Long Sutton

Terminal Date: 19th May 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
29	The Historic Environment
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, 14, 15, 16

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
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CASE OFFICER ASSESSMENT

Proposal

The site has planning permission for a mixed use development comprising of static caravans, cottages, fishing lake, site office, workshop and caravan sales (H11-0420-18), which was granted in December 2018. Development has commenced on site.

Condition 11 of this permission indicates the following:

"No static caravans on the site shall be occupied between 1 November (or the following Sunday, if half term extends into November) in any one year and 14 March in the succeeding year.
Reason: To reduce the impact of flooding. This Condition is in accordance with advice within Section 14 of the National Planning Policy Framework, 2018."

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

Description

The site is situated on the south western quadrant of the A17/Wisbech Road (A1101) roundabout to the west of McDonald's. The A17 is located immediately to the north, plus a BP petrol filling station, Benny's Diner and a Travel Lodge. The northern boundary of the site is partially landscaped. Vicarage Lane is situated to the south, plus residential dwellings and Long Sutton Barns. A bund, plus hedge planting, is located along the southern boundary.

Dwellings are situated further to the east, including Seagate Hall and associated stable block (grade II listed).

Policies/Constraints

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

Recent Planning History

H11-0221-17 - Full - Mixed use development comprising of a mix of static caravans, cottages, workshop, fishing lake, site office and static caravan sales - Refused 26 October 2017.

H11-0420-18 - Full - Mixed use development comprising of static caravans, cottages, fishing lake, site office, workshop and caravan sales (re-submission of H11-0221-17) - Granted 7 December 2018.

H11-0350-19 - C/C - Details of materials schedule, landscaping, external lighting, acoustic measures, foul water strategy, surface water drainage and contaminated land (Conditions 6, 7, 8, 9, 12, 13 and 14 of H11-0420-18) - Approved 10 July 2019.

Representations

Long Sutton Parish Council - Object to the removal of condition 11 and object to a 12 month holiday season. It is perceived by the Parish Council that it is an avenue to turn the site into a residential site and not a holiday complex.

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

SHIDB - Proposal will require land drainage consent in line with the Board's byelaws, plus consent to relax Byelaw 10.

Environment Agency - No objections subject to conditions.

Information from Applicant's agent (summarised);

The nature of holidays in the UK has become increasingly diverse with people going away several times a year and not exclusively in the summer months. The spread of this demand over more of the year improves the use made of holiday accommodation and is advantageous to the businesses which provide accommodation and the host communities which are supported by the spending which it generates. Therefore, the closed season currently stipulated on the decision notice is considered unfit for purpose.

It is standard practice now that all caravans and lodges on modern leisure parks meet the higher BS 3632 (residential) specification, rather than the lower specification for 'holiday only' caravans. This higher standard is also required by the national letting agency through which bookings for commercial holiday lettings are managed. Therefore, it is evident that persons could occupy the units for holiday use between November 1st and March 14th without creating unacceptable living conditions.

The proposal would bring the licence up-to modern standards and allow the business to commercially compete within a highly competitive market.

Material Considerations

The application is essentially to remove condition 11 to allow a 12 month holiday season. The main issues relating to the proposed modification therefore are:

- Policy/principle;
- 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 (Promoting a Visitor Economy) 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.

In light of the above policies and advice no objections are raised in principle to the development.

Concerning conditions restricting the period of occupancy, central government has indicated that they 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). More recent appeal decisions outside the district have also taken 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 on policy grounds. 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 located within Flood Zone 3 of the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken. The Sequential Test is a decision making tool designed to ensure that areas at little or no risk of flooding are developed in preference to areas of higher risk. Paragraph 101 of the National Planning Policy Framework advises that: "the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding." For development to pass the sequential test it has to be demonstrated that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding.

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 to Some". This is a less severe category and there are not reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding. In this respect, the Authority views reasonably available sites as those that are deliverable and developable (as defined by the National Planning Policy Framework) for the use proposed within the area, can accommodate the general requirements of the development and are, in principle, in conformity with the objectives and advice within the NPPF and its associated National Planning Practice Guidance relating to sustainable development and flood risk.

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 should therefore be applied. It 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 would provide wider economic and social benefits that outweigh flood risk. This includes the provision of additional tourist/leisure facilities within the district. Moreover, the previous permission has been implemented (H11-0420-18), albeit only for occupancy of the statics for approximately 7.5 months of the year.

Concerning the second element, another condition ensures that the statics would continue to be used as holiday accommodation only and not a person's main place of residence. Consequently, the vulnerability of the development hasn't changed and it is still "more vulnerable" (short let camping and caravan site). The Environment Agency has raised no objections subject to finished floor levels of the statics being raised above the predicted flood level at 500mm. They have also indicated that there would be a greater emphasis on the need for emergency plans.

The proposal therefore satisfactorily complies with Policy 4 of the South East Lincolnshire Local Plan, 2019 and advice within Section 14 of the Framework in terms of flood risk.

Other Matters

Long Sutton Parish Council's comments have been taken into consideration when assessing the application. However, there is not sufficient reason to justify refusing permission for the reasons outlined above. This is subject to a condition restricting the use to holiday accommodation only as recommended by central government. Permission cannot be refused simply because there is a possibility that the statics could subsequently be used for permanent occupancy. If this were to occur in the future the matter would constitute a breach of planning control and would be investigated accordingly.

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 on policy grounds. Appeal decisions and central government advice have indicated that a holiday accommodation only condition is sufficient to restrict occupancy and would therefore accord with Policies 1 and 9 of the South East Lincolnshire Local Plan, 2019.

In terms of flood risk, it is considered that the sustainable benefits of the scheme outweigh flood risk in this case. The proposal is considered acceptable on flood risk grounds subject to conditions recommended by the Environment Agency to ensure that the development is safe and to reduce the risk of flooding to the proposed development and future occupants. The proposal satisfactorily complies with Policy 4 of the South East Lincolnshire Local Plan, 2019 and advice within Section 14 of the Framework in terms of flood risk.

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.