DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H12-0799-20**	**Applicant:**	**Mr & Mrs Taylor**
Proposal:	Use of land for siting of mobile home ancillary to the main dwelling of 67 Lime Walk		
Location:	67 Lime Walk Long Sutton Spalding		
Terminal Date:	19th November 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is an application that seeks the issue of a Lawful Development Certificate for the use of land for siting of mobile home ancillary to main dwelling at 67 Lime Walk, Long Sutton, Spalding.

The application is supported by a comprehensive Planning Statement (produced by Annexe Planning dated September 2020) which is based on a wide range of planning legislation and caselaw, structural and construction details, and an applicant's statement stating the reasons of siting the mobile home at such location.

Site Description

The site is backland development. The neighbouring property No. 67 is within a long domestic curtilage extending from Lime Walk to north-west. It backs onto the application site. A track runs adjoining the northern boundary of the site of No. 67 and serves access to the residents of the application site.

No. 67 is a bungalow with subsequent additions facing north-east. To the front, a drive area laid in gravel. There is also an old timber garden shed. Approximately 8.80 metres to the west of the dwelling, a brick outbuilding used for agricultural storage. Further to the west, there is paddock land for private use. A mixture of fencing and shrubs bound the full curtilage and obscures views from adjacent land.

History

None.

Consultation Responses

None.

Planning Considerations

The grant of a Lawful Development Certificate would confirm that the mobile home used as annexe to the main dwelling is lawful development in terms of planning regulations.

The "lawfulness" of any development is determined upon the fact whether enforcement action may be taken or not and where enforcement notice is in force or not, or, for which planning permission is required or not.
Householder permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class E, Part 1, Schedule 2 of the Order refers to buildings incidental to the enjoyment of a dwellinghouse.

Assuming that the purpose of the caravan is truly used as a granny annexe and therefore incidental to the dwelling, "development is not permitted by Class E" and therefore unlawful under planning permitted development rights "if:

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);
(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
(c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;
(d) the building would have more than a single storey;
(e) the height of the building, enclosure or container would exceed (i) 4 metres in the case of a building with a dual-pitched roof, (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or (iii) 3 metres in any other case;
(f) the height of the eaves of the building would exceed 2.5 metres;
(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
(h) it would include the construction or provision of a verandah, balcony or raised platform;
(i) it relates to a dwelling or a microwave antenna;
(j) the capacity of the container would exceed 3,500 litres".

With regard to criterion (h), there was some initial concerns about the proposed swift plinth foundation system that might raise the full structure. Technical Guidance for Permitted development rights for householders (September 2019) defines 'raised' as a platform with a height greater than 0.3 metres. The proposed plinth will raise the mobile home 150mm above ground levels. Therefore, the outbuilding incidental to the enjoyment of the dwellinghouse is not raised on a platform in these terms.

When assessing the proposed development against each criterion, it is concluded that the intended mobile home will fully comply the requirements mentioned above.

Conclusion

On the basis of all of the evidence now before the Council, it is the view of the case officer that, on the balance of probabilities, and given the evidence presented, the siting of the proposed mobile home will provide residential accommodation ancillary to the main dwelling within the curtilage. Therefore, the development accords with the definition of Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

After assessing the proposed development against each criterion of Class E, it is concluded that the development as proposed does fall within Permitted Development Rights and a Lawful Use Certificate to confirm this is considered appropriate on this occasion.

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.