

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H13-1204-21 **Applicant:** Mr B De Lacey

Proposal: Change of use of agricultural land to amenity area including siting of static caravan for domestic storage and occasional overnight stay - retrospective.

Location: Spalding Gate High Road Moulton

Terminal Date: 15th February 2022

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
28	The Natural Environment
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2. Achieving sustainable development.
Section 4. Decision making.
Section 5. Delivering a sufficient supply of homes.
Section 11. Making effective use of land.
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	1	0	0	0
WARD MEMBER	0	0	0	0

HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Retrospective planning permission is sought for a change of use of agricultural land to amenity area including siting of a static caravan for domestic storage and occasional overnight stay.

Site Description

The site (approx 0.2ha) is mainly grassland with vehicular access off Spalding Gate. It is currently occupied by a static caravan and a tourer, plus a timber shed along the eastern boundary. The latter is defined by hedging.

A bungalow (no. 186) is located to the south and paddocks/grazing land associated with no. 184 to the west. Planning permission has recently been granted on part of this land for a 4 bed bungalow (ref. H13-0501-19 and H13-0433-21). Agricultural land is situated to the east.

Consultation Responses

Moulton Parish Council

Not supported. Having read this application and seen the site plan, something does not look right to me. One static (Mobil home) type unit on a half acre plot, no amenities, water, electricity etc or toilet disposal! Mentioned in the application, a 'porta-loo' facility will be used, is this correct to transport it from the site to another residential property for disposal? (Miles away)! Over public highways? What about access for emergency vehicles etc. The reasons given for the use of the field, sounding very sad, does not relieve this situation. Wanting a view etc, are there no Parks in Spalding!

LCC Highways

Does not wish to restrict the grant of permission.

South Holland Internal Drainage Board

No comments.

Environmental Protection

No comments or objections.

Public (summarised)

- Outside village envelope within South East Lincolnshire Local Plan;
- No necessity for the development in this location;

- Access poor with restricted visibility in a narrow part of Spalding Gate with 60mph speed limit and where there have been accidents;
- No services to the site;
- Visual eyesore;
- Open the door for further caravans and spoil the appearance of the area;
- Devaluation of property;

Information from Applicant

Personal history/circumstances outlined within letters accompanying application.

Recent Site History

None.

Planning Considerations

The main issues in this case are:

- Policy/whether the proposal constitutes sustainable development;
- The likely impact upon the amenity of nearby residents;
- Highway safety;
- Other material considerations such as flood risk and drainage.

Policy/Sustainability

Retrospective planning permission is sought for a change of use of agricultural land to amenity area including siting of static caravan for domestic storage and occasional overnight stay. The applicant has indicated on the application form that that he would like to use the land as garden, with an occasional overnight stay. However, the latter would be hard to monitor and enforce. Consequently, the application has been assessed on the basis of the static caravan having a residential use.

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 (SELLP), 2019. It is therefore within an area regarded as countryside. Policy 1 of the SELLP 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.

In terms of part 1, the applicant has indicated that the static caravan is presently used for temporary domestic storage whilst he searches for more suitable accommodation locally and that it would also be used as accommodation on an occasional basis. It has also been stated that the land would be used as garden. Such a use is not considered to be necessary in this location, as opposed to within a defined settlement limit. Whilst the applicant's personal circumstances have been taken into account and are a material planning consideration, they carry limited weight and are not considered to be such as to outweigh established planning policy.

SELLP Policy 1 also indicates that development will be permitted if it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. The relevant criteria are discussed below:

Economic - It is accepted that the applicant would experience some personal economic benefits. However, there would not be significant benefits in terms of the local area.

Community/Social - The site is accessible to local services and facilities within Moulton, such as grocery store, post office, butchers, public house, etc. It is also on a bus route. However, although the proposal would meet the personal needs of the applicant it would not bring significant community benefits.

An Environmental Role - The majority of the site is presently grassed and is historically part of an agricultural holding. It is also understood that it has been used in the past for the grazing of horses, although this use appears to have ceased. It is therefore greenfield land that extends out beyond

existing and recently approved residential development off High Road, Spalding Gate and River Lane. The site has an open feel and rural appearance. Given the aforementioned, it is considered that the proposed development would constitute an intrusive element that would domesticate and be at odds with the prevailing rural character and appearance of the site and countryside.

The proposal is therefore contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019. They indicate that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses. They are consistent with advice within the National Planning Policy Framework, 2021. Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside. Paragraphs 124 and 130 indicate that new development should be sympathetic to and maintain an area's prevailing character.

Concluding, therefore, the development is not considered necessary in this location and doesn't meet the sustainable development needs of the area in terms of economic, community or environmental benefits. The proposal is not therefore in accordance with Policy 1 of the SELLP. Whilst the applicant's personal circumstances have been taken into account, and are a material planning consideration, they carry limited weight and are not considered to be such as to outweigh established planning policy and the aforementioned environmental concerns.

Amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework (2021). Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.

A bungalow (no. 186) is located to the south and paddocks/grazing land associated with no. 184 to the west. Planning permission has been granted on part of this land for a 4 bed bungalow (ref. H13-0501-19 and H13-0433-21). Agricultural land is situated to the east.

The static caravan is approximately 17 metres from the boundary with no. 186, which is de-lined by closeboarded fencing. It is some 20 metres from the western boundary. It is considered that the proposal would not materially harm the amenity of nearby residents in terms of overlooking, lack of privacy, noise and disturbance, etc. Devaluation of property is not a material planning consideration and therefore carries no weight in the decision making process.

The proposal therefore accords with Policies 2 and 3 of the SELLP in terms of amenity.

LCC Highways

Policies 2 and 3 of the SELLP indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 and Appendix 6 set out the minimum standards for parking provision based upon the use class.

An existing vehicular access would be utilised off Spalding Gate and there is ample parking on the site. LCC Highways have been consulted and have raised no objections on highway safety grounds.

The proposal therefore accords with Policies 2, 3 and 36 of the SELLP in terms of highway safety/parking requirements.

Flood Risk

Policy 4 of SELLP is concerned on flood risk management and states, inter alia, that new development should pass the sequential test and should incorporate the use of Sustainable Drainage Systems (SuDS), unless it is demonstrated that it is not technically feasible.

The site lies within Flood Zone 1 defined by the Environment Agency Flood Map. The latter 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 hazard mapping within the South East Lincolnshire Strategic Flood Risk Assessment indicates that the site is within an area categorised as no hazard if a breach of the flood defence were to occur. There are no objections in flood risk terms. However, given that the proposal is a more vulnerable use mitigation measures are nevertheless recommended if permission were to be forthcoming.

There are presently no satisfactory drainage facilities on site, other than a temporary portaloo. This matter would need to be addressed by means of conditions should permission be forthcoming.

The proposal satisfactorily accords with Policy 4 of the SELLP in terms of flood risk and drainage, subject to conditions.

Planning Balance

The site is greenfield land that extends out beyond existing residential development fronting High Road, Spalding Gate and River Lane. It has an open feel and rural appearance. It is therefore considered that the proposed development would constitute an intrusive element that would domesticate and be at odds with the prevailing rural character and appearance of the site and countryside. These harmful effects of the scheme would amount to adverse impacts which significantly and demonstrably outweigh the social and personal benefits that the proposed development would deliver. Consequently, the proposal would not comprise sustainable development.

The proposal is therefore contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019. Policy 1 indicates that 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. Policies 2 and 3 indicate that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses.

The above policies are consistent with advice within the National Planning Policy Framework, 2021. Section 2 is geared towards the achievement of sustainable development. Paragraph 174 states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside. Paragraphs 124 and 130 indicate that new development should be sympathetic to and maintain an area's prevailing character.

Conclusion

The proposal is not considered to be sustainable for the reasons outlined above. It is therefore recommended that the application be refused under delegated powers.

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.