DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H14-0655-20**	**Applicant:**	**Mr B Brighton**
Proposal:	The provision of a twin mobile home (not operational development) within the garden of the residential property for use as additional accommodation by one household (not a material change of use)		
Location:	Pyewipe Farm North Drove Spalding		
Terminal Date:	6th October 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

N/A

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

S192 LAWFUL USE CERTIFICATE application for the provision of a twin mobile home (not operational development) within the garden of the residential property for use as additional accommodation by one household (not material change of use).

The application is supported by the following:

1.Appeal decision 1074589 (Erewash Borough Council)
2.A certificate of conformity with the legislative limitations from the supplier
3.Whitehead judgment 1992 JPL
4.Appeal decision 2159970, LDC and plan (East Hertfordshire DC)
5.Appeal decision 2190398, LDC and plan (Gravesham BC)
6.Appeal decision 2109940 LDC and costs (West Lancashire DC)
7. Appeal decision 2181651 LDC and plan (Elmbridge DC)
8 Appeal decision 3142534 and LDC (Borough of Poole)
9. Appeal decision 3151073, LDC and Costs Decision (Maldon DC)
10. Appeal decision 3177321, LDC and Costs Decision (Colchester BC)
11. Solicitors letter
Location plan, Block Plan including an indication of the proposed location of the mobile home unit

Within the application form the applicant states:

The proposed mobile home unit complies with the legal definition of a caravan in terms of size, assembly and mobility and will be used as additional accommodation to the existing dwelling and as such will not comprise either operational development or a material change of use and is not therefore development within the meaning set out in S.55 of the Town and Country Planning Act 1990. Please see the planning report and appendices submitted with the application.

Note: in answer to the question in this section of the form concerning the permanency of the use, the reply that it is permanent is given in the context that there is no change of use, the additional accommodation, although temporary in nature, is part and parcel of the single main lawful use as a dwelling house which will continue in perpetuity. Nonetheless the caravan is not intended to be a permanent addition to the land and can be readily simply removed once it is no longer needed.

Site Description

The application site is a domestic curtilage within the countryside, being outside a defined settlement limit within the South East Lincolnshire Local Plan (SELLP), 2019.

History

None relevant.

Consultation Responses

SHDC Senior Planning Lawyer

The starting point for determining an application for a prospective development under section 192 is:
a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"

Agree with the proposal and arguments put forward as part of this application and that a LDC should be granted.

Planning Considerations

Given the opinion of the SHDC Senior Planning Lawyer, who has considered the submission, it is recommended that this certificate can be granted.

The proposed use 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.

Conclusion

On the basis of all of the evidence now before the Council, it is the view of the Senior Planning Lawyer and the case officer that that, on the balance of probabilities, and given the evidence presented in the form of appeal decisions and other documentation, that the siting of the 'twin-unit' for residential use as an ancillary use to that of the main house would be lawful.

The proposed use 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.

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 xxx 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 xxx 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.