DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0188-20**	**Applicant:**	**Mr T Smith**
Proposal:	Change of use from wasteland to site for seven static caravans as low cost rental units - re-submission of H16-0484-19.		
Location:	Land Adj. To 28 Green Lane Spalding Lincs		
Terminal Date:	1st 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
11	Distribution of New Housing
17	Providing a Mix of Housing

National Guidance

National Planning Policy Framework 2019

National Planning Policy Framework (Feb 2019).

Section 14. Meeting the challenge of climate change, flooding and coastal change

Planning and flood risk
155. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

- so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:
a) applying the sequential test and then, if necessary, the exception test as set out below;
b) safeguarding land from development that is required, or likely to be required, for current or future flood management;
c) using opportunities provided by new development to reduce the causes and impacts of flooding (where appropriate through the use of natural flood management techniques); and
d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.
158. The aim of the sequential test is to steer new development to areas with the lowest risk 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 risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
159. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.

160. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. For the exception test to be passed it should be demonstrated that:
a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
161. Both elements of the exception test should be satisfied for development to be allocated or permitted.
163. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment50. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location.

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	1	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	1	0	0	3
OTHER STATUTORY BODIES	0	0	0	6
RESIDENTS	2	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Change of use from wasteland to site for seven static caravans as low cost rental units.

The layout plan indicates 7 static caravans, a site office and reception building and refuse and recycling storage. A sound screen fencing is indicated on the plans. The application is supported by a flood risk assessment.

The application has been advertised due to its proximity to a Right of Way.

Site Description

The site is currently vacant/waste land sited adjacent to the railway line at Green Lane, Spalding.

At the time of the officer's site visit the site was overgrown and very untidy in appearance.

The site is within a high risk flood zone (3a) and the Environment Agency have made representations on this application.

There is a footbridge passing over the site from Green Lane over the site and over the railway line to the road beyond the railway. The footbridge is a listed structure.

There is residential development, of a fairly high density, surrounding the site.

History

H16-0484-19. Change of use from wasteland to site for 10 static caravans as low cost rental units. REFUSED 10-09-19 for the following reasons:

1 Reason for Refusal

The development is proposed within an area identified as Flood Zone 3a (high probability). The submission has not adequately demonstrated a Sequential Approach to steer development to areas with the lowest probability of flooding or demonstrated if there are other reasonably available sites appropriate for the proposed development. The development does not meet the Sequential Test and is therefore, contrary to the provisions of the National Planning Policy Framework 2019 and does not meet the presumption in favour of sustainable development. It has not been demonstrated that the development provides wider sustainability benefits to the community that would outweigh flood risk, and the development would not therefore meet the National Planning Policy Framework 2019, Exceptions Test (Section 14).

The development is therefore, contrary to the provisions of the National Planning Policy Framework 2019, in particular Section 14, and does not meet the presumption in favour of sustainable development.
The development is also contrary to Policy 04, Approach to Flood Risk, of the South East Lincolnshire Local Plan - Adopted: March 2019.

2 Reason for Refusal

The site is closely adjacent to the main railway line through Spalding which carries significant rail borne movements of freight and passenger trains. The static caravans would be of a construction type that would not be able to mitigate against the harm to amenity from noise and vibration caused by trains passing by on the nearby tracks.

Additionally, the footbridge over the site would reduce privacy and amenity across the site and lead to a sub-standard level of private amenity.

The occupiers of the development would suffer from unacceptable harm to their amenity and the proposals are contrary to Policy 02, Development Management, of the South East Lincolnshire Local Plan 2019, and to the provisions of the National Planning Policy Framework 2019.

Consultation Responses

Local Ward Member - Cllr J D McLean

Objections -

Concerned about the sheer density of development in this area. There is already too much traffic and footfall through this small street. Over time this has resulted in antisocial behaviour, litter and general wear and tear of the pavement, road and footbridge. This change will only add to these existing issues faced by the residents surrounding this site.

These properties seem to be inappropriate. They are packed next to an operational railway and underneath a grade II-listed structure.

Doubtful of the soundproofing capabilities of a sound reflecting fence for static caravans.

Having read the Environment Agency position highlighting the flood risk, recommend that this application is declined as it is considered to be contrary to the National Planning Policy Framework.

SHDC Councillor - Cllr C Lawton

Comments and objection -

1. Flood Risk 3a (high probability). Contrary to Policy 04- Approach to Flood Risk Local Plan 2019.

2. Very close to main railway line. This carries heavy traffic both passenger and very large freight movements (the freight traffic is due to increase significantly). Static caravans are totally unsuited to withstand the noise and vibration from this rail traffic. I would also suggest that although there is traditional housing nearby, the flimsy nature of static caravans poses a risk from rail perspective (particularly fire) that would be unacceptable.

3. The site, as well as being contrary to our Local Plan provision and National Policy Framework, is totally unsuited for this proposal and would in no way provide a decent quality of life and amenity for the proposed residents of this non-traditional accommodation.

SHDC Environmental Protection Officer

Comment - Would request the full land contamination condition at this location.

SHDC Environmental Health Officer

Comments - Concerned about the potential noise/vibration impact on the caravans from rail traffic due to the close proximity to the site of the main railway line through Spalding. Have serious concerns regarding the potential impact on the homes from noise and vibration from rail freight/passenger trains.

LCC Highways and SUDS

Does not wish to restrict the grant of permission.

LCC Rights of Way Officer

Comments;
- It is expected that there will be no encroachment, either permanent or temporary, onto the right of way as a result of the proposal.
- The proposed development should not pose any dangers or inconvenience to the public using the right of way.
- Further information is required regarding the configuration of the new entrance and the provision of access to and from the footbridge to enable more detailed comments to be submitted.

Environment Agency

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and its associated planning practice guidance (PPG). We recommend that planning permission is refused on this basis.

Reason

The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. This site lies within Flood Zone 3a, which is land defined by the PPG as having a high probability of flooding.

The development is classed as highly vulnerable in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

This proposal is also contrary to the South East Lincolnshire standing advice matrix, cell G11.

If you are minded to approve the application contrary to our objection, please contact us to explain why material considerations outweigh our objection. This will allow us to make further representations. Should our objection be removed, it is likely we will recommend the inclusion of a condition on any subsequent approval.

Information for your authority

Sequential test

In accordance with the NPPF (paragraph 158), development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

It is for the local planning authority to determine if the sequential test has to be applied and whether or not there are other sites available at lower flood risk. Our flood risk standing advice reminds you of this and provides advice on how to apply the test.

Anglian Water

Under threshold for comment.

Network Rail

No objection in principle to the development, but below are some requirements which must be met regarding asset protection and drainage, use of cranes and plant, security of the mutual boundary, fencing, failsafe protections, bridge strikes and protections, noise/soundproofing and access to the railway.

NHS

Not submitting a bid for this application.

Police Designing Out Crime Officer

No objections.

Third Parties

Three objections have been received, raising the following matters:

- A static caravan site is not in keeping with the existing residential properties and not an appropriate development for the site
- Congestion of Havelock Street, parked cars and impact of new development
- This is an already narrow and busy road, and the entrance to the railway bridge poses a risk to pedestrians and drivers
- Access for emergency vehicles
- Caravans are not permanent homes; issues of maintenance of the caravans and the site
- If caravans are for workers, they wold be better placed near to the employment
- Litter
- Drainage and Sewerage
- Insufficient lighting and additional lighting would be a nuisance to current residents
- site is totally unsuitable for planning as the site was for 50 years a pit into which every type of rubbish was dumped.
- When the site was levelled, 3 old cars were buried along with many tons of asbestos, motor oil, paint and all types of toxic rubbish.
- Along the length of this site runs the high pressure sewer pipes for the town waste.
- Do not accept that noise attenuation can be achieved, due to the nature of a caravan
- Risks of litter and fly tipping etc being thrown over the bridge onto the site (as already happens)

Planning Considerations

Principle

The site is within the settlement boundary for Spalding where all forms of residential development is acceptable in principle. The general principle for residential development would be acceptable if there were no other constraints or identified harm. In this instance there is identified harm and this is set out below.

This application differs from the last application on the site, set out above, in that the number of caravans have been reduced, and additional information has been provided to support the application.

Flood Risk

The site is located within the flood plain as identified by the Environment Agency's Flood Zone Maps. The site is in flood zone 3a as described by Table 1 of the National Planning Practice Guidance (PPG).

The development proposed, being 7 static caravans, is considered to be 'highly vulnerable' and, critically, it is made clear in the PPG that this type of development is not appropriate in this Flood Zone and is not appropriate.

The National Planning Policy Framework states very clearly that development should be steered to areas les at risk of flooding unless a Sequential Test proves there are no available sites where the development could take place in an area less at risk.

The submitted Flood Risk Assessment states that the Sequential Test is passed because there are flood defences and the site is designated as low risk in the Strategic Flood Risk Assessment.

This is not considered to comply with the guidance in the NPPF which requires development to be steered towards areas at less risk of flooding and the proposals fail the Sequential Test, therefore the Exception Test does not come in to consideration. It should be further noted that as the site is in a high risk flood zone the titled balance in favour of sustainable development in Paragraph 11 of the NPPF is not engaged.

Amenity

The site is closely adjacent to the main railway line through Spalding which carries significant rail borne movements of freight and passenger trains. The static caravans would be of a construction type that would not be able to mitigate against the harm to amenity from noise and vibration caused by trains passing by on the nearby tracks.

Additionally, the footbridge over the site would reduce privacy and amenity across the site and lead to a sub-standard level of private amenity.

Benefits of the scheme

The proposed 7 static caravans would make a small contribution to the housing stock and would provide relatively affordable housing and diversify the housing stock and create economic activity, however these limited benefits would not outweigh the harms outlines above.

Impact on listed footbridge

It is not considered that the proposals would impact on the listed footbridge, and for this reason the application was not advertised as impacted upon a listed building or structure.

Right of Way

It is not considered that the proposals impact on the right of way that crosses the front of the site.

Conclusion

Whilst the scheme would have limited benefits, the identified harms would significantly and demonstrable outweigh these limited benefits and the proposals are unacceptable on the grounds of flood risk and amenity.

Therefore, the application is recommended for REFUSAL.

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.