DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0380-23**	**Applicant:**	**Ms I Hall**
Proposal:	Proposed day room and reposition of approved mobile home		
Location:	6 Evergreen Close Spalding		
Terminal Date:	25th August 2023		

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
19	Rural Exception Sites
20	Accommodation for Gypsies, Travellers and Travelling Showpeople
28	The Natural Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

National Planning Policy Framework (NPPF), 2019

Section 2. Achieving sustainable development
Section 4. Decision-making
Section 8. Promoting healthy and safe communities
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

DCLG Planning Policy for Traveller Sites (August 2015)

Policy A: Using evidence to plan positively and manage development
Policy B: Planning for traveller sites
Policy C: Sites in rural areas and the countryside
Policy D: Rural exception sites
Policy H: Determining planning applications for traveller sites
Policy I: Implementation
Annex 1

Representations:

	Object	Support	No Obj.	Comments

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
SHDC INTERNAL	0	0	1	0

CASE OFFICER ASSESSMENT

Site Description

The application site is situated off the east of the A16 by-pass and is a private gypsy and traveller site of 10 pitches called Evergreen Close, which has access from Drain Bank North. The site is outside any settlement boundary and within the open countryside. The site is bordered by agricultural land on three sides, with the A16 Spalding by-pass fronting the site to the west. The proposal is within Environment Agency Flood Zone 3.

Proposal

This is a full planning application that seeks permission for a proposed gypsy and travellers single day room and the reposition of an approved mobile home on Evergreen Close, Spalding.

The application is accompanied by a supporting statement, design and access statement and a Flood Risk Assessment. The development is intended to provide extra space to prepare and eat meals along with bathing. The sleeping accommodation will remain in the mobile home.

History

H16-1003-13 - District Council Rg3 - Provision of a gypsy and traveller caravan site with 10 pitches each accommodation up to 3 caravans (permanent site) - Approved May 2014

H16-0190-16 - NMA - Provision of gypsy and traveller caravan site with 10 pitches each accommodating up to 3 caravans (permanent site) - approved under H16-1003-13. Amendments to road surfacing - Approved June 2016

H16-0932-20 - Full - Caravan site for one traveller family (3 caravans), with associated hardstanding, cesspit drainage and portakabin/dayroom (retrospective) - Approved January 2021

Consultation Responses

Initial Responses Received (Consultation period between 04th May 2023 - 24th May 2023)

The responses received from consultees during the initial consultation exercises, which can be

viewed in their entirety through the South Holland website, can be summarised as follows:

LCC Highways & SUDS Support

No Objection

No alterations to the existing access arrangements for this plot are proposed as part of these works and the works would not be expected to increase vehicle activity. Therefore, the highway authority does not wish to object to the grant of consent for this application.

SHDC Environmental Protection

No comments or observations

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treated Foul Water)

I note that the applicant intends to treat foul waste using a package treatment plant, however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I note the presence of watercourses which are not maintained by the Board (a riparian watercourse) adjacent to the site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourses, or if works are proposed to alter the watercourses at any time in the future, consent would be required under the Land Drainage Act 1991 (and Byelaw 4).

Byelaw 10

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Environment Agency

Environment Agency position

We have reviewed the supporting flood risk assessment, but this is inadequate as it has not considered the South-East Lincolnshire Strategic Flood Risk Assessment hazard maps and the potential depths that could be experienced on site. Notwithstanding this, we are mindful that the principle of development for this site has been established under permission reference H16-1003-13 and the day rooms are ancillary to the established caravan use.
Therefore, we strongly recommend that the finished floor levels of the day rooms are set as high as practicable - for information the flood level, for an event with a 0.1% chance of occurring in any year to 2115 is within the 0.5-1m banding. This is our recommendation for single storey development in line with the standing advice.
Informative

Securing of caravans

We recommend that all static caravans are secured to the ground using an adequate mechanism such as chains and ground anchors and the finished floor level set at a minimum 300mm above ground level.

Responses Received within Re-consultation (Consultation period between 10th July 2023 - 31st July 2023)

South Holland Internal Drainage Board

Thank you for your amendment consultation on application H16-0380-23. Having reviewed the amended Flood Risk Assessment, the advice previously provided by the Board on 23/05/2023 (our ref 23_22315_P) still applies.

Environment Agency

Environment Agency position

We have reviewed the amended flood risk assessment, which now includes information from the South East Lincolnshire Strategic Flood Risk Assessment hazard maps - this is considered appropriate to the scale, nature and location of the proposed development. Alongside this, we acknowledge that the principle of development for this site has been established under permission reference H16-1003-13 and the proposed day room is ancillary to the established caravan use. Accordingly, we have no objection to the proposed development, subject to the imposition of the following planning condition:

Condition

The development shall be carried out in accordance with the submitted flood risk assessment (FRA) (ref: ECL1067-1, compiled by Ellingham Consulting Ltd, dated June 2023) and the day room finished floor level shall be set no lower than 0.5metres above immediate surrounding ground level.

Reasons

To reduce the risk of flooding to the proposed development and future occupants.

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations
- Foul and Surface Water Drainage

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2021) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.
Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted. The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Principle of Development and Sustainability

The principle of this proposal is to be considered to be largely established, given the existing permitted use of the site and the ancillary nature of the proposed day room aspect of the proposal. In any event, it is worth considering the overall principle of development, which is to be considered in the light of the NPPF, the Government's Planning Policy for Traveller Sites (August 2015, published by DCLG) and the policies of the South East Lincolnshire Local Plan, 2019.

The DCLG document, Planning Policy for Traveller Sites, sets out that in determining planning applications for such sites, applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.

Policy C of the DCLG document sets out that:

When assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community.

Policy H sets criteria for determining planning applications for traveller sites and, in particular, paragraph 24 states:

Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

a) the existing level of local provision and need for sites
b) the availability (or lack) of alternative accommodation for the applicants
c) other personal circumstances of the applicant
d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
e) that they should determine applications for sites from any travellers and not just those with local connections

The South East Lincolnshire Local Plan, 2019 (SELLP) acknowledges there is both a 'known' and 'unknown' unmet need for additional Gypsy/Traveller residential accommodation within its district between the period 2011-36.

At 3.2.17, the SELLP states *Housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople)...*

Below, Policy 20, Accommodation for Gypsies, Travellers and Travelling Showpeople, is set out in full.

The redevelopment or change of use of an Existing Residential Gypsy/Traveller Site or Existing Residential Travelling Showperson's Site (as identified on the Policies Map) will be permitted only if an assessment has been undertaken which has clearly shown that the site is no longer required to meet the accommodation needs of the Gypsy/Traveller or Travelling Showpersons communities.

Between 2011 and 2036, evidence suggests that, in South East Lincolnshire, there will be a need for the provision of:

4 new permanent residential pitches for gypsies and travellers; and 1 new permanent residential plot for travelling showpeople.

This need will be met through the development of the sites identified on the Policies Map and listed below:

Land at The Stables, Baulkins Drove, Sutton St James allocated as a 'Proposed Residential Travelling Showperson's Site', to provide accommodation for one additional household; and

Land at Bleu Raye Farm, Mill Gate, Whaplode Fen, allocated as a 'Proposed Residential Gypsy/Traveller Site', to provide accommodation for four households.

Planning permission will be granted for the development of these sites, provided that proposals:

1. will be adequately provided with appropriate infrastructure such as electricity, drinking-water, waste-water treatment and recycling/waste management;
2. will not have a significant adverse effect on the amenities of existing local residents or adjoining land users (and proposals must, therefore, give careful consideration to layout, landscaping, external lighting schemes, and the type of business uses that would be appropriate (if mixed residential and business use is proposed); and
3. will be successfully assimilated into both their immediate environs and the wider landscape.
the SELLP identifies 4 new permanent residential pitches for gypsies and travellers; and 1 new permanent residential plot for travelling showpeople, subject to criteria relating to appropriate infrastructure, such as electricity, drinking-water, waste-water treatment and recycling/waste management; no significant adverse effect on the amenities of existing local residents or adjoining land users; and will be successfully assimilated into both their immediate environs and the wider landscape.

Additional needs which may arise during the Local Plan period will be met through the determination of planning applications on other, unallocated sites. Planning permission will be granted for proposals on such sites, provided that they meet criteria 1 to 3 above, and they:

a. provide occupants with an acceptable standard of amenity;

b. are not located adjacent to uses likely to endanger the health of occupants, such as a refuse tip, water recycling centres or contaminated land;

c. respect the scale of the nearest settled community;

d. will not place undue pressure on local infrastructure;

e. will not adversely affect heritage assets or areas of importance to nature conservation;

f. will not prejudice highway safety or give rise to problems of parking or highway access;

g. for sites for permanent residential use they:

i. provide occupants with access to education, health care and recreational facilities, shops and employment within reasonable travelling distances, preferably by walking, cycling or public transport;

ii. are suitable (or capable of being made suitable) for mixed residential and business use;

iii. are not located within Flood Zone 3a or 3b and, if located in Flood Zone 2, the Sequential and Exception Tests have been passed; and

h. for sites for transit or stopping place use, are not located within Flood Zone 3b and, if located within Flood Zone 3a, the Sequential and Exception Tests have been passed.

The day room would provide the applicants family with the accommodation they need while

retaining the sleeping accommodation within the mobile homes which maintains the essence of the site as being for traveller and gypsy communities.

It is considered that this application proposal meets all points of this policy and is, therefore, acceptable in principle.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (2021) specifically relates to 'Achieving well-designed places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130, contained within section 12 of the National Planning Policy Framework (2021), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

Likewise, policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, policy 3 accords with the provisions of section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

The proposed day room would be single storey and would be constructed of buff red brick with slate roof tiles. The building would measure 19.8m by 12m and would consist of a pitched roof. Overall, having regard to the layout of the site, the proposed day room is acceptable in terms of scale, mass and bulk.

The materials to be used, coupled with the modest scale of the day room, would ensure that the proposal would not cause an unacceptable impact to the character or appearance of the area.

The day room would provide the applicants family with the accommodation they need while retaining the sleeping accommodation within the mobile homes which maintains the essence of the site as being for traveller and gypsy communities.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

Impact on Residential Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (2021) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with

a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

It is not considered that the proposal would overshadow, overlook or be overbearing to the neighbouring properties. The proposed single storey day room is to be provided for three mobile homes to use and it not living accommodation. It is considered that the amenity of nearby residents would not be materially harmed in terms of lack of overlooking, lack of privacy, noise and disturbance, etc.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (2021) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2021) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Further, policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

3 no. car spaces must be provided within the curtilage for dwellings with more than 3 no. bedrooms. However, for this proposal the access and parking arrangements remain unchanged, therefore, it is considered that the proposal would not result in an unacceptable impact on highway safety.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

Flooding Considerations

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - 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".

Paragraph 162 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. 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", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, 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 can be applied if appropriate.

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These 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.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland 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 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. 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.

However, in this instance, whilst proposing new development, this comprises a day room and therefore, differs in material circumstances, to that of other development, such as that taking place on undeveloped land.

Large parts of the South Holland district that are near the River Nene and River Welland lie within Flood Zone 3. As such, the opportunities to undertake the development at an alternative site with a lower flood risk are limited.

The submitted flood risk assessment demonstrates that probability of flooding from localised drainage systems is low. The probability of the site flooding from any Environment agency system is less than 1% annual probability (1 in 100 chance each year) because of the existing flood defences. During the design life of the development it is not anticipated that the site would flood. The SFRA considers the residual risk associated with overtopping and a breach in the defences in 2116. The map shows that the peak flood depth at the site is between 0.5m and 1.0m. The increase in impermeable areas associated with the development will be minimal so there is no potential that flood risk will be increased elsewhere due to surface water.

The submitted flood risk assessment advises that there would not be an unacceptable risk of flooding provided the finished floor levels of the dwellings are set 0.5m above existing ground levels and there 0.5m of flood resistant/resilient construction above the finished floor levels. These mitigation measures will be subject to a condition.

The proposed development in this instance proposes the erection of a single storey day room. The development allows for an increase in finished floor level. Therefore, with the resultant development type not altered, the development allows for betterment in respect of flood risk and mitigation. Therefore, the betterment ensures the proposal acceptable, notwithstanding the typical need for a sequential test in an area that is Flood Zone 3.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan and the intentions of the National Planning policy Framework in this regard.

Planning Balance

There is an identified need for the development, which is considered to be a sustainable form of development because of social, educational and health factors. The proposal satisfactorily complies with Policies C and H of the Government's Planning Policy for Traveller Sites (August 2015,

published by DCLG) and Policy 20 of the South East Lincolnshire Local Plan, 2019. The amenity of neighbouring residents would not be materially harmed and the proposal satisfies the sequential test in flood risk terms. Whilst the site is not closely related to Spalding it does have road links. This alone is not sufficient in this case to indicate against the proposal and to outweigh factors in favour of the proposal.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with policies 2, 3, 4, 19, 20, 28 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPFF) (2021). The are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

It is recommended that the application is approved conditionally.

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.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved

under Delegated Authority.