

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0410-25 **Applicant:** TML Ltd.
Proposal: Siting of 2 Caravans for Residential Occupation - Retrospective
Location: Drallam House Swindlers Drove Spalding
Terminal Date: 19th September 2025

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
17	Providing a Mix of Housing
19	Rural Exception Sites
28	The Natural Environment
30	Pollution
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 5 - Delivering and sufficient supply of homes
Section 9 - Promoting sustainable transport
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
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK	0	0	0	1

ASSESSMENT				
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks full planning permission for the siting of two caravans for residential occupation. The application is retrospective as according to the application form, the use began in June 2017.

Site Description

The site comprises land at Drallam House, Swindler's Drove, Low Fulney. The caravans are located to the north of Drallam House within a gravelled area.

The site is outside any defined settlement boundary, as identified by the South East Lincolnshire Local Plan 2011-2036 and the accompanying policies map. Therefore, the site is within the countryside in planning policy terms.

The site is within Flood Zone 3, as identified by the Environment Agency's flood risk maps.

A public right of way runs to the south-west of the site along Mallard Road.

Planning History

H16-0500-95: (Full Application) Vehicular access to agricultural land - approved 23 August 1995

H16-1157-15: (Full Application) Proposed alterations and extension - approved 11 January 2016

H16-0687-15: (Full Application) Extension and alterations - refused 09 September 2015

Consultation Responses

The responses received from consultees during the consultation period are summarised below. The responses can be viewed in their entirety on South Holland District Council's website.

Lincolnshire County Council - Historic Environment Officer: The proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application.

Environmental Protection: No comments regarding land contamination or environmental protection.

Lincolnshire County Council - Highways and SUDS: No objections. The proposal is for Siting of 2 Caravans for residential occupation - Retrospective where sufficient parking and turning can be accommodated within the site and it does not have an impact on the Public Highway or Surface Water Flood Risk.

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 planning practice guidance (PPG). We recommend that planning permission is refused on this basis. NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. This site lies within Flood Zone 3a which is land defined by the PPG as having a high probability of flooding. The proposed development is classed as highly vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted. The FRA states that the proposed development should be classified as more vulnerable based on the 'nuanced arrangement for the management and maintenance of the site, more akin to that of a short-let caravan site with a specific warning and evacuation plan'. We consider that any proposal for the permanent residential use of caravans, mobile homes and park homes is classified as highly vulnerable in accordance with Annex 3 of the NPPF. The site could experience flood depths of 0.25 - 0.5m arising from a breach in the defences during a flood that has a 1% chance of occurring in any one year up to 2115. The 2115 1% fluvial/0.5% tidal hazard map shows that the site has a future hazard classification of both 'Danger for Some' (includes children, the elderly and the infirm) and 'Danger for Most' (includes the general public). We advise that the 2115 0.1% breach maps should be used for caravan sites where available. As the 2115 0.1% breach maps are not available in Appendix B of the South East Lincolnshire Strategic Flood Risk Assessment, we recommend that you consider the site as having a future hazard classification of 'Danger for Most' for the 2115 0.1% breach event. 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.

South Holland Internal Drainage Board: please be aware that the Board owns a section of land to which this application relates and has not been given the requisite notice required nor is the Board listed in Certificate B of the Application Form. The applicant intends to dispose of surface water via a sustainable drainage system. However, I cannot see a drainage strategy for this method within their application. We recommend a drainage strategy is provided for the site. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3. 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. I note the presence of a Board Maintained watercourse known as B25 Old Exeter Drain (DRN193P2501) adjacent to the eastern site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). Whilst not currently proposed, should the applicant's proposals change to include works within 9 metres of the aforementioned Board Maintained watercourse, or if works within 9 metres of the watercourse are proposed at any time in the future, consent would be required under Byelaw 10.

Cllr R A Gibson: No response received.

Cllr G P Scalese: No response received.

Ecology Officer: No response received.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Procedural Matters

South Holland Internal Drainage Board set out within their consultation response dated 11 August that the Board owns part of the land within the application site and that notice was not served on the Board. Furthermore, Certificate A was completed for the application form. This was discussed with the applicant's agent and an amended ownership certificate was provided (Certificate B). Furthermore, the agent confirmed that notice was served on the Board on 12 August and evidence was provided to demonstrate this.

Key Planning Considerations

Development Plan

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

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

There are no adopted Neighbourhood Plans for the area within which the site is located.

The main issues and considerations in this case include the following:

- Principle of Development;
- Design and Visual Impact;
- Impact on Amenity;
- Highway Safety and Parking;
- Flood Risk; and
- Biodiversity Net Gain.

These matters are assessed in turn below.

Principle of Development

Paragraph 84 of the NPPF sets out that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

"a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
c) the development would re-use redundant or disused buildings and enhance its immediate setting;
d) the development would involve the subdivision of an existing residential building; or
e) the design is of exceptional quality, in that it:
i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
ii. would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area."

Policy 1 of the Local Plan sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at

the bottom of the settlement hierarchy and represents the least sustainable location.

The site is outside any defined settlement boundary and is, therefore, within the countryside in planning policy terms. Part D of Policy 1 sets out that within the countryside, development will be permitted 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.

The proposal is for the retention of two caravans for residential use. The application form sets out that no residential units are proposed (section 17). This is presumed to be an error as the planning statement sets out that "Each static would serve a separate residential unit". Within submitted plan 25.040-03 P1, the caravans are referred to as Static 1 and Static 2. Whilst Static 2 appears to be a caravan, the status of Static 1 is unclear. The structure comprises a building featuring timber cladding that measures 10m by 6.7m. The maximum width of a caravan that can legally be transported on the UK roads is 4.5m. Furthermore, it does not appear that there is any ground clearance under the structure and it is unclear if the structure is affixed to the ground through permanent works. As such, it is unclear if Static 1 would be classed as a caravan or as a building. Notwithstanding this, the proposals have been assessed based on the description of development and, therefore, on the basis of the occupation of each of the caravans for separate residential use.

It has not been demonstrated that residential development is necessary in this location; for example, in conjunction with agriculture or a rural based business. Moreover, the site is physically divorced from Spalding which is one of the nearest defined settlements. In the absence of footways and given the distances involved, it would be difficult to access Spalding for the day to day needs of occupants without the use of a private car. Therefore, the proposal does not accord with Policy 1 and would not normally be considered a suitable site for new housing.

The application is accompanied by a Design and Access Statement, within which the following justification is set out:

"3.2: The main thrust of the Spatial Policy (Policy 1) is set out in more context under paragraph 3.2.15 of the Local Plan which states the main role of the countryside in the south east Lincolnshire area is for agriculture and recreation, but as clearly demonstrated the application site has no agricultural or recreational use aside from a private residential use for the permanent dwelling on site. Therefore, the proposed development would not be contrary to the main thrust of Policy 1 as it seeks to use previously developed land in line with NPPF policies."

"3.3: The application site is in close proximity to both Weston Hills and Spalding as well as a variety of employment and residential uses all located off Swindler's Drove. The application site is located in an existing built up area and is defined as previously developed land and would be an efficient use of land as per Paragraph 124 of the NPPF. Further, it is also noted that the latest 5 Year Housing Land Supply figures are published in March 2024 which demonstrates 6.4 years of supply, however, these figures are prior to the multiple changes to the NPPF in both calculation and supply figures which means that this figure is likely reduced. In the absence of updated 5 Year Housing Land Supply figures this also needs to be a consideration in the determination of this application which provides two further units."

The area where the caravans are located appears to be within the curtilage of Drallam House, within a gravelled area that also forms the driveway for the dwelling. Annex 2 of the NPPF clarifies that "land in built-up areas such as residential gardens" is not previously developed land. The NPPF does not define this what is meant by "built-up areas". In this case, the site is located within Low Fulney which is between Spalding and Weston Hills. There is development around the site and within Low Fulney in general. As such, it is unclear if the site is within a 'built-up' area and as such, whether the site comprises previously developed land. Regardless, Policy 1 does not refer to previously developed land and as such, this is irrelevant in terms of Policy 1.

The site is not considered to be within walking distance of services and facilities such as a convenience store. Whilst Low Fulney includes existing businesses and some dwellings, it is not identified as a settlement within the settlement hierarchy and the site is within the countryside in planning policy terms.

Lastly, in terms of housing land supply, according to South Holland District Council's (SHDC) 5-Year Housing Land Supply Assessment (5YHLS) (June 2025), SHDC can demonstrate 5.5 years of housing land supply. Furthermore, SHDC have scored at least 162% for the Housing Delivery Test

over the last three years (Paragraph 1.4 of the 5YHLS Assessment). In accordance with Paragraph 232 of the NPPF, it is therefore not necessary to apply the tilted balance in favour of sustainable development in the determination of the current application.

Therefore, the proposed development would not accord with Policy 1 of the Local Plan and there is insufficient justification for the proposed dwellings within a relatively isolated and unsustainable location.

Design and Visual Impact

Paragraph 135 of the NPPF 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.

Policy 2 of the 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.

Policy 3 of the Local Plan accords with the provisions of Section 12 of the NPPF, 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.

The surrounding area on both Swindler's Drove and Mallard Road includes a range of uses, with some residential development. The nearest dwellings are set within a range of plot sizes including various house types.

Static 1 measures 10m by 6.7m and Static 2 measures 13m by 4m. The height of the caravans is not confirmed within the submission. Static 1 features timber cladding and a shallow pitch gable end roof form. Static 2 features a similar roof form, however, the external materials appear to comprise PVC cladding. The caravans are of a similar scale to outbuildings within the site and outbuildings that would generally be allowed using permitted development rights. The caravans appear to be located within the curtilage of Drallam House, set within an area of fencing and some landscaping. Therefore, the caravans are not positioned within open countryside land as there is a sense of containment within the wider site. On balance, the visual impact of the caravans is acceptable.

Impact on Amenity

Paragraph 135 of the NPPF 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 Local Plan set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

There is approximately 35m between Static 1 and Drallam House, and 38m between Static 2 and Drallam House. These separation distances are considered to be suitable to prevent an unacceptable degree of overlooking between habitable windows. Similarly, there are suitable separation distances between the caravans and the other nearest dwelling on the opposite side of Mallard Road.

The internal floor space of the caravans is unclear as accurately scaled floor plans have not been provided, nor has this information been confirmed after being requested from the applicant's agent. Notwithstanding this, based on the external dimensions of the caravans, it is considered likely that there would be sufficient internal space for at least one-bedroom dwellings within the caravans.

The site plan does not indicate if any external amenity space is proposed for either of the caravans. Whilst there might be room for external amenity space within the site, this should be clarified within the submitted plans.

As detailed above, the proposed development would not result in an unacceptable impact on the residential amenity of neighbouring dwellings or future occupants. As such, the proposal is considered to accord with the provisions of the Section 12 of the NPPF and Policies 2 and 3 of the

Local Plan.

Highway Safety and Parking

Paragraph 116 of the NPPF sets out 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, following mitigation.

Policy 2 of the Local Plan sets out 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 sets out 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.

Policy 36 and Appendix 6 of the Local Plan, set out minimum vehicle parking standards. The standards require at least two spaces for dwellings of up to three bedrooms, and three spaces for dwellings with four or more bedrooms.

Lincolnshire County Council's highways team have not set out any objections to the proposed development. However, the proposed access and parking arrangements are unclear. The site plan appears to show a vehicular access from Swindler's Drove, however, this was still under construction when the site was visited during the determination of the application. There is also a vehicular access to the site from Mallard Road. There is a large driveway area and space around the caravans for parking. The submitted plans do not clarify where parking is proposed for the caravans, however, it is considered that there is sufficient space for parking and turning within the site

Therefore, the proposed development is acceptable in terms of highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the NPPF.

Flood Risk

Section 14 of the NPPF sets out guidance relating to how local authorities should assess and determine applications which are subject to flood risk concerns.

The site is within Flood Zone 3. Policy 4 of the Local Plan allows for certain types of development within Flood Zones 2 and 3 in instances where specific criteria are met.

The proposed development is classed as a 'highly vulnerable' use, according to Annex 3 of the NPPF. National Planning Practice Guidance advises that highly vulnerable uses should not be permitted in Flood Zone 3 (Paragraph: 079 Reference ID: 7-079-20220825).

Paragraph 173 of the NPPF sets out that a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding. Paragraph 174 further sets out that 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. The strategic flood risk assessment will provide the basis for applying this test.

Paragraph 175 of the NPPF sets out that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).

Therefore, the NPPF requires the application of a sequential test to ensure that new development is located in areas with the lowest probability of flooding. Paragraph 8.3.6 of the South East Lincolnshire Strategic Flood Risk Assessment (SFRA) sets out that the search area for the sequential test should be the whole of the council area unless the functional requirements of the development justify a reduced search area.

It is not considered that there are any site-specific reasons as to why the caravans need to be

located within Low Fulney as opposed to another settlement. The submitted FRA does not contain a site search exercise to demonstrate if other sites have been considered and discounted. According to the submitted FRA, the applicant considers that the proposal passes the sequential test as the site is within a lower risk flood zone based on updated flood risk modelling information, which was updated in March 2025. However, the site is currently within Flood Zone 3 and as such, the development is required to pass the sequential test.

Whilst it is recognised that large parts of South Holland are located within Flood Zone 3, there is nonetheless a requirement to demonstrate that the sequential test has been addressed and passed. This is not considered to be the case in this instance. Having reviewed online sources to check for land that is for sale, the LPA consider that there are other sites which are comparable with the application site, and which are available within lower risk flood areas. For example, a site was found for sale comprising 1696sqm of land was found in Gosberton off Baker's Yard which is within Flood Zone 1.

Paragraph 177 of the NPPF sets out that having applied the sequential test, if it is not possible for development to be located in areas 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 Annex 3. Whilst it is not considered that the development passes the sequential test, it is considered appropriate to consider if the exception test is passed in case an appeal is submitted and a planning inspector disagrees with the above assessment.

In terms of the exception test, Paragraph 178 of the NPPF requires the following to be demonstrated:

*"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."*

The proposed development would provide a minor contribution to the area's housing land supply, and this is afforded limited weight.

The 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. Within the SFRA, areas across South Holland have been identified according to the level of hazard that is posed in terms of flood risk. Appendix C of the SFRA sets out guidance in terms of the minimum measures that are required according to what hazard category areas fall under. The site is identified within 'Danger to Most' and 'Danger to Some' hazard areas. The SFRA recommends consulting the Environment Agency for proposals in these areas which involve highly vulnerable uses. The Environment Agency has set out within their consultation response that the site should have a future hazard classification of 'Danger for Most' for the 2115 0.1% breach event.

The Environment Agency has objected 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 planning practice guidance (PPG).

The FRA states that the proposed development should be classified as "more vulnerable" based on the "nuanced arrangement for the management and maintenance of the site, more akin to that of a short-let caravan site with a specific warning and evacuation plan". The Environment Agency has clarified within their consultation response that any proposal for the permanent residential use of caravans, mobile homes and park homes is classified as highly vulnerable in accordance with Annex 3 of the NPPF. The LPA agrees with this and as such, the proposed development does not pass the exception test. For example, it has not been demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk, nor has it been demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, reduce flood risk overall. As such, the development does not accord with Paragraph 178 of the NPPF.

Therefore, it is considered that the proposed development does not accord with Policy 4 of the Local Plan or Section 14 NPPF in terms of flood risk.

Biodiversity Net Gain

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition".

The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

The application is accompanied by a BNG Exemption Statement which sets out that the applicant considers that the proposal is exempt as the proposal would not affect more than 25sqm of habitat. It is considered that the proposal would be exempt as the site would not affect more than 25sqm of habitat.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the LPA makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposed development would result in the provision of housing outside of the settlement boundary of Spalding or Weston Hills, which are the nearest defined settlements. The site is located with Low Fulney, however, this settlement is not identified within the area's settlement hierarchy. Therefore, the site is within the countryside in planning policy terms, within the least sustainable location for development within the area's settlement hierarchy, as identified by Policy 1 of the Local Plan. The 'tilted balance' in favour of sustainable development is not engaged at the present time, as the LPA can demonstrate a 5 year housing land supply. The limited benefits that would be provided by the proposals do not outweigh the demonstrable harm of developing in the countryside in an unsustainable location.

In flood risk terms, it is not considered that the proposal passes the sequential test. Furthermore, the residential use of the caravans is considered to be a 'highly vulnerable' use, as defined by Annex 3 of the NPPF. National Planning Practice Guidance advises that highly vulnerable uses should not be permitted in Flood Zone 3. The Environment Agency has objected to the proposals. It is considered that the residential occupation of the caravans poses an unacceptable risk to the occupants of the caravans and the development contravenes the NPPF and Policy 4 of the Local Plan.

There are material considerations that weigh against the proposal and as such, the planning balance is against the development.

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.

Conclusion

The proposed development would result in the provision of housing in an unsustainable location, outside any defined settlement boundary. The 'tilted balance' is not engaged at the present time, which means that the development is in an unsustainable location, at the bottom of the settlement hierarchy. Whilst there are some benefits weighing in favour of the proposal, these do not outweigh the demonstrable harm of developing in the countryside in an unsustainable location.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under delegated authority.