

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H16-0484-19	Applicant:	Mr T Smith
Proposal:	Change of use from wasteland to site for 10 static caravans as low cost rental units		
Location:	Land Adjacent: Green Lane Spalding		
Terminal Date:	13th September 2019		

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.

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- so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

- applying the sequential test and then, if necessary, the exception test as set out below;
- safeguarding land from development that is required, or likely to be required, for current or future flood management;
- 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
- 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;

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Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
SHDC INTERNAL	0	0	0	3
OTHER STATUTORY BODIES	0	0	0	4
RESIDENTS	3	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This planning application seeks Full planning permission for:

"Change of use from wasteland to site for 10 static caravans".

Site Description

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

The site is overgrown and currently 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.

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

History

None Relevant to this determination.

Consultation Responses

SHDC Strategic Housing

No Comments

SHDC Environmental Protection

I request the full land contamination condition at this location.

SHDC Environmental Services

Comments.

Lincolnshire County Council - Rights of Way and Countryside Access

I can confirm that Spalding Public Footpath No. 4 is affected by the proposed development.

/~/ As the County Council has received no application to recognise further rights of way affecting the site, no more informed guidance can be offered at this stage.

Comments;

i/ It is expected that there will be no encroachment, either permanent or temporary, onto the rights of way as a result of the proposal.

ii/ The construction should not pose any dangers or inconvenience to the public using the rights of way.

iii/ 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.

If there is any doubt that any of these conditions may be breached then a temporary diversion or closure may be needed. Under these circumstances, please advise the applicant to contact Mr Andy Savage at this office at least 13 weeks prior to their proposed start date. Applicants should be aware that there is a cost in processing such Orders.

SHDC Private Sector Housing

Comments.

No objections, however regard needs to be observed to the model standards ie, the construction of the bases and materials used, provision of parking, pavement and road design and construction which must have adequate access for fire appliances, lighting and refuse disposal (will refuse collection be made from each individual plot or from the boundary of the site?) I would also enquire as to the proposed use of the building shown at the entrance to the site?

Lincolnshire County Council SUDs (Highways)

Do not wish to restrict the grant of planning permission.

Network Rail

No objection but detailed comments on working in proximity to railway and other matters relating to their asset.

Lincolnshire Police

No objections.

NHS

Will not be submitting a request for S106 contributions.

Environment Agency

Detailed commentary, no objection but reference to guidance in the PPG and the SFRA position.

Residents

There have been 5 objections received from residents raising the following issues and concerns;

- An inappropriate development in what is already a densely populated area, with the recent Walters Close and Lucknow Lane estates.
- Static caravans in such close proximity to the railway line are not constructed in such a way as to prevent the occupiers from suffering from noise nuisance.
- A development of static caravans at that site is not in keeping with the overall appearance of the neighbourhood and with the other properties
- The road access shown to the site is very close to the bridge exit which is used by lots of children going to and from school as well as adults and may result in an accident .
- The road is only slightly wider than one car and is already very difficult to navigate.
- This is an entirely inappropriate place for further development.
- There are already issues with drainage, litter, traffic, parking etc in this area without further dwellings particularly of the low cost rental variety.
- The site's proximity to the railway line and bridge will encourage problems of public nuisance and potential vandalism. There are enough brownfield sites away from such hazards for extra permanent housing that haven't been used for development and these should be used first.
- If these caravans are low cost rentals, who will be checking that they are being used for the correct purposes and are properly maintained? Or will it rapidly become an eyesore and trouble spot?
- Is this really the first and last impression we really want railway travellers to have of the town?
- Site was a tip for 50 years, oil, asbestos and old cars dumped here.
- Town's high pressure sewer pipes run along the site.
- A Caravan site is absolutely NOT in keeping with the surrounding area and will be right in the middle of many houses some of which are old buildings. There is a family of monk jacks and other wildlife that live on the the proposed land which will have nowhere to go due to an already highly populated area. The noise level has already doubled within the area due to x2 new estates already having been built. Until recently when the footbridge was closed anti social behaviour on around the bridge has been extremely high with very little social areas within the vicinity. We believe more accommodation will only add to the above problems.

Planning Considerations

- Principle
- Flood Risk
- Amenity
- Benefits of the scheme

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.

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, 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 less 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 tilted balance in favour of sustainable development in Paragraph 11 of the NPPF is not engaged.

Amenity

The issue of amenity is discussed here.

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 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 outlined above.

Conclusion

Whilst the scheme would have limited benefits, the identified harms would significantly and demonstrably 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.