

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-1125-23 **Applicant:** Mrs E & Mr C Matson

Proposal: Siting of static caravan for residential purposes in conjunction with existing stables and paddocks

Location: Thornfield Stables Pecks Drove East/Childers South Drove Spalding

Terminal Date: 20th February 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments
--	--------	---------	---------	----------

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 191 Lawful Use Certificate for the siting of static caravan for residential purposes in conjunction with an existing stables and paddocks at Thornfield Stables, Pecks Drove East / Childers South Drove, Spalding. The static caravan is sited to the south-east of an existing stables and is partially shielded from public view. The submitted application form states that the caravan has been in habitation since the 9th of April 2019.

The caravan is sited 1 metre from the southern red line boundary, 6.8 metres from the eastern boundary, 38 metres from the northern boundary and 32.25 metres from the western boundary. The caravan measures 11.3 metres in width and 3.65 metres in depth. The height of the caravan is approximately 3.5 metres in height, although no elevational drawings have been submitted to confirm this estimate.

SITE DESCRIPTION

The site is outside of the defined settlement limits of Spalding and as such is classed as being located in the countryside. Paddock land is located to the south of the site, with arable fields beyond sparse trees and hedging to the east. Childers South Drove is located to the north of the site with a property named The Conifers beyond as well as static caravans. The A16 is located beyond paddock land to the west of the site with a road named Pecks Drove West beyond.

The site is in Environment Agency Flood Zone 3 and in a "Danger for Most" hazard area, with a maximum predicted flood depth of 2 metres on the 2115 South Holland Strategic Flood Risk

Mapping. No details have been provided of the foul and surface water drainage details.

RELEVANT HISTORY

None

CONSULTATION RESPONSES

None

PLANNING CONSIDERATIONS

This is a legal determination and planning policy is not relevant to the determination as to whether the claimed use is indeed lawful. The decision is based upon the case officer's judgment as to the case being proven on the balance of probabilities.

The applicant has submitted various forms of evidence to denote their long-term occupation of the site, these are;

- An undated aerial photograph.
- An invoice from Western Power dated 12th April 2019.
- Photograph of the caravan with a newspaper named Lincolnshire Free Press in the foreground dated Tuesday 9th April 2019.
- An electricity bill from Eon dated 31st July 2019.
- An electricity bill from Eon dated 22nd October 2019.
- An electricity bill from Eon dated 8th February 2020 and dates onwards.

Case law has established that in order to become immune from enforcement and therefore lawful, the breach must be continuous for a period of at least 10 years. The earliest evidence provided by the applicant is from April 2019, and so it cannot be reasonably concluded by the Local Planning Authority (LPA) that this proposal is immune from enforcement.

The proposal to erect a static caravan for use as an independent dwelling, as requested by this application, is not permitted development. No section of the Town and Country Planning (General Permitted Development) (England) Order 2015 covers the development/placement of new independent dwellings in open countryside setting, meaning that planning permission would have been required as defined by Part III of the Town and Country Planning Act, 1990.

CONCLUSION

For the reasons listed above, this proposal is not considered to be permitted development and is therefore not deemed to be lawful. As such, the recommendation is to REFUSE.

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.