DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H18-0918-20**	**Applicant:**	**Mr S Smith**
Proposal:	Permanent Residential Use of Caravan		
Location:	Caravan A4, Fields Farm Bridge Road Sutton Bridge		
Terminal Date:	12th February 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Not applicable.

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This application seeks the granting of a Lawful Development Certificate (LDC) for the permanent residential use of a caravan which is in breach of a condition associated with the land.

Site Description

The caravan in question sits within Poppy Fields Caravan Park, a site of 15 no. static caravans, which is accessed from the A17 by a single track road. The site is enclosed by trees and vegetation. There are two dwellings in close proximity and a small number of agricultural buildings to the north of the site. The character of the wider area is predominantly rural.

Relevant History

H18-0224-18 - s73a application - Use of site as site for caravans for seasonal workers and its retention out of season for storage of caravans H18/1219/98 Appeal Decision: APP/A2525/ A/04/1142470 Conditions 1 - Modification of Condition 1 of H18-0691-03 (allowed on appeal) to allow amendments to wording (approved May 2019).

H18-0580-16 - s73a application - Use of site for caravans for seasonal workers and its retention out of season for storage of caravans - approved under appeal decision H18-0691-03. Amend Condition 1 and remove Condition 2 (refused August 2016).

H18-0691-03 - s73a application - Continuation of permission without complying with Conditions 1 & 2 of H18/1219/98 to allow occupation by seasonal agricultural workers all year round (appeal allowed October 2004)

H18-1219-98 - Full planning application for the use of site as site for caravans for seasonal workers and its retention out of season for storage of caravans (approved March 1999).

Consultation Responses

Not applicable.

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 the following evidence in support of the claim:
1. Application Form
2. Site Location Plan and Block Plan
3. Planning Statement
4. Statutory declarations from 3 individuals (1 from an individual who claims to have lived in the caravan for the relevant period, 2 from others whom claim to live at the caravan site)
5. Additional unwitnessed declaration from a former office administrator of Hargreaves
6. Caravan rental agreement, rent collection form and extract from rent book

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.

Appendix 1 to the submitted Planning Statement is a statutory declaration from an individual who states that they have occupied Caravan A4 continuously since 8th August 2008. It also states that they have never been employed by Hargreaves Plants Ltd and that they paid rent monthly to Hargreaves until Mr Smith (the applicant) purchased the site in June 2020, and that rent is now paid to Mr Smith monthly.

Appendix 2 contains a caravan rental agreement and single rent collection form.

Appendix 3 is a statutory declaration from another individual which states that the individual concerned was already living in Caravan A4 when they arrived at the site on 10th August 2010 and they have lived there continuously to the present day.

Appendix 4 is a statutory declaration from a further individual which states that the individual concerned was already living in Caravan A4 when they arrived at the site in October 2009 and they have lived there continuously to the present day.

Since the application was submitted, a further declaration (unwitnessed) has been provided from a former office administrator of Hargreaves which states that the individual concerned was never employed by Hargreaves Plants Ltd during their 18 year employment from 2001 to 2019 when the company went into Administration. An extract from a rent book has also been submitted.

Notwithstanding what is stated in the statutory declarations, there is not considered to be conclusive evidence that Caravan A4 has been occupied in breach of condition for the relevant period of 10 years. The copy of the rental agreement provided is very general and only one rent collection form has been submitted. No evidence has been submitted to corroborate what has been stated in the statutory declaration regarding rent having been paid monthly to Hargreaves or Mr Smith, and to cover the 10 year period. The extract from the rent book only covers the period 7/02/09 to 02/02/10. A request was made for evidence of entries from a more recent time period, however this was not forthcoming.

Additionally, the declaration (unwitnessed) submitted by the former Hargreaves employee only confirms that the individual concerned was not employed by the company. It does not state that they were aware of them occupying Caravan A4 or that rent was being paid.

Furthermore, documents accessed on Companies House relating to the administration of Hargreaves Plants Ltd state that the administrators were exploring selling all of the caravans on the Poppy Fields site (dated 10th September 2019 and 14th February 2020), however no reference is made to any person(s) still occupying the caravans.

Taking the above into account, it is not considered that sufficient evidence has been submitted to demonstrate that "on the balance of probability" Caravan A4 has been occupied in breach of the relevant condition for a continuous period of at least ten years. Therefore it is considered that there are no reasonable grounds upon which to grant a Lawful Development Certificate.

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

It is not considered that sufficient evidence has been submitted to demonstrate that "on the balance of probability" Caravan A4 has been occupied in breach of the relevant condition for a continuous period of at least ten years. Therefore it is considered that there are no reasonable grounds upon which to grant a Lawful Development Certificate.