DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-1073-22**	**Applicant:**	**Evolution Parks Ltd**
Proposal:	Continued use of land as a site for static caravans in residential use in breach of Condition 1 & 2 of H18-0691-03 and Condition 2 of H18-0224-18.		
Location:	Poppy Fields Caravan Park Fields Farm South Sutton Bridge		
Terminal Date:	30th March 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Not applicable.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	0	0	5

CASE OFFICER ASSESSMENT

Proposal

This application seeks the granting of a Lawful Development Certificate (LDC) for the continued use of land as a site for static caravans in residential use in breach of Condition 1 & 2 of H18-0691-03 and Condition 2 of H18-0224-18.

Site Description

Poppy Fields Caravan Park is 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

H18-0918-20 - s191 Lawful Use Certificate - Permanent Residential Use of Caravan - Appeal Allowed August 2021

H18-0919-20 - s191 Lawful Use Certificate - Permanent Residential Use of Caravan - Appeal Allowed August 2021

H18-0920-20 - s191 Lawful Use Certificate - Permanent Residential Use of Caravan - Appeal Allowed August 2021

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

Sutton Bridge Parish Council

The original application was granted solely on the basis that occupation was for temporary seasonal workers. The Parish Council does not believe that the site is suitable for permanent residential use.

Cllr Jack Tyrrell

If there is a paper evidence, ie bank statement showing rent being paid for 12 months of the year then there is a breach. I believe this needs to come to committee

Resident Comments

- Comments regarding the continued residency for the previous 10 years is untrue
- Distinctly remember the site being empty in 2019
- The written statements have been given purely to give the application credibility
- Do not think the site is suitable for permanent residency
- No public transport routes or pedestrian access to local amenities

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 4 individuals who claims to have lived on the caravan park
5. Caravan rental agreement, rent collection form, extract from rent books and tables showing payments received

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.

A Statutory Declaration (SD) dated 25 October 2022 and 16 March 2023 has been submitted relating to several units;
The key points in that SDs are that:

· they have lived in caravan C6, A3, C2, B3, C1, B2. A4 continuously since 18th September 2010;
· they paid a monthly rent to Hargreaves Plant Ltd and then to the applicant when they purchased the site in 2020;
· throughout occupation, has not been employed by either Hargreaves Plant Ltd or the appellant; and
·knows other residents, who have occupied other caravans on the site continuously since 2010 and 2011 respectively.

The other documentary evidence has been submitted for example rental agreements, rent books from September 2010 to July 2020, there is a year's gap of rent books from 20th March 2015 to 10 March 2016 for one occupier and a gap in the rent books from another from 03 February 2012 to 24 January 2013. Rent sheets have been provided showing a different form of payment record keeping from 2020. Three letters have also been provided confirming that they knew residents where living in at the site from 2011. However, the doubt of residency is from 2019/2020.

National Planning Practice Guidance states that: "...if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

The previous appeals were allowed on the basis of similar evidence as above. However, in this instance, since this application was submitted, the Council have been provided with seven sworn statements witnessed by a solicitor stating that the caravan site was not occupied continuously for the last 10 years. This is new supporting evidence that was not before the planning department for the most resent applications H18-0918-20, H18-0919-20 and H18-0920-20.

Therefore, notwithstanding what is stated in the statutory declarations submitted by the applicant, there is not considered to be conclusive evidence that the caravans have been occupied in breach of condition for the relevant period of 10 years. The copy of the rental agreements provided are very general and only one rent collection form has been submitted.

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" the caravans have 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.

Conclusion

It is not considered that sufficient evidence has been submitted to demonstrate that "on the balance of probability" the caravans have 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.