DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H19-0277-24** | **Applicant:** | **Mr B & Mrs M Glazebrook** |
| **Proposal:** | Siting of caravan for ancillary residential use | | |
| **Location:** | 244 Broadgate Road Sutton St Edmund Spalding | | |
| **Terminal Date:** | 23rd May 2024 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

**National Guidance**

**National Planning Policy Framework 2023**

Not applicable for a Lawful Development Certificate Section192 application as it is a legal determination.

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| NORTH LEVEL INTERNAL DRAINAGE BOARD | 0 | 0 | 0 | 1 |

CASE OFFICER ASSESSMENT

**Proposal**

The proposal comprises a lawful development certificate (proposed) for the siting of a caravan and its use for the purpose's ancillary to the host dwellinghouse.

The submitted application comprises:

- Application Form
- Site Location Plan
- Block Plan
- Elevations and Floor Plan
- Planning Statement
-Numerous Appeal Decisions for other application sites

The submitted details identify that the caravan would be sited within the lawful garden as identified by the red outline within the submitted site location plan, and as such would not comprise its own

separate curtilage; and would be used in an ancillary nature to the use of 244 Broadgate Road, Sutton St Edmund at all times, and would share the existing dwelling's utility services.

## Site Description

The application site is a detached two storey dwelling which lies on Broadgate Road, Sutton St Edmund. Neighbouring dwellings are the north, south, west, with open fields to the east.

## History

H19-0894-16 - TPO Tree Works - Approved 31.10.2016

H19-0995-22 - TPO Tree Works - Approved 01.12.2022

## Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

North Level District Internal Drainage Board

Please note that North Level District Internal Drainage Board have no objections to the above planning application.

## Public Representation

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.

## Planning Considerations

## Relevant Statutory Provisions

In relation to proposed uses, Section 192 of the Town and Country Planning Act, 1990, provides that:

(1) If any person wishes to ascertain whether-
(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall-
(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d) specify the date of the application for the certificate.

(4)The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Furthermore, Section 3 of the Town and Country Planning (Use Classes) Order, 1987 (as amended) provides that:
(1A) Subject to the provisions of this Order, where a building or other land is situated in England and is used for a purpose of any class specified in - (a) Part B or C of Schedule 1, or (b) Schedule 2, the use of that building or that other land, or if specified, the use of part of that building or the

other land ("part use"), for any other purpose of the same class is not to be taken to involve development of the land.
(2) References in paragraph (1) and (1A) to a building include references to land occupied with the building and used for the same purposes.
(3) A use which is included in and ordinarily incidental to any use in a class specified in Schedule 1 or 2 is not excluded from the use to which it is incidental merely because it is specified in Schedule 1 or 2 as a separate use.

**Evaluation**

The applicant has provided the following information:

- Application Form
- Site Location Plan
- Block Plan
- Elevations and Floor Plan
- Planning Statement
-Numerous Appeal Decisions for other application sites

The planning history for the site has been investigated. As detailed within the submission, no planning application was submitted or can be retrieved in relation to the siting of a caravan for ancillary purposes, described within this lawful development application. Permitted Development rights had not been removed by any previous permissions.

The Town and Country Planning (Use Classes) Order 1987 (as amended) defines the Use C3 (dwellinghouses) as follows:

Use as a dwellinghouse (whether or not as a sole or main residence) by-

(a) a single person or by people to be regarded as forming a single household;
(b) not more than six residents living together as a single household where care is provided for residents; or
(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

The current use of the property, No.244 Broadgate Road, in its current form, is C3 (a) and the proposal would not alter the use of the existing dwellinghouse.

Town and Country Planning Act 1990

Section 55 of the Town and Country Planning Act 1990, under point (1), identifies that 'development' means "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

With building operations, for the purposes of the Act, meaning: "(a)demolition of buildings; (b)rebuilding; (c)structural alterations of or additions to buildings; and (d)other operations normally undertaken by a person carrying on business as a builder".

Caravan Sites and Control of Development Act 1990

The Caravan Sites and Control of Development Act 1990, under Section 29 (1), details that for the purposes of the Act, caravan means:

"any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include:

(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or
(b) any tent".

Assessment

The applicant has applied for a Lawful Development Certificate for a 'caravan'. It is concluded that siting a caravan, should the proposal meet the definition, is not considered to be 'operational

development'. Furthermore, it has been demonstrated that the caravan shall be situated within the land outlined in red within the submitted site location plan, an area that clearly comprise the residential garden associated with No. 244 Broadgate Road, Sutton St Edmund. The use of the caravan would remain ancillary to the host dwelling, being occupied by a family relative of the current occupiers. of No. 244 Broadgate Road, Sutton St Edmund with a reliance upon the host dwelling and as such, remaining solely ancillary; therefore, when viewed within the residential nature of the site, it is also considered that the proposal would not amount to a material change of use of the land.

## Conclusion

Having regard to the above and taking the submitted supporting evidence into account, it is considered that should the proposed caravan meet the definition of caravan as outlined within the Caravan Sites and Control of Development Act 1960, and the Caravan Sites Act 1968, the proposal would not constitute development as defined in Section 55 of the Town and Country Planning Act 1990. The proposal is therefore considered to be lawful, on the basis that the submitted details clearly express this as a caravan.

## 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.