DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0143-26**	**Applicant:**	**P & S Williams**
Proposal:	Siting of caravan		
Location:	Irby House Millgate Whaplode		
Terminal Date:	26th May 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Town and Country Planning Act 1990

- Section 171b (transitional arraignments appl)
- Section 191

Representations:

	Object	Support	No Obj.	Comments
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This application seeks a Lawful Development Certificate for an existing use under Section 191 of the Town and Country Planning Act 1990 (as amended).

The application form, under Section 9 ('Grounds for an application for a lawful development certificate'), describes the development as the "siting of a caravan on site".

Further clarification has been provided by the agent, stating:

"The application is for the siting of a domestic static caravan that has been on the land since June/July 2020 (evidence provided by Google), the clients have also paid Council Tax since then. The land was not domestic; however, along with the caravan a part has been fenced off and used as a domestic garden."

The application therefore seeks to demonstrate that the residential occupation of the caravan has

continued for a sufficient period of time to be immune from enforcement action. This interpretation has been confirmed in writing by the agent on 21 April 2026.

Site Description

The application site forms part of a former horticultural premises located to the south of a group of buildings fronting Little Lane, which are currently in commercial use.

A single residential property, Westgate House (a Grade II listed building), is located to the north-west of the site. Sporadic linear residential development is located to the east, fronting Mill Gate.

Access to the site is taken from Mill Gate via an unadopted road which runs past the existing commercial premises.
The application site itself comprises a defined area of land accommodating a static caravan together with a fenced area of domestic curtilage.

History

H23-1058-25 - Siting of Residential Caravan - Retrospective. Refused 26 January 2026 - Appeal dismissed 8th April 2026
H23-0230-25 - Siting of a residential caravan (retrospective). Refused.
H23-0662-22 - Siting of static caravan. Approved 18th October 2022.

Consultation Responses

No consultations were undertaken as part of this application.

Representations

The application has been advertised in accordance with the Development Management Procedure Order 2015 (as amended).

Three representations have been received from the same address. The points raised are summarised as follows:

·Objection to unlawful and unplanned development where alternative accommodation is available;
·Reference to the dismissal of a recent appeal and the requirement for the occupants to vacate;
·Concern that the development has not been present for a sufficient period to qualify for a lawful development certificate, particularly in light of previous retrospective applications and refusals.

These matters have been noted. However, applications for Lawful Development Certificates must be determined solely on the basis of factual and legal considerations, rather than the planning merits of the development.

Planning Considerations

The application falls to be considered under Section 191 of the Town and Country Planning Act 1990 (as amended), which requires the Local Planning Authority to determine whether, on the balance of probability, the use described in the application is lawful at the date of the application.

In this case, the principal considerations are:

· The nature of the breach of planning control;
· Whether the breach has been continuous; and
· Whether the relevant immunity period under Section 171B has been met.

Relevant Legislation

Section 191 - Lawful Development Certificates

Section 191 of the Act provides that a use is lawful if:
·No enforcement action may then be taken in respect of it; and
·It does not contravene any enforcement notice then in force.

Where the Local Planning Authority is provided with information satisfying it that the use is lawful at the date of the application, a certificate must be granted.

Section 171B - Time Limits for Enforcement

Section 171B of the Town and Country Planning Act 1990 sets out the statutory time limits for taking enforcement action.

Under the transitional provisions applicable to breaches commencing prior to 25 April 2024:

· A breach consisting of a change of use of any building or land to use as a single dwellinghouse becomes immune from enforcement action after four years beginning with the date of the breach; and

· Other material changes of use become immune from enforcement action after ten years.

The correct characterisation of the breach is therefore fundamental to determining the applicable immunity period.

Assessment

Nature of the Breach

The development comprises the siting and residential occupation of a static caravan, together with associated domestic curtilage. The applicant contends that the development constitutes use as a single dwellinghouse and therefore benefits from the four-year immunity period under Section 171B of the Act.

However, the Local Planning Authority is not satisfied, on the balance of probability, that the breach should properly be characterised as a change of use to a single dwellinghouse for the purposes of Section 171B.

The application has been submitted with the following description of development within the application form, as written by the applicant's agent: "Sitting of caravan on site". Whilst details have not been provided within the submission to explicitly detail that the proposal comprises a caravan, as per the definition of a caravan as set out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, it would appear reasonable, in the absence of evidence to suggest otherwise, and given the applicants clear description of development, that the proposal comprises the the siting of a 'caravan'.

In Appeal Decision APP/H0738/W/24/3337958 (Middle Fields, Calf Fallow Lane, Norton), the Inspector concluded that whilst a caravan may provide facilities required for day-to-day domestic existence, the physical form of a caravan means that it is not a dwellinghouse, even where it functions as a person's home. The Inspector further distinguished between the lawful residential occupation of a caravan and the existence of a permanent dwellinghouse.

The Local Planning Authority acknowledges that appeal decisions are fact specific and do not establish binding precedent. However, the reasoning within the above appeal is considered material and relevant to the present assessment.

In this instance, the development relates to the stationing and occupation of a caravan on land, rather than the use of a building as a single dwellinghouse. This is further considered given the clear description of development offered by the applicant within the submitted application form.

The Authority is therefore not satisfied that the four-year immunity period applies and instead consider that the 'ten-year rule' is relevant.

Continuity of the Use

The applicant asserts that the caravan has been occupied since June/July 2020. The evidence submitted, including aerial imagery and Council Tax records, indicates that the caravan has been present and occupied for a significant period of time.

The Local Planning Authority has no substantive evidence to indicate that the residential occupation

has ceased or materially changed during this period.

It would be reasonable to conclude that the caravan has been occupied for the period suggested, from June/July 2020.

Effect of Planning Permission H23-0662-22

Planning permission H23-0662-22 granted consent for the siting of a static caravan within a defined red line application site.

The evidence available to the Local Planning Authority indicates that the caravan has at all times been stationed outside the red line boundary associated with that permission. Accordingly, the development undertaken does not fall within the scope of planning permission H23-0662-22.

The Local Planning Authority therefore accepts that the development has remained unauthorised throughout the relevant period.

Relevant Immunity Period

Whilst the Local Planning Authority accepts that the development has existed in continuous breach of planning control since approximately 2020, the Authority is not satisfied that the breach constitutes a change of use to a single dwellinghouse for the purposes of Section 171B.

Accordingly, the Authority considers that the breach falls within the category of "any other breach of planning control" and is therefore subject to the ten-year enforcement period. To the contrary, the applicant's submission itself states that the caravan has been occupied from a period of June/July 2020 only; equating to a period of less than six years.

As the evidence submitted does not demonstrate that the unauthorised development has subsisted for a period exceeding ten years, the Local Planning Authority is not satisfied that the development is lawful.

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

The Local Planning Authority is not satisfied, on the balance of probability, that the unauthorised residential occupation of the caravan constitutes a change of use to a single dwellinghouse for the purposes of Section 171B of the Town and Country Planning Act 1990.

The Authority therefore considers that the development is subject to the ten-year immunity period applicable to other material changes of use.

As insufficient evidence has been provided to demonstrate that the development has existed continuously for a period exceeding ten years, with the submission being clear in that the caravan has been occupied since June/July 2020 only, the Local Planning Authority is not satisfied that the development is lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended).

Accordingly, it is recommended that the application is deemed unlawful.