

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 05 October 2022

(Author: David Gedney - Senior Planning Officer)

Purpose: To consider Planning Application H23-0662-22

Application Number: H23-0662-22

Date Received: 05 July 2022

Application Type: FULL

Description: Siting of caravan - retrospective

Location: IRBY HOUSE MILLGATE WHAPLODE

Applicant: P & S Williams

Agent: Mark Simmonds Planning Services Ltd.

Ward: Whaplode and Holbeach St Johns

Ward Councillors: Cllr A C Beal
Cllr P A Redgate

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H23-0662-22>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application raises issues that warrant consideration by Planning Committee.

2.0 PROPOSAL

2.1 Full planning permission is sought for the temporary siting of a static caravan (see information from applicants' agent).

3.0 SITE DESCRIPTION

3.1 The site is part of former horticultural premises located at the rear of Irby House and to the south of Little Lane. It was previously occupied by derelict greenhouses and is currently grassed. The site can be accessed off both Millgate and a concrete roadway off Little Lane.

3.2 Residential properties are situated further to the east fronting Millgate. Westgate House (grade II listed) is situated to the north-west on the western side of the Little Lane access.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by

the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policies:

01. Spatial Strategy
02. Development Management
03. Design of New Development
04. Approach to Flood Risk
11. Distribution of New Housing
36. Vehicle and Cycle Parking
APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 2. Achieving sustainable development.
Section 4. Decision making.
Section 5. Delivering a sufficient supply of homes.
Section 11. Making effective use of land.
Section 12. Achieving well designed places.
Section 14. Meeting the challenge of climate change, flooding and coastal change.
Section 15. Conserving and enhancing the natural environment.
Section 16. Conserving and enhancing the historic environment.

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 H23-0742-16 - Full - Proposed log cabins and touring caravan site - Refused 26 September 2016.
- 5.2 H23-1270-16 - O/A - Residential development - proposed house and garages. Refused 27 June 2017. Dismissed on appeal 26 October 2017.
- 5.3 H23-0370-17 - Full - Log Cabins and Touring Caravan Site - Re-application after refusal of H23-0742-16 - Refused 13 June 2017.
- 5.4 H23-0260-21 - Full - Erection of garden room, play room & store - retrospective - Refused 9 November 2021.
- 5.5 H23-0261-21 - Full - Temporary siting of static caravan - Refused 18 May 2021.
- 5.6 H23-0733-22 - Full - Change of use of grassland to paddocks for grazing and erection of stables - part retrospective - Under consideration.

6.0 REPRESENTATIONS

6.1 Whaplode Parish Council

No comments received.

6.2 LCC Highways

Does not wish to restrict the grant of permission.

6.3 South Holland Internal Drainage Board

No comments.

6.4 Public

Objections received (summarised):

Breaking planning laws; Contrary to policy; Set precedent; Visual eyesore; Noise/disturbance; Anti-social behaviour; Public health concerns.

Letter received raising no objections because the caravan is not close to residential property and the occupants are generally quiet.

6.5 Information from Applicants' Agent

It is fully accepted that the location of a residential caravan is not wholly in accordance with Local Plan policy in terms of location. However, the Council is respectfully asked to take into consideration the personal circumstances of the applicants (see Supporting Statement) and the request that the permission is made personal to them so that when their occupation ends, the use of the caravan for residential purposes would cease.

The caravan on the site is not a permanent feature and is not a convoluted attempt to establish some kind of residential use of the land. It was an emergency solution to the applicants' profound personal circumstances at the time. The Council is asked to take into consideration the lack of harm and the nature of the surrounding residential uses which is not affected at all by the caravan on this site.

The Council is asked to note that residential development for 2 dwellings (H23-0211-19), was relatively recently permitted very close to the site. This was not policy compliant however arose out of an extant permission for the site. However, it is considered that it could be justified in planning policy terms due to the lack of harm and it was a positive addition to existing domestic dwellings in that immediate area. Also, in the absence of any flood risk or highways concerns, was likely considered acceptable despite falling outside of the development boundary. This application is temporary in nature with no long term affects.

In terms of the planning balance, it is suggested that the benefits of the proposal and the lack of harm tilts the planning balance in favour of an approval, especially on the basis of the personal nature of the permission.

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

7.2 The main issues in this case are:

- Policy/whether the proposal constitutes sustainable development;
- Heritage issues;
- The likely impact upon the amenity of nearby residents;
- Highway safety;
- Other material considerations such as flood risk and drainage.

7.3 Policy/Sustainability

7.4 Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

7.5 The site is outside a defined settlement limit within the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore within an area regarded as countryside. Policy 1 (Spatial Strategy) of the SELLP is therefore applicable. It states that development will be permitted in the countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

7.6 In terms of part 1, the Planning Statement accompanying the application indicates that the temporary caravan is required as an emergency solution to the applicants' profound personal circumstances. Unfortunately, however, there is no necessity for the accommodation to be in this location within the countryside as opposed to within a settlement limit or on a residential

caravan site for example. Whilst personal circumstances are a material planning consideration, they carry limited weight and seldom outweigh established planning policy.

- 7.7 SELLP Policy 1 also indicates that development will be permitted if it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. The relevant criteria are discussed below:
- 7.8 Economic - The proposal would make a temporary contribution towards housing supply and future occupants may work locally, support local services and make a contribution to the local economy. However, this would be minor and not such as to justify temporary residential accommodation in this location.
- 7.9 Community/Social - The proposal is deliverable and would make a temporary contribution to the supply of housing required to meet the needs of present and future generations. It would also satisfy the applicants' temporary personal circumstances. However, it is not closely related to an existing built-up area and would not be readily accessible to existing services and facilities other than by motor vehicle. The proposal would not bring significant community benefits.
- 7.10 An Environmental Role - The site is historically part of a horticultural holding and was occupied by former glasshouses. However, it is currently grassed and has an open feel. The proposed development would constitute an intrusive residential element that would domesticate and be detrimental to the prevailing rural character of the countryside.
- 7.11 The proposal is therefore contrary to Policies 1, 2 and 3 of the SELLP and advice within the National Planning Policy Framework, 2021. Policies 2 and 3 indicate that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses. Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside. Paragraphs 124 and 130 indicate that new development should be sympathetic to and maintain an area's prevailing character.
- 7.12 Heritage
- 7.13 Westgate House (grade II listed) is situated to the north-west on the western side of the Little Lane access.
- 7.14 Policy 29 (The Historic Environment) of the SELLP suggests that proposals that do not preserve or enhance the setting of a listed building should not be supported. This is consistent with advice within the Framework. Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 indicates that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 7.15 In this case, the separation distance is considered such that the setting of Westgate House would not be affected.
- 7.16 Amenity
- 7.17 Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the Framework. Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.
- 7.18 Policy 30 of the SELLP indicates that development proposals will not be permitted where, taking into account of any mitigation measures, they would lead to unacceptable adverse impacts

upon the health and safety of the public, the amenities of the area, or the natural, historic or built environment by way of such factors as air quality, noise, light levels and land quality and condition.

- 7.19 The static caravan has a degree of separation from nearby residential property. It is considered that the proposal would not materially harm the amenity of nearby residents in terms of overlooking, lack of privacy, noise and disturbance, etc. Issues relating to anti-social behaviour and public health concerns can be addressed under separate legislation if they subsequently arise.
- 7.20 The proposal therefore satisfactorily accords with development plan policy in terms of amenity.
- 7.21 LCC Highways
- 7.22 Policies 2 and 3 of the SELLP indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 and Appendix 6 set out the minimum standards for parking provision based upon the use class. Two spaces for dwellings with 3 or less bedrooms should be provided within the curtilage. Three spaces for dwellings with 4 or more bedrooms should be provided within the curtilage.
- 7.23 The above policies are in accordance with advice within the Framework, 2021. Paragraph 111 indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.24 Two accesses can be utilised, off Millgate and Little Lane respectively, and there is ample parking on the site. LCC Highways has been consulted and has concluded that short-term occupation of this caravan would not be expected to have an unacceptable impact upon highway safety and therefore does not wish to object to this planning application.
- 7.25 Flood Risk
- 7.26 Policy 4 of the SELLP is concerned with flood risk management and states, inter alia, that new development within Flood Zones 2 and 3 should pass the sequential test and be accompanied by a site-specific flood risk assessment which should propose appropriate flood resistance and resilience measures to ensure the development maintains an appropriate level of safety for its lifetime.
- 7.27 The site lies within Flood Zone 1 defined by the Environment Agency Flood Map. The latter have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.
- 7.28 The hazard mapping within the South East Lincolnshire Strategic Flood Risk Assessment indicates that the site is within an area categorised as no hazard if a breach of the flood defence were to occur. The site is therefore sequentially preferable in flood risk terms.
- 7.29 The caravan is fixed on an existing base and there would not therefore be expected to be any increased surface water flood risk.
- 7.30 The proposal therefore satisfactorily accords with Policy 4 of the SELLP in terms of flood risk.
- 7.31 Other Matters
- 7.32 Reference has been made to a planning permission for residential development for 2 dwellings (H23-0211-19) elsewhere along Millgate. In response, the site adjoined the settlement limit and

was considered to be suitable, on balance, for the proposed development with particular regards to the principles of sustainable development and the protection of the rural character of the area. Each case should be assessed on its own merits.

7.33 Planning Balance

7.34 The proposed development is not considered to be necessary in this location as opposed to within a defined settlement limit. Moreover, it would cause material harm to the rural character and appearance of the area, and its low-level of accessibility would lead to considerable environmental and social harm. Taken together, these harmful effects of the scheme would amount to adverse impacts which significantly and demonstrably outweigh the modest benefits that the proposed development would deliver. Consequently, the proposed development would not comprise sustainable development.

7.35 The proposal is therefore contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019. Policy 1 indicates that development will be permitted in the countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. Policies 2 and 3 indicate that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses.

7.36 The above policies are consistent with advice within the National Planning Policy Framework, 2021. Section 2 is geared towards the achievement of sustainable development. Paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside. Paragraphs 124 and 130 indicate that new development should be sympathetic to and maintain an area's prevailing character.

7.37 Although personal circumstances are a material consideration they carry limited weight and do not outweigh established planning policy in this case.

7.38 Conclusion

7.39 For the reasons outlined above the planning balance is not in favour of the proposal, which is contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019.

7.40 **Additional Considerations**

7.41 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.

7.42 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.

8.0 **RECOMMENDATIONS**

8.1 **Refuse permission for the reasons set out at Section 9.0 of the report.**

9.0 **REASONS FOR REFUSAL**

1. The proposed development is not necessary in this countryside location, which is not closely related to an existing settlement limit and is not readily accessible to existing services and facilities other than by motor vehicle. Moreover, the site is currently grassed and has an open feel. The proposed development would constitute an intrusive residential element that would domesticate and be detrimental to the prevailing rural character of the countryside. Taken together, these harmful effects of the scheme would amount to adverse impacts which significantly and demonstrably outweigh the benefits that the proposed development would deliver. Consequently, the proposed development would not comprise sustainable development.

The proposal is therefore contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 indicates that that development will be permitted in the countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. Policies 2 and 3 of the SELLP indicate that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses.

The above policies are consistent with advice within the National Planning Policy Framework, 2021. Section 2 is geared towards the achievement of sustainable development. Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside. Paragraphs 124 and 130 indicate that new development should be sympathetic to and maintain an area's prevailing character.

Although personal circumstances are a material consideration they carry limited weight and do not outweigh established planning policy in this case.

2. Note - The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

3. Note - The determined plans are:
PEMG 001
PEMG 002
Photograph of Caravan

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A Plan A

