

Development Management Delegated Decision Report

B/22/0116



SUMMARY OF APPLICATION			
Application Reference	B/22/0116		
Application Type	Full Planning Permission		
Proposal	Application under s73 for the variation of condition 12 (Garage) to allow the siting of a static caravan until dwelling is built of planning permission B/21/0197		
Location	Land at Chapel Road, Old Leake, Boston, PE22 9PP		
Applicant	Mr & Mrs S Mackay		
Agent	Mr Adrian Fox, AF Architecture		
Received Date:	17-Mar-2022	Consultation Expiry Date:	05-May-2022
Valid Date:	05-Apr-2022	Statutory Expiry Date:	31-May-2022
Date of Site Visit:	12-May-2022	Extension of Time Date:	Not applicable
Objections received?	None		
5 day notification record: Not applicable			
	Councillors notified	Date	Response received – date
Recommendation	Approve with conditions		
Report by:	Simon Eldred		
Date:	19 th May 2022		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located on the western side of Chapel Road, Leake Commonside, and contains several outbuildings, a static caravan, and building materials. There are existing dwellings to its north, south and east, and agricultural land to its west.

DETAILS OF PROPOSAL:

Full planning permission (B/21/0197) was granted on 29th July 2021 for the construction of a new detached dwelling and garage. The garage was intended to be used as temporary accommodation whilst the dwelling was being built, and Condition 12 attached to the planning permission reads:



“The use of the garage to provide residential accommodation shall cease after a period of 12 months after which it shall only be used for purposes incidental to the enjoyment of the dwellinghouse hereby approved.

Reason: To ensure that the garage is used for purposes incidental to the enjoyment of the dwelling and would not lead to an unacceptable form of permanent residential development that would detract from the character of the area in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).”

The current application indicates that *“things have changed and due to delays in obtaining building materials for the garage and their family home sale going through earlier than expected they have decided to live in a static caravan on the site instead.”* Consequently a variation is sought to wording of Condition 12, and the application form suggests the substitution of the words *“static caravan”* for *“garage”*.

The application is accompanied by drawings showing the siting of a static caravan (measuring approximately 11.4m x 3.1m in plan and 3.1m high) towards the site’s south-western corner.

RELEVANT HISTORY:

- B/19/0239 – outline planning permission was granted on 4th October 2019 for residential development (up to 2 dwellings) following demolition of existing agricultural buildings.
- B/21/0197 – full planning permission was granted on 29th July 2021 for the demolition of existing outbuildings and construction of a new detached dwelling and garage, including change of use of agricultural land to proposed domestic curtilage.
- B/21/0197/CD1 – details relating to Conditions 4, 5, 8 and 11 of B/21/0197 were approved on 11th May 2022.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

The **South East Lincolnshire Local Plan 2011-2036** shows the majority of the application site as being within Leake Commonsides’s Settlement Boundary, and western parts as being within the Countryside. The following policies are relevant to this application:

- Policy 1 – Spatial Strategy;
- Policy 2 – Development Management;
- Policy 3 – Design of New Development; and
- Policy 4 – Approach to Flood Risk.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2021)

At the heart of the 2021 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 2 – Achieving sustainable development;
- Section 4 – Decision-making;
- Section 12 – Achieving well-designed places; and
- Section 14 – Meeting the challenge of climate change, flooding and coastal change.

CONSULTATION RESPONSES:

Boston Borough Council's Environmental Health department indicates that it has no objections, subject to a condition to limit the time during which the caravan can be stationed and used.

Old Leake Parish Council supports the proposal.

The Witham Fourth District Internal Drainage Board indicates that:

- the *"Board's Byelaw consent is required to directly discharge surface water to a watercourse (open or piped). A surface water development contribution (SWDC) will be charged on all rates of discharges. Please refer to the Board's Development & Consent Control Guidance for more information: <https://www.w4idb.co.uk/resources/document-library/consent-forms-and-guidance/>*
- *Board's Byelaw consent is required to discharge treated water to a watercourse (open or piped)*
- *Board's Section 23 consent is required to culvert, pipe, or bridge any watercourse riparian or Board maintained*
- *if there is any change to the surface water or treated water disposal as stated in the application, please contact the Board to discuss the new arrangements."*

Lincolnshire County Council (the Local Highway and Lead Local Flood Authority) considers that the proposal would not be expected to have an unacceptable impact upon highway safety, and therefore indicates that it has no objections.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

Section 73 of the Town and Country Planning Act instructs a Local Planning Authority to consider only the question of the planning condition's subject. If it is considered acceptable, the LPA can grant permission accordingly, i.e. with or without the imposition of a condition. If the LPA decides that planning permission should be granted subject to the same conditions as those to which the previous permission was granted, it should refuse the application.

Given the decision of planning permission B/21/0197, the site's residential development has already been judged to be acceptable. Section 73 directs the LPA to consider only the question of the condition's subject. In this case, the application seeks to vary Condition 12 to allow temporary accommodation within a static caravan rather than in the garage. As such, the key considerations in regard to this application are:

- impacts on the character and appearance of the area;
- impacts on neighbours' amenity; and
- flood risk.

Character of the area

Policy 2 of the Local Plan indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area.

At the site visit, it was apparent that the static caravan is already in place and it was noted that it is of a modest size and located approximately 22m from public vantage points. It was also noted that the surrounding area has a strongly residential character, and that the caravan does not appear at all out-of-place or alien in this context.

In all, it is considered that the caravan has no harmful impacts upon the character and appearance of the area, and that it therefore meets these requirements of Policy 2.

Neighbours' amenity

Policies 2 and 3 of the Local Plan require the amenity of neighbouring land users to be protected.

The static caravan is modest in size and is located to preserve significant separation from nearby dwellings. Consequently it is considered that there will be no adverse impacts upon neighbours in terms of overshadowing, loss of light or harm to outlook. The caravan has window and door openings in most of its elevations but, given the separation distances involved and intervening outbuildings and boundary treatments, it is not considered that neighbouring dwellings will suffer unacceptably severe impacts in terms of overlooking or loss of privacy.

In all, it is considered that the caravan has no unacceptably severe harmful impacts upon neighbours' amenity, and that it therefore meets these requirements of Policies 2 and 3.

Flood risk

Policy 4 of the Local Plan seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere. With respect to caravans, the Policy indicates that *"caravans ... intended for permanent residential use will not be permitted in areas at risk of flooding."*

The application is accompanied by a Flood Risk Assessment which identifies potential sources of flooding and severity of flood risk and indicates that:

- the site is within Flood Zone 3 and is exposed to a low risk of flooding;
- the site has a hazard rating of 'danger for most', and is exposed to potential flood depths of between 0.25m and 0.5m;
- the finished floor level of the caravan is 0.65m above ground level; and
- an Emergency Plan will be produced outlining the procedures to be followed in the event of flooding (including instructions for registering with the Environment Agency's automated flood warning system).

The suggested variation to Condition 12 involves the occupation of the caravan only for a temporary period and, given the flood resistance measure (floor level above predicted flood depth) and flood warning and evacuation procedures proposed, it is considered that the proposal meets these requirements of Policy 4.

CONCLUSION:

When compared to the existing approval, the proposed change is minimal and will be of no greater detriment. No consultees have objected.

However, the rewording of Condition 12 suggested on the application form does not appear to properly address the circumstances of the development. The application form

suggests re-wording Condition 12 to read *“the use of the static caravan to provide residential accommodation shall cease after a period of 12 months after which it shall only be used for purposes incidental to the enjoyment of the dwellinghouse hereby approved.”*

However, it is understood from a conversation with the applicant on the site visit, that the static caravan:

- is likely to be required for a period of perhaps 36 months (i.e. significantly more than 12 months); and
- will be removed from the site once the construction of the dwelling is complete (i.e. it will not remain on site to be ‘used for purposes incidental to the enjoyment of the dwelling’).

Thus, it is considered that the condition should read:

“The static caravan shown on Drawing No. 21/198/Pr-02 Revision D (Proposed Site Plan) and Drawing No. 21/198/Pr-10 (Static Caravan (Temp Accommodation) Plans and Elevations) shall be removed from the site upon occupation of the dwelling.”

Planning conditions have been re-imposed where necessary.

RECOMMENDATION:

GRANT Planning Permission subject to the following conditions and reasons:-

CONDITIONS / REASONS			
Pre-commencement conditions?		Agreed with applicant/agent - Date:	
1. The development hereby permitted shall be begun before the expiration of the previous permission reference B/21/0197.			
Reason: To ensure this approval ties in with the time limit of the original permission which was required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.			
2. The development hereby permitted shall be carried out in strict accordance with the applications received on 22-Apr-2021 (B/21/0197) and 17-Mar-2022 (B/22/0116) and in accordance with the associated plans referenced:			
<ul style="list-style-type: none"> • 21-198-EX-01 A Existing OS Location and Block Plans; • 21/198/Pr-01 Rev A Proposed Block Plan; • 21/198/Pr-02 Rev D Proposed Site Plan; • 21/198/Pr-03 Rev B Proposed Floor Plans; • 21/198Pr-04 Rev A Proposed Sections and Roof Plans; • 21/198/Pr-05 Rev B Proposed Elevations; • 21/198/Pr-06 Proposed Garage; and • 21/198/Pr-10 Static Caravan (Temp Accommodation) Plans and Elevations. 			

Reason: To ensure the development is undertaken in accordance with the approved details, in accordance with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2011-2036) and with the intentions of the National Planning Policy Framework (2021).

3. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) AF Architecture, March 2021 and the following mitigation measures detailed within the FRA:

- Raise finished floor level of the new proposed dwelling 0.5m above ground to 2.5m AOD;
- Demountable flood barriers to a height of 600mm above finished floor levels shall be fitted on all external doorways;
- Flood resilient construction techniques shall be incorporated to a minimum height of 300mm above predicted flood depth.

The mitigation measures shall be fully implemented prior to occupation and subsequently remain in place thereafter.

Reason: To reduce the risk of flooding to the proposed development and future occupants, in addition to providing the appropriate level of protection in accordance with the National Planning Policy Framework 2021 and Policies 2 and 4 of the South East Lincolnshire Plan (2011- 2036).

4. The development shall be carried out in accordance with the scheme for disposal of foul and surface water submitted under B/22/0197/CD1 on 17/3/22 and contained within 'Information for Discharge of Conditions' produced by AF Architecture, unless alternative details are submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere, and that adequate measures are put in place for the disposal of foul and surface water in accordance with the requirements of Policies 2 and 4 of the South East Lincolnshire Local Plan (2011-2036).

5. The development shall be carried out in accordance with the Biodiversity Enhancement Plan, by Inspired Ecology, submitted under B/22/0197/CD1, received 17/3/22, unless alternative details are submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the natural environment in accordance with Policy 28 of the South East Lincolnshire Local Plan (2011-2036)

6. The development hereby approved shall be carried out in full accordance with the precautionary measures (including their timetable for implementation) detailed within the approved Ecology and Protected Species Survey (Inspired Ecology Ltd, May

2021) in regard to bats, birds, amphibians, reptiles, badgers, other ground mammals, water voles and removing Cotoneaster specimen from the site during the construction of the approved development.

Reason: In the interests of the natural environment in accordance with Policy 28 of the South East Lincolnshire Local Plan (2011-2036).

7. If development has not commenced within 12 months of the date of this permission, prior to the commencement of development the building(s) shall be re-surveyed for the presence of protected species and if present, a scheme of mitigation shall be submitted to the Local Planning Authority for approval in writing. The development shall be undertaken in accordance with the scheme of mitigation.

Reason: In the interests of protected species and to accord with the Wildlife and Countryside Act 1981 (as amended), the National Planning Policy Framework 2021 and Policy 28 of the South East Lincolnshire Local Plan (2011-2036).

8. The development shall be carried out in accordance with details of the design and materials to be used for the external walls, windows, doors and rainwater goods contained within 'Information for Discharge of Conditions' produced by AF architecture and received 17/3/22 under B/22/0197/CD1.

Reason: To ensure the new building is in keeping with the character of the area in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036)

9. The proposed gates to the new dwelling on Chapel Road are to be set back 5.0 metres from the nearside carriageway edge to ensure calling vehicles can manoeuvre off the highway without causing an obstruction to other highway users when opening the gates

Reason: In the interests of highway safety in accordance with Policy 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

10. The water consumption of the dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and Policy 31 of the South East Lincolnshire Local Plan (2011-2036).

The person carrying out the work must inform the Building Control Body that this duty applies.

A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling.

Reason: To protect the quality and quantity of water resources available to the district. This condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan (2011- 2036).

11. The static caravan shown on Drawing No. 21/198/Pr-02 Revision D (Proposed Site Plan) and Drawing No. 21/198/Pr-10 (Static Caravan (Temp Accommodation) Plans and Elevations) shall be removed from the site upon occupation of the dwelling.

Reason: To prevent an unacceptable form of permanent residential development that would detract from the character of the area, in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan 2011-2036.

12. If, during development, contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure all contamination within the site is dealt with in accordance with Policy 30 of the South East Lincolnshire Local Plan (2011-2036).

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE

STATEMENT OF PROACTIVE WORKING:

In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2021 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

The Witham Fourth District Internal Drainage Board indicates that:

- the Board's Byelaw consent is required to directly discharge surface water to a watercourse (open or piped). A surface water development contribution (SWDC) will be charged on all rates of discharges. Please refer to the Board's Development & Consent Control Guidance for more information: <https://www.w4idb.co.uk/resources/document-library/consent-forms-and-guidance/>
- Board's Byelaw consent is required to discharge treated water to a watercourse (open or piped)
- Board's Section 23 consent is required to culvert, pipe, or bridge any watercourse riparian or Board maintained
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