

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Development Manager

**To:** Planning Committee - 15 January 2020

**(Author:** Lucy Buttery - Principal Planning Officer)

**Purpose:** To consider Planning Application H14-0029-19

**Application Number:** H14-0029-19

**Date Received:** 10 January 2019

**Application Type:** FULL

**Description:** Use of land to site 4 static caravans for seasonal workers

**Location:** Small Drove Lane West Pinchbeck Spalding

**Applicant:** E M Cole (Farms) Ltd

**Agent:**

R Boor Draughtsman

**Ward:** Pinchbeck and Surfleet

**Ward Councillors:**

Cllr S A Slade  
Cllr J Avery  
Cllr E J Sneath

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

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H14-0029-19>

### **1.0 REASON FOR COMMITTEE CONSIDERATION**

1.1 Objections received and policy issues merit Committee consideration.

### **2.0 PROPOSAL**

2.1 This is a Full planning application for the use of land to site 4 static caravans for seasonal workers at E M Cole Farms Ltd, Small Drove Lane, West Pinchbeck.

2.2 Currently there are 16 full time employees at the premises with 16 to 20 additional seasonal migrant full time workers. At peak times, the applicant advises that the migrant labour can be supplemented with 25 to 30 agency workers. The intention is that siting the caravans on site would enable the business to increase their seasonal migrant workforce by 12 people.

2.3 It is proposed that the four 4-person static caravans would be sited adjacent to an existing glass house on a grassed area that is not currently utilised. A new hedgerow would be planted along the road as screening. The caravans would be raised by 1m as a flood mitigation measure.

### **3.0 SITE DESCRIPTION**

3.1 The site is a small grassed parcel of land within a wider horticultural establishment. There is a large glasshouse immediately to the west/south-west. There is agricultural land to the north which is separated by a drain. Pallets are stored on land to the east and there is a gravelled parking area to the south.

### **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.

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

### National Guidance

#### National Planning Policy Framework (NPPF), 2019

Section 6 - Building a strong, competitive economy  
Section 12 - Achieving well-designed places  
Section 14 - Meeting the challenge of climate change, flooding and coastal change

#### Planning Practice Guidance (PPG)

## 5.0 RELEVANT PLANNING HISTORY

5.1 H14-0292-10 - Certificate of Lawful Use - Use of two caravans for accommodating seasonal workers for approximately six months of each year - Approved December 2011.

5.2 H14-0291-10 - Full planning application - Siting of two mobile homes for use of approximately 6 months of each year to accommodate seasonal workers - Approved July 2010.

## 6.0 REPRESENTATIONS

### 6.1 Pinchbeck Parish Council

Support.

### 6.2 LCC Highways/SUDS

Does not wish to restrict the grant of permission.

### 6.3 SHDC Environmental Protection

No comments or objections.

### 6.4 SHDC Private Sector Housing Community and Neighbourhood Services

No observations or objections.

### 6.5 Black Sluice Internal Drainage Board

No objections.

### 6.6 Environment Agency

Objection in principle (due to location within Flood Zone 3) and advises that proposal is contrary to advice within the South East Lincolnshire Standing Advice Matrix (2016) (specifically cell D6). Mitigation is required in the form of level for level flood compensation.

### 6.7 Public (1 Objection - summarised)

- Loss of privacy
- Impact on character of area with no screening of caravans
- Concern regarding impact on highway safety and condition of Small Drove Lane
- Impact on security of property
- Additional noise and disturbance
- Over expansion and development of existing farm.

## 7.0 CONSIDERATIONS

### 7.1 Planning Considerations

7.2 The key issues in respect of this application are:

- Principle
- Flood Risk
- Residential Amenity
- Impact upon Character and Appearance of the Area and Overdevelopment
- Highway Safety

### 7.3 Principle

7.4 The site is not located within any settlement boundary as set out in the South East Lincolnshire Local Plan (2019) (SELLP) and is, therefore, classed as being in the countryside in planning policy terms. Policy 1 of the Local Plan states that development in the countryside will only be permitted 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. The proposal is intended to meet the needs of the farm business which it would be immediately adjacent to.

7.5 Paragraph 83 of the National Planning Policy Framework (2019) stresses that planning policies and decisions should enable the sustainable growth and expansion of all types of businesses in rural areas. It should be recognised that sites to meet local business needs may have to be found adjacent or beyond existing settlements. This is especially considered to be the case in conjunction with agriculture.

7.6 Criteria that are commonly used to assess whether transient agricultural workers accommodation is required include the following:

- 1) Essential and proven need - The applicant has provided information satisfactorily demonstrating that temporary accommodation is required on site to meet the needs of the business going forwards;
- 2) Commensurate with the needs of the holding - 4 statics to accommodate 12 workers are considered commensurate to the needs of the business given the number of agency workers that can be employed at peak times;
- 3) Temporary accommodation - The accommodation proposed is for seasonal workers and is not permanent;
- 4) Character of area - The existing hedging along the eastern boundary of the wider site is to be retained and extended northwards along the eastern edge of the field to the north. It is considered that this would provide sufficient screening;
- 5) Satisfactory standard of accommodation and regular transport - The following facilities would be provided by the applicants for the migrant workers: laundry facilities; bicycles; and weekly transport to shops or leisure activities. The site is currently grassed and the area around the caravans will remain so for use by occupants. Picnic tables will be provided adjacent to the caravans for the occupants as already provided for the existing caravans on site. The standard of accommodation and facilities associated with it are considered sufficient to cater for the scale of the development proposed;
- 6) Existing dwellings - There are presently no buildings on or adjoining the site that are available for use or suitable for conversion to residential use.

- 7.7 In addition, permission has previously been granted (under application reference H14-0291-10) for the siting of two caravans for seasonal workers on another part of the E M Coles site off Small Drove Lane. This permission was granted on a temporary basis (3 years). In the course of dealing with this present application it has been identified that that particular permission lapsed in July 2013, however it demonstrates that the siting of caravans in this location has previously been deemed acceptable and the applicant is to be asked by the Planning Enforcement team to submit a new planning application to regularise the situation. There are also two other caravans for seasonal workers on the premises which have the benefit of a Certificate of Lawful Use (approved in December 2011 under ref. H14-0292-10), thus the total number of caravans on site being 4.
- 7.8 Given the above, the proposed development is considered, on balance, to comply with the provisions of Policy 1 of the Local Plan.
- 7.9 Flood Risk
- 7.10 The site in question is located within Environment Agency Flood Zone 3 and the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) identifies that the site would be exposed to flood depths of up to 1m in depth with hazard classified as 'danger for most'. In a fluvial scenario such as this, and where any caravans are proposed to be located in Flood Zone 3, the Environment Agency object in principle.
- 7.11 However, in this instance, it is considered that there is sufficient justification to override the Environment Agency's objection. The reasons for this are set out below in the context of the NPPF.
- 7.12 The NPPF requires the application of the Sequential Test to steer new development to areas with the lowest probability of flooding. If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.
- 7.13 The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) is the basis for applying the Sequential Test. This concludes that the vast majority of South Holland District is in Flood Zones 2 and 3. Therefore, consistent with wider sustainability objectives, it is not realistically possible to direct all development to zones with a lower probability of flooding. Furthermore, National Planning Practice Guidance states that a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.
- 7.14 As the vast majority of South Holland District is in Flood Zones 2 and 3, the SFRA outlines a methodology whereby the SFRA hazard and depth maps (in that order) are to be utilised when determining flood risk and applying the sequential test. Using this methodology it is possible to use the information to steer development towards the areas of lower flood risk as advised within Section 14 of the NPPF. Given that the proposal is for caravans to be occupied by workers of E M Cole Farms Ltd, it is considered that it would be reasonable to restrict the search for alternative sites to the immediate surrounding area. The applicant has suggested 4 possible alternative sites. Two of these sites are in the same hazard zone and are, therefore, not sequentially preferable. The other two are within a lower hazard zone, however the development of these would have more of an impact on the landscape due to greater visual prominence by virtue of less screening and would result in the loss of currently farmed agricultural land. It is considered that these would, therefore, conflict with wider sustainability objectives.
- 7.15 National Planning Practice Guidance (NPPG) sets out the flood risk vulnerability classification for a variety of uses. Caravans intended for permanent residential use are classed as 'highly vulnerable', whilst short-let caravans are classed as 'more vulnerable'. Given that the applicant's intention is to use the caravans for seasonal workers (thus not being 'permanent' residential accommodation), it is considered that the proposal could fall under the 'more vulnerable' classification. The NPPG states that the Exception Test should be applied to more vulnerable uses proposed within Flood Zone 3a. There are 2 parts to the Test. The first part requires the proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk. The second part requires the proposed development to show that it will

be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

- 7.16 In terms of the first part of the Test, Paragraph 8 of the National Planning Policy Framework (2019) sets out the overarching three sustainable development objectives for planning: economic; social; and environmental. The following has been submitted in support of the application in terms of sustainability benefits that are considered to apply.

*Economy:*

- At present, agency staff are employed due to a lack of local workers and migrant labour to directly employ. Agency staff is presently transported from Kings Lynn and Wisbech i.e. outside the district. If the installation of the caravans is permitted, the occupants will be using local shops and facilities e.g. for food, clothing, public transport, social venues etc.  
- In respect of the applicant's business itself - If the applicant cannot provide accommodation they cannot obtain the migrant labour they need. The applicant has stated that this will definitely jeopardise future growth/expansion and that there is the possibility of the existing business going into recession.

*Social:*

The applicant has no buildings on the site that are spare or suitable for conversion to residential use. They have looked into purchasing brick and mortar dwellings for use by migrant labour but are aware of the problems that this can incur e.g.:

- Comments from local population that buying properties for migrant workers means there is less housing for locals and the resentment this can cause
- Problems in obtaining use as HMO
- Complaints from neighbours (as highlighted in the local newspapers)
- Security of property when not in use.

Having accommodation on site could be argued to overcome these concerns.

*Environmental:*

Caravans to be located in farmyard curtilage to minimise impact on the wider landscape. The proposal benefits from existing buildings and landscaping as screening (glasshouses to west, farm buildings, trees and hedging to south, to the east there is a roadside hedge which acts as screening with storage directly behind and to the north there are agricultural fields).

- 7.17 The above points in relation to economic and environmental sustainability are considered to be of merit and, as well as workers using local services and facilities, accommodating workers locally would also equally have environmental benefits by reducing that distance that must be travelled. Furthermore, it is accepted that it would provide benefits in terms of providing accommodation that would meet the needs of future transient farm workers and ensure that existing residential dwellings are retained as such as part of the housing stock. As such, on balance, it is considered that the wider sustainability benefits outweigh flood risk concerns in this instance. Part 1 of the Exception Test is therefore passed.

- 7.18 In terms of the second part of the Test, it is proposed that the caravans would be raised by 1m and be anchored to the ground. The Environment Agency have advised that level for level flood compensation measures would be required as mitigation. However, given the flat topography of the site it is anticipated that this would be difficult to achieve. The caravans would be raised on piers with the remainder underneath as a void meaning that flood water could flow beneath. On balance, this is considered to be acceptable.

7.19 Residential Amenity

- 7.20 There is no evidence to support the assertion that if the proposal were to be approved that there would be an impact upon security and increased noise and disturbance, and the nearest residential property is some 130m away. This is not, therefore, considered to be a reasonable ground for refusal.

7.21 Impact upon Character and Appearance of the Area and Overdevelopment

- 7.22 As previously discussed, it is considered that there is sufficient screening in existence around the site for there not to be a material adverse impact upon the character and appearance of the area.

7.23 The siting of 4 additional caravans on a currently un-utilised parcel of land within the farm site is not considered to be overdevelopment. Furthermore, it is preferable to them being located off-site which could result in the loss of usable high quality agricultural land.

#### 7.24 Highway Safety

7.25 The Highways Authority have not objected to the proposal and, consequently, there is not considered to be a justifiable reason for refusal on highways grounds.

#### 7.26 **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.

#### 7.27 **Conclusion**

7.28 Taking the above into account, it is considered that on balance the proposed development is acceptable. Although the Environment Agency have objected to the proposal in principle, there is considered to be sufficient justification in terms of its sustainability benefits and mitigation measures to allow the caravans to be sited in this location. Concerns surrounding the impact on residential amenity, character and highway safety are noted, however, it is not considered that there is any justifiable reason to refuse the proposed development on any of these grounds. It is considered that a temporary 3 year permission would be appropriate given the temporary nature of static caravans and to enable the Council to review the need for said units in the future.

## 8.0 RECOMMENDATIONS

8.1 **Authorised to Grant a 3-year Temporary Permission subject to those Conditions listed at Section 9.0 of this report.**

## 9.0 CONDITIONS

1. The static caravans hereby permitted shall be removed from the site at or before 3 years from the date of this permission and the site restored to its former condition before that date.

Reason: Permission has been granted on the grounds of an essential agricultural need. A temporary permission enables the Local Planning Authority to review the situation. This condition is imposed in accordance with Policy 1 of the South East Lincolnshire Local Plan, 2019.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
3493-1 Rev F

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The static caravans shall only be occupied by seasonal workers employed in horticultural/agricultural operations on land in the control of the applicants. The static caravans shall not be used as the permanent residential accommodation of any individual. The applicant shall maintain occupancy records of the static caravans, which shall be made available for inspection by the Local Planning Authority at any time.

Reason: To prevent the site being used as permanent unrestricted residential accommodation. This condition is imposed in accordance with Policy 1 of the South East Lincolnshire Local Plan, 2019.

4. The floor levels of the static caravans shall be set at 1.0m above existing ground level and the caravans shall be anchored to the ground to prevent them becoming mobile during a flood event.

Reason: To reduce the risk and impact of flooding on the development and future occupants in accordance with advice within Section 14 of the National Planning Policy Framework, 2019.

5. 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, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

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

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Background papers:- Planning Application Working File

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### Lead Contact Officer

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### Appendices attached to this report:

Appendix A Plan A

# MapThat Scale Print Title

