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| APPLICATION NO | PA/2023/1140 |
| APPLICANT | Mr Simon Smith |
| DEVELOPMENT | Planning permission for change of use of static caravan to residential (re-submission of PA/2022/2204) |
| LOCATION | Woodside Campsite, Main Street, Bonby, DN20 0PL |
| PARISH | Bonby |
| WARD | Brigg and Wolds |
| CASE OFFICER | Paul Skelton |
| SUMMARY RECOMMENDATION | Refuse |
| REASONS FOR REFERENCE TO COMMITTEE | Member 'call in' (Cllr Carl Sherwood – significant public interest) |

POLICIES

North Lincolnshire Local Plan:

H5 – New Housing Development

RD2 – Development in the Open Countryside

T1 – Location of Development

T2 – Access to Development

LC7 – Landscape Protection

DS1 – General Requirements

DS14 – Foul Sewage and Surface Water Drainage

North Lincolnshire Core Strategy:

CS1 – Spatial Strategy for North Lincolnshire

CS2 – Delivering More Sustainable Development

CS3 – Development Limits

CS5 – Delivering Quality Design in North Lincolnshire

CS7 – Overall Housing Provision

CS8 – Spatial distribution of Housing Sites

CS16 – North Lincolnshire’s Landscape, Greenspace and Waterscape

CS25 – Promoting Sustainable Transport

Housing and Employment Land Allocations Development Plan Document:

Policy PS1 – Presumption in favour of sustainable development

New North Lincolnshire Local Plan Submission: The new North Lincolnshire Local Plan was submitted for public examination to the Planning Inspectorate on 11 November 2022. Examination of the Plan has therefore commenced, although public hearing sessions are not anticipated until later in 2023.

The Submitted North Lincolnshire Local Plan can be given some weight as a material planning consideration in the determination of planning applications. The relevant policies concerning this application are:

SS1 – Presumption in Favour of Sustainable Development

SS2 – A Spatial Strategy for North Lincolnshire

SS3 – Development Principles

SS5 – Overall Housing Provision

SS6 – Spatial Distribution of Housing Sites

SS11 – Development Limits

DQE1 – Protection of Landscape, Townscape and Views

T1 – Promoting Sustainable Transport

DM1 – General Requirements

National Planning Policy Framework:

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 5 – Delivering a sufficient supply of homes

Chapter 8 – Promoting healthy and safe communities

Chapter 9 – Promoting Sustainable Transport

Chapter 12 – Achieving well-designed places

Chapter 15 – Conserving and enhancing the natural environment

CONSULTATIONS

Highways: No comments or objections.

LLFA Drainage: No objections.

PARISH COUNCIL

No comments received at time of writing.

PUBLICITY

The application has been advertised by site notice. No objections have been received from members of the public.

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Section 70(2) of the Town and Country Planning Act states that, in dealing with an application for planning permission, the local planning authority shall have regard to the provisions of the development plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations.

In this instance, the development plan consists of the saved policies of the North Lincolnshire Local Plan (NLLP) and the North Lincolnshire Core Strategy (NLCS). Other material planning policy considerations include the National Planning Policy Framework (NPPF), the emerging North Lincolnshire Plan and a suite of supplementary planning documents.

Planning history

- PA/2022/2204: Planning permission for change of use of a static caravan to residential – refused. (The current application is identical to this refused application.)
- PA/2022/743: Planning permission for two static caravans for non-residential holiday use and to install five hardstanding pitches for touring caravans – approved.
- PA/2017/476: Planning permission to change the use of land from an existing certified caravan site to a touring site to accommodate 10 caravans in total – approved.

The site and its location

The application relates to Woodside Caravan Park on the edge of Bonby. The red line for the application includes the entire caravan park, agricultural land and caravan storage. The whole site, with the exception of the access road to Main Street, is outside of, but adjacent to, the settlement boundary for Bonby. To the east are the rear gardens of properties on Main Street. To the west is a woodland, with open agricultural fields to the north and south.

The existing camping and caravan site is set around a landscaped pond in the western part of the site. The south-eastern parcel of the site appears to be in agricultural use. There is an agricultural building housing, at the time of the site visit, a small number of cattle and a goat, with a number of chickens kept in the adjacent field. This agricultural building is not shown on the plans submitted with the application.

The north-eastern parcel appears to be in storage use associated with the caravan site and also includes a building, with open land between that and the caravan site.

The proposed development

This application is for the siting of a caravan on the land for residential use by an elderly relative. Whilst the red line covers the whole of the site, the application is submitted on the basis that it proposes to retain an existing static caravan, which is sited in the location shown as 'Static Caravan No 1' ('the static caravan') on the submitted block plan.

This static caravan is in a location where planning permission has been granted for a caravan in association with the neighbouring holiday use (PA/2022/743). Nevertheless, the occupier of the caravan has advised that he has lived in it for four years and it has never been used for holiday purposes. On that basis, the static caravan has been sited and occupied for permanent residential use without planning permission.

For the avoidance of doubt, although s171B of the Town and Country Planning Act provides that enforcement action may not be taken against a use of a building as a single dwellinghouse which has subsisted for more than four years, the static mobile home is not a building, but a caravan as defined under the 1960 Caravan Act. The 10-year rule would therefore apply to the unauthorised use in this case and there is no question of it having become lawful due to the passage of time.

The applicant has advised that the caravan is occupied by an elderly relative who requires support and care following the loss of their spouse. It is advised that the relative's mental health was adversely affected by the loss of their spouse of 51 years and the applicant wanted to make sure that they were well cared for both physically and mentally. Consequently, the relative was housed on the land which was subsequently granted permission for holiday use, where the applicant could 'keep an eye on him/look after him'.

The key issues to be considered in determining this application are the principle of development; landscape impact; living conditions; and highway safety.

The principle of development

The site is outside the settlement boundary of Bonby, as defined by the Housing and Employment Land Allocations DPD, and is therefore classed as being in the open countryside. Bonby itself is defined as a 'smaller rural settlement' and is ranked 34th overall in the 2019 Settlement Survey, scoring 23 points, and hosting three of the seven key indicators measured in the survey overall (although it is understood some of the facilities included in the survey have now closed, including the pub).

Saved local plan policy RD2 sets out that development in the open countryside will be strictly controlled. This policy only supports residential development outside defined development limits in certain circumstances, none of which apply in this case.

Core Strategy policy CS2 (Delivering More Sustainable Development) sets out that any development that takes place outside the defined development limits of settlements or in rural settlements in the countryside will be restricted. Only development which is essential to the functioning of the countryside will be allowed to take place. This might include uses such as those related to agriculture, forestry or other uses which will contribute to the sustainable development of the tourist industry. A 'sequential approach' will also be applied to ensure that development is, where possible, directed to those areas that have the lowest probability

of flooding, taking account of the vulnerability of the type of development proposed, its contribution to creating sustainable communities and achieving the sustainable development objectives of the plan.

Policies CS3 and CS8 similarly strictly limit housing development outside development boundaries to that which is essential to the functioning of the countryside.

The principle of siting a static caravan on the site was established as the 2022 permission was considered acceptable pursuant to local plan policy RD12 which allows for new camping and caravan facilities. Policy RD12 sets out, however, that conditions will be imposed on such development, where necessary, to restrict the use of the site to holiday lettings. It was considered necessary in that case because of the site's location outside of any residential development boundary, where permanent residential development is not supported. Permitting permanent residential use for one of these caravans would make it difficult to resist the change of use of holiday caravans on this site and elsewhere in the district.

In light of the above, there is a clear conflict with the development plan as the proposed development would be contrary to saved policy RD2 of the local plan and policies CS2, CS3 and CS8 of the Core Strategy.

It should be noted that the council is able to demonstrate a five-year housing land supply as identified within the North Lincolnshire Council Five Year Housing Land Supply Statement, August 2023. Therefore, full weight can be attributed to the Local Plan and Local Development Framework policies and the 'tilted balance' set out in paragraph 11(d) of the NPPF is not engaged.

In these circumstances, paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. In this case therefore, planning permission should be refused unless material considerations indicate that the development plan should not be followed in this case.

Personal circumstances

The government's Planning Practice Guidance considers whether it is appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people, and states:

'Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.'

The circumstances leading to the unauthorised occupation of the land are set out above. The applicant lives very close by, on Main Street, Bonby. Whilst, as set out above, personal circumstances will rarely prove conclusive in the determination of planning applications, no case has been made as to why alternative arrangements could not be made either on authorised residential land within the applicant's ownership (i.e. within their property) or elsewhere.

There is sympathy with the circumstances outlined by the application, however it is not considered that the circumstances are so exceptional as to warrant a departure from the council's housing policies.

Landscape impact

Local plan policy RD2 sets out that new development in the countryside should not be detrimental to the character or appearance of the open countryside or a nearby settlement in terms of siting, scale, massing, design or materials. Policies H5 and DS1 include similar criteria. Policy LC7 requires special attention to be given to the protection of the scenic quality and distinctive local character of the landscape. Development which does not respect the character of the local landscape will not be permitted.

The site is open to views when approaching the village from the south and from the dwellings that line the western side of Main Street. The caravan is clearly visible from these views as are the other caravans located on the holiday site. The use of this single caravan as a permanent dwelling would be likely to result in additional residential paraphernalia but this would be unlikely to result in significant additional landscape harm over and above the holiday use. It is considered, however, that it would be likely that a different conclusion would be reached if the entire holiday site was used for permanent residential use.

The design of the static caravan is exactly the same as that granted permission for holiday use. The layout is perhaps slightly different to what may be expected on a holiday park with the garden surrounded by post and rail fencing and with other domestic paraphernalia present. Nonetheless, given the scale of development, and its close visual association with the holiday park, the design does not in itself result in significant harm.

Living conditions

Local plan policy DS1 states, 'No unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.' Policy DS5 of the local plan requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants. Proposals should not unreasonably reduce sunlight or daylight, or result in overshadowing, overbearing impact or loss of privacy to adjacent dwellings. Policy DS11 provides that planning permission for development, including changes of use, will only be permitted where it can be demonstrated that the levels of potentially polluting emissions, do not create adverse environmental conditions likely to affect nearby developments and adjacent areas.

Whilst these policies tend to refer to the impact of new development on neighbouring uses, the intention of the policies must similarly relate to situations, such as this one, where there is potential for new development to be impacted by existing uses nearby. This is reflected in NPPF paragraph 174(e) which seeks to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution. Furthermore, paragraph 130(f) of the NPPF sets out that developments should promote health and well-being, with a high standard of amenity for existing and future users.

Whilst the pattern of use would likely be different, there would be no undue impact on the living conditions of nearby residential property as a result of the permanent residential use when compared to the holiday use.

However, there are concerns about the potential for odours impacting on the residential use of the static caravan the subject of this application. As referred to above, the static caravan is located in very close proximity to an agricultural building which houses livestock, which could give rise to harms arising from noise and air pollution associated with the agricultural use. Whilst it is recognised that the 2022 permission permitted the siting of a static caravan in this location, that was for holiday use. Whilst the agricultural use appears to be low level and could be described as ‘hobby farming’, it would not be good planning to site a caravan for permanent residential use in such close proximity to an agricultural building used for housing livestock.

However, since the previous refusal, the applicant has advised that cattle are only in situ in the shed during the winter months and then go out to pasture during summer months. The applicant has indicated a willingness to accept a condition prohibiting the use of the shed for the housing of livestock. Because the building is in the applicant’s ownership, and is within the application site, it is considered that it would be possible to impose such a condition, and this would resolve the concerns relating to living conditions.

Highway safety

Local plan policy T2 requires all development to be provided with a satisfactory access. Policy T19 is concerned with parking provision and general highway safety. The NPPF, at paragraph 110(b), requires safe and suitable access to the site to be achieved for all users. Paragraph 111 advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts would be severe.

Given the existing use of the site, and the 2022 permission, it is not considered that the increased number of movements that arise from the permanent residential use would be so material as to increase highway dangers at the site entrance onto Main Street. The Highways Officer has been consulted and raises no objection in this respect.

In light of the above, there is no objection on highway safety grounds.

Other matters

The site is within flood zone 1, the area at least risk of flooding. Drainage is proposed as per the existing permission and whilst occupation is likely to be greater, this would not have a significant impact on the disposal of surface or foul water. The LLFA raise no objection in this respect.

Conclusions and planning balance

The development conflicts with the development plan which restricts the location of new permanent residential development outside settlement boundaries. This weighs significantly against the development.

As the council can currently demonstrate a five-year supply of deliverable housing sites, given the conflict with the development plan, s38(6) of the 2004 Act and paragraph 12 of the NPPF indicate that permission should be refused unless there are material considerations which indicate that the council’s policies should not be followed in this case.

The benefits arising from the permanent residential use of the static caravan would be very limited in terms of the contribution towards housing land supply and the fact that residents

would spend money in the local area. Even these very limited benefits are tempered by the loss of holiday accommodation and the contribution that holidaymakers would make to the local economy. Whilst the personal circumstances of the applicant's elderly relative are noted, it is not considered that those circumstances justify a departure from the development plan in this case.

Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest. On balance, it is judged that the identified harms in this case, justify interference with those rights.

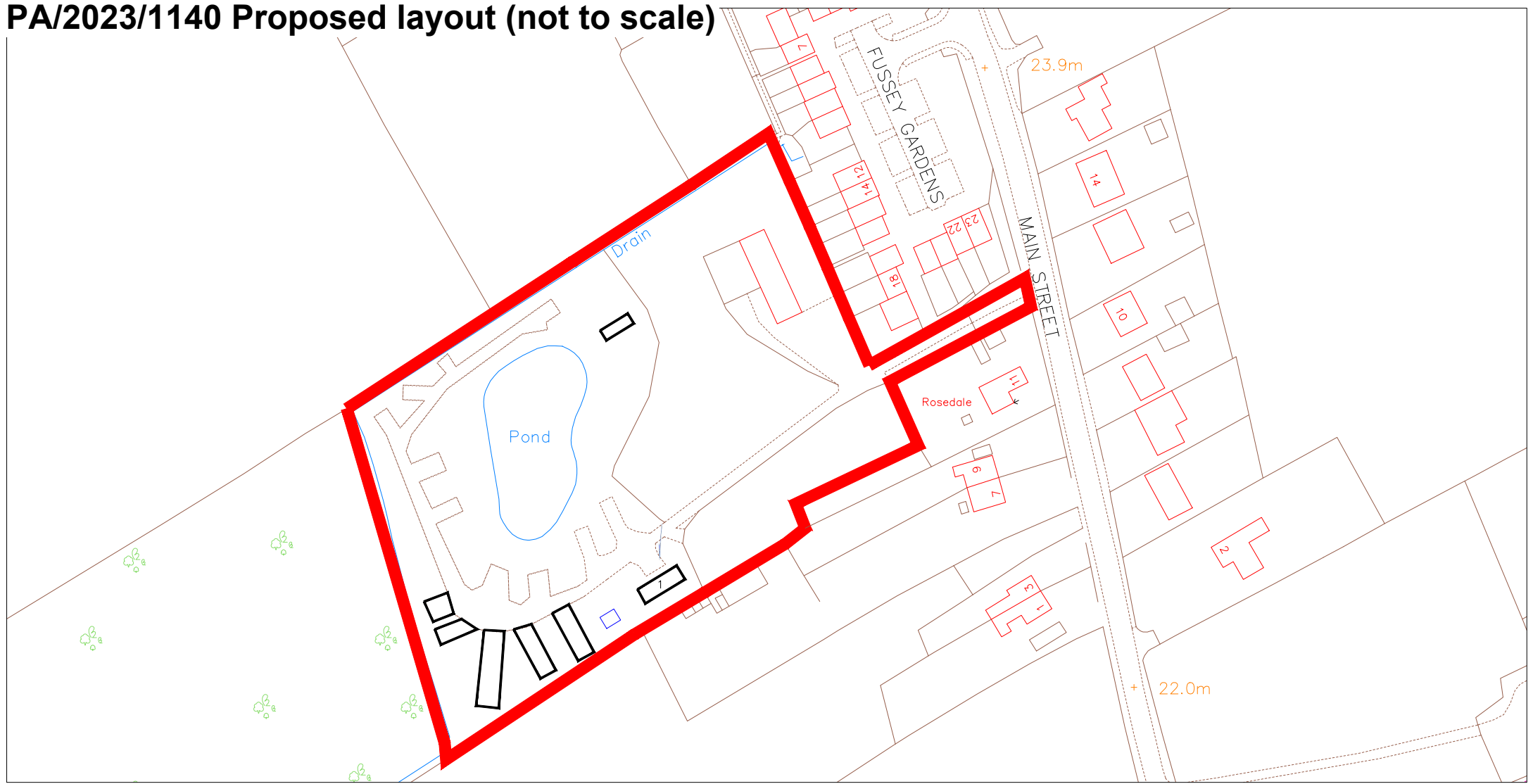
In the overall planning balance therefore, it is considered that the permanent residential use of the static caravan results in significant and demonstrable harm which clearly outweighs the very limited benefits arising from it. The application does not represent sustainable development and it is therefore recommended that permission is refused.

RECOMMENDATION Refuse permission for the following reasons:

The development is contrary to policy RD2 of the North Lincolnshire Local Plan, policies CS2, CS3, CS8 and CS25 of the North Lincolnshire Core Strategy and guidance in the National Planning Policy Framework in that the site lies outside of a defined settlement, in the open countryside.


Informative


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



PROPOSED BLOCK PLAN

KEY

 LAND OWNED BY APPLICANT
13,229m² (1.30 HECTARES)

 1
PA/2022/743 - PREVIOUSLY APPROVED APPLICATION FOR STATIC CARAVAN -
THIS APPLICATION IS RESUBMISSION OF REFUSED APPLICATION PA/2022/2204
FOR PERMANENT RESIDENCY OF ELDERLY RELATIVE



SCALE: 1 : 500 @ A1

ReQuestAPlan

Map number: PRHP562912403840

Title: LAND TO THE REAR OF No9 MAIN STREET, BONBY NORTH LINGS

Map Produced for: MR SIMON SMITH

OS Licence number: 0189175916

Date of Purchase: 06-06-2023

1 Years subscription from 06-06-2023 for 1 workstation.