

<b>APPLICATION NO</b>	<b>PA/2020/1949</b>
<b>APPLICANT</b>	Mr Chris Barrett, Brookside Caravan Park
<b>DEVELOPMENT</b>	Planning permission for the change of use of land to permit the siting of static caravans
<b>LOCATION</b>	Brookside Caravan Park, Stather Road, Burton upon Stather, DN15 9DH
<b>PARISH</b>	Burton upon Stather
<b>WARD</b>	Burton upon Stather and Winterton
<b>CASE OFFICER</b>	Mark Niland
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Member 'call in' (Cllr Elaine Marper – significant public interest) Objection by Burton upon Stather Parish Council

## **POLICIES**

### **National Planning Policy Framework:**

Paragraph 47 – Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 170 – Planning policies and decisions should contribute to and enhance the natural and local environment by:

- (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- (c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- (e) preventing 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 or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

- (f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 – When determining planning applications, local planning authorities should apply the following principles:

- (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- (c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- (d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

**North Lincolnshire Local Plan:** DS1, DS7, DS11, T2, T19, RD2, R12, H7

**North Lincolnshire Core Strategy:** CS1, CS2, CS3, CS5, CS15, CS17, CS19

## **CONSULTATIONS**

**Highways:** No objections subject to conditions.

**Anglian Water:** No objections.

**Environmental Protection:** Recommend refusal on noise grounds.

**Historic Environment Record:** No objections or further recommendations.

**Designing Out Crime Officer:** No observations.

**Ecology:** No objections subject to conditions.

**Natural England:** No objections.

## **PARISH COUNCIL**

The parish council has the following concerns if the caravan park were to be enlarged:

- the impact it would have on local residents due to over-development of the site
- the extra traffic movement and noise it would create
- the impact on the local sewerage services and utilities
- concerns about the badgers as they will stray further than anticipated.

## **PUBLICITY**

The application has been publicised by site notice in accordance with Article 15 of the Development Management Procedure Order 2015 (and subsequent revisions).

Objections have been expressed against the application centring on highways and drainage issues. However, noise/amenity and disturbance, as well as ecology and character issues, are also of concern.

## **STATEMENT OF COMMUNITY INVOLVEMENT**

The applicant has not evidenced any community consultation.

## **ASSESSMENT**

### **Planning history**

- 7/1991/0102: Change of use of land to station 20 touring caravans – refused 30/05/1991, but allowed under appeal T/APP/J2020/A/91/189199/PB
- PA/2000/0775: Planning permission to increase the number of touring caravan sites from 20 to 35 – approved 23/02/2005
- PA/2007/1341: Planning permission to change the use of land to form an extension to an existing caravan park (to provide an additional 35 caravan pitches, including a maximum of 15 static), create a new vehicular access and visitor car parking, site an additional mobile unit for use as a reception/administration office, and erect a 1.8 metre high fence – approved 05/12/2007
- PA/2016/1568: Vary condition 8 of planning permission PA/2007/1341 dated 05/12/2007 to allow the siting of 22 static caravans – approved 08/03/2017
- PA/2012/1254: Planning permission to change the use of land to permit the siting of static caravans – refused 07/11/2019
- PA/2020/276: Planning permission to change the use of land to permit the siting of static caravans – refused 15/05/2020, and dismissed under appeal APP/Y2003/W/20/3257186

### **Site characteristics**

The proposal relates to the change of use of an area of open countryside to site a further 22 static caravans. At present the site has permission to site 22 static caravans and a number of touring caravans. The touring area is located to the north of the reception building and to the west of the area allotted for static caravans. The site is located outside the defined

development limits for Burton upon Stather, within the open countryside as identified by the Housing and Employment Land Allocations DPD 2016. The site is also within the 'Trent Levels' which is identified as having landscape importance by the North Lincolnshire Landscape Character Assessment. The site is just outside but close to a functional flood plain as identified by the SFRA 2011 and close to Flood Zone 2/3a.

Effectively, the applicant is seeking to extend the site into greenfield countryside land which would double the number of static caravans at Brookside Caravan Park, utilising the existing access arrangement from Stather Road. The application has been refused on two separate occasions, the last refusal being appealed and subsequently dismissed (see planning history). However, the inspector's report is clear that only one of the reasons for refusal was upheld, namely ecology. This application has provided further information and mitigation in relation to that issue and the local planning authority, under discretionary powers set out by Section 70A of the Town and Country Planning Act 1990, has agreed to determine the application as there has been significant change since the refusal.

### **Previous reason for refusal**

1. The development would be detrimental to the character and appearance of the open countryside and the nearby settlement in terms of siting, scale, massing and design, and would not represent sustainable tourism. The proposal is therefore considered contrary to the aims of policies RD2 of the North Lincolnshire Local Plan and CS15 of the North Lincolnshire Core Strategy.
2. The development would be detrimental to the residential amenity rights of existing residents by virtue of intensification of use as a caravan site and an increase in associated vehicular trips. The proposal is considered to be contrary to policies DS1, H7 and RD2 of the North Lincolnshire Local Plan.
3. Insufficient information has been provided to make an assessment upon the ecological impacts of the development. The proposal is considered to be contrary to policies CS5 and CS17 of the North Lincolnshire Core Strategy, saved policies RD2 and R13 of the North Lincolnshire Local Plan as well as Paragraphs 170 and 175 (d) of the NPPF.
4. The applicant has failed to justify the need for an extension to the existing caravan site or that this would be of an appropriate scale, having regard to the size and type of attraction with which it is associated. The proposal is therefore considered contrary to the aims of policy R12 of the North Lincolnshire Local Plan.

### **Appeal outcome**

1. In relation to the impacts upon character and appearance the inspector states, "...I conclude, on this issue, that the proposal would have an acceptable impact on the character and appearance of the area. In this regard, the proposal does not conflict with LP Policy R12 and the thrust of Policy RD2. It is also consistent with the Framework in this regard, as stated."
2. In relation to the impacts upon existing living conditions the inspector states "...I conclude, on this issue, that the proposal would not have a significant adverse effect on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance. In this regard, the proposal does not conflict with LP Policies DS1, H7 and RD2, which among other things, require that development does not cause unacceptable loss of amenity to neighbours."

3. In relation to ecology concerns the inspector states "...therefore conclude, on this issue, that the proposal would adversely affect badgers, a protected species using the site. Thus, there is significant conflict with Policies CS17 and CS5 of the North Lincolnshire Core Strategy 2011 (CS); and Policy R13 of the North Lincolnshire Local Plan 2003 (LP), which amongst other things, seek to protect and enhance the natural assets of the district, ensure unavoidable impacts on biodiversity and wildlife are appropriately mitigated, and produce net gains in biodiversity. It would also be contrary to paragraph 170 of the Framework, which seeks to protect and enhance sites of biodiversity value, minimise impacts on and providing net gains for biodiversity. The Council also cites conflict with LP Policy RD2, but it is of limited relevance to this main issue and does not add anything that is not covered by the aforementioned policies."
4. In relation to the justified expansion the inspector states "...The Council also considers that there is a lack of clear justification for the development. My attention is drawn to LP Policy RD2, which generally seeks to strictly control development in the open countryside and ensure the impact on the countryside is minimised. In my judgement the proposal could fall under criteria ii) employment related development appropriate in the countryside. Irrespective, I give greater weight to LP Policy R12 as it specifically relates to caravan and camping facilities and indicates that these will be supported subject to a number of criteria. These include that the development is closely associated with existing recreational and tourist attractions, is an appropriate scale, and can be suitably screened. In addition, Policy CS15 of the CS is generally supportive of sustainable tourism. Paragraph 83 of the Framework seeks to enable the sustainable growth and expansion of all types of rural business, including rural tourism developments which respect the character of the countryside. For the reasons given above, the proposal complies with these policies and the Framework, so does not require further detailed justification."

### **Topics for consideration**

Following the above appeal decision, it was clear that the inspector had no issues with the three of the four reasons for refusal and only dismissed the appeal on grounds of ecology. The applicant has only made changes to the proposal that would be of benefit to protected species. The applicant has relocated some of the static caravans so that this is an exclusion zone for badger setts.

Given the outcome of the appeal, it is considered that the applicant has overcome the other reasons for refusal with only the issues of ecology necessary as part of this assessment. Of course, other mitigation is required that can be dealt with by conditions.

### **Ecology**

Policy CS17 of the North Lincolnshire Core Strategy is concerned with biodiversity and seeks to achieve a net gain whilst also protecting existing wildlife habitat networks. Paragraph 170 of the NPPF reinforces this policy setting out biodiversity management principles. Both are considered relevant. Core Strategy Spatial Objective 10, policies CS5 and CS16 and Saved Local Plan Policies LC5, LC7 and RD2 should also be considered.

Both Natural England and the council's ecologist have been consulted. Natural England has no objections to the proposal. The council's ecologist has assessed the impacts upon protected species, stating:

'I have read the preliminary ecological appraisal report (PEA). The survey methods used and the survey effort deployed are appropriate for the site in question. Although the survey work was carried out at a suboptimal time of year (November), I do not feel that a survey carried out at a more suitable time would have revealed significantly different results.

The proposal would largely affect semi-improved amenity grassland of low botanical diversity. The adjoining woodland appears to be unremarkable in habitat terms.

However, the proposal would also affect badger sett entrances that form part of a main sett that lies mostly within the adjoining woodland. This was a reason for refusal of PA/2020/276 – a decision that was upheld at appeal.

The standing advice says, "Extra surveys must be done if there are active setts or foraging grounds. Use these surveys to:

- prove that a sett is in current use;
- monitor use of the sett and determine if it's a significant sett for the group;
- estimate territorial boundaries;
- identify locations for mitigation measures.

A further badger survey has now been carried out. Whilst no attempt has been made to estimate territorial boundaries, the survey does demonstrate that the sett is active and identifies the main sett entrances (increased from one to four), badger trails and snuffle holes within the application site. The development boundary lies around 15 metres from the nearest sett entrance (at present). It is proposed that a post and rail fence should be used to provide separation between the badger sett and the static caravans.

Planning Circular 06/2005 states that, "The likelihood of disturbing a badger sett, or adversely affecting badgers' foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions."

The proposed stand-off of 15 metres from the sett is likely to be of some use, but it is not at all clear why this distance has been chosen – no evidence or justification is provided. Furthermore, with a post and rail fence, people and dogs are still likely to enter the exclusion area. A strengthened approach to badger mitigation will be required to make the proposal acceptable in terms of saved policy LC5 and the planning circular.'

The ecologist goes on to recommend conditions relating to a protected species plan and these will be attached given the comments relating to both the type of barrier and its distance from woodland are unsupported. Furthermore on this point, Natural England has no objection to the proposal. Lastly, the ecologist has carried out a determination of the likely significant effects (LSE) under the Habitats Regulations and determined that there would not be any likely significant effects upon the nearby Humber Estuary SAC/SPA/Ramsar site as a result of this development. Conditions will also be attached relating to biodiversity management in line with the aforementioned policies which seek to achieve a net gain.

## Environmental Issues

Policy DS1 is partly concerned with impacts upon residential amenity. It 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 DS11 is also concerned with pollution control and is also considered relevant.

The council's Environmental Protection team have assessed the application and recommend refusal on noise grounds. The officer states:

'The Design and Access Statement predicts the development will increase the volume of cars accessing the site during peak season and at weekends, creating a maximum of 21 additional cars per day accessing the site. However, the additional cars may come and go throughout the day, thereby potentially increasing the car movements by an unknown number in excess of 21. The additional movement of vehicles has the potential to negatively impact on the residents living either side of the access to the park and on those residents which back on to the caravans.

In the Design and Access Statement, the applicant has reported the results of an automated traffic count carried out during November 2019 in support of the application. However, this department does not consider November as a peak time and a sample over a week in winter is not representative of traffic during busier summer months. Therefore this department does not consider this sufficient evidence to support the granting of planning permission.

In addition to the above, this department has served an abatement notice on Burton Kennels, which is in close proximity to the proposed development, for noise nuisance. The kennels have a defence of best practice, this department is therefore unable to take action to prevent the noise nuisance continuing. This department is concerned that noise from the kennels will impact on the occupiers of the caravans. The location of the caravans may lead to complaints of excessive noise from the dogs barking which this department will be unable to resolve.'

However, this topic was assessed by the inspector at appeal:

'I conclude, on this issue, that the proposal would not have a significant adverse effect on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance. In this regard, the proposal does not conflict with LP Policies DS1, H7 and RD2, which among other things, require that development does not cause unacceptable loss of amenity to neighbours.'

and

'Although not part of the refusal reasons, I have noted the concerns that were raised in relation to the proximity of the caravans to the dog kennels. There is evidence that the kennels may shut down, but the potential for resumption of the use would remain. I am mindful that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. However, this appears to be an existing problem, and whilst the proposals would bring caravans closer to the kennels, there are already residential properties that are much closer. Moreover, the caravans would not be occupied as permanent residences. It is therefore not a determinative matter that warrants further examination in this appeal.'

The inspector's assessment is material to this application and given that the issues raised by both Environmental Protection and local residents have already been considered and

dismissed by an inspector, the planning assessment cannot support a reason for refusal in relation to impacts upon amenity through occupational noise, noise during construction or noise and disturbance through vehicle movements. The proposal is therefore considered to accord with both policies DS1 and DS11 of the North Lincolnshire Local Plan. Conditions are proposed to ensure the static caravans do not become permanent units of residential accommodation.

## **Conclusion**

The only reason for refusal upheld by the inspector was on ecological grounds. This matter has been overcome and the council's ecologist and Natural England have no objections. Conditions are recommended in respect of this matter relating to protected species and biodiversity. Further conditions are recommended to ensure that the caravans are not used for permanent residence and relating to highway issues.

## **Pre-commencement conditions**

The pre-commencement condition included in the recommendation has been agreed with the applicant.

## **RECOMMENDATION      Grant permission subject to the following conditions:**

1.  
The development must be begun before the expiration of three years from the date of this permission.

### **Reason**

To comply with section 91 of the Town and Country Planning Act 1990.

2.  
The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Plan IP/BC/02 dated DEC 20.

### **Reason**

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

3.  
The use of the site shall be for short-term holiday lets only and no caravan shall be occupied on the application site for more than 28 consecutive days in any 12 month period.

### **Reason**

The site is for holiday lettings only and is inappropriate for permanent residential development, in accordance with policies DS1 and RD2 of the North Lincolnshire Local Plan.

4.  
No caravan on the application site shall be occupied between 1 December and 31 January.

### **Reason**

The site is for holiday lettings only and is inappropriate for permanent residential development, in accordance with policies DS1 and RD2 of the North Lincolnshire Local Plan.

5.

At no time shall the site marked by the red line boundary on the location plan exceed 21 static caravan pitches.

**Reason**

To define the terms of the permission and protect the open countryside, and for reasons relating to protected species, in accordance with policies DS1, RD2 and LC5 of the North Lincolnshire Local Plan.

6.

No development shall take place until a species protection plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- (a) details of measures to avoid harm to hedgehogs, badgers and nesting birds during demolition, vegetation clearance and construction works;
- (b) details of dog-proof fencing, signage and site rules to minimise disturbance to badgers and other wildlife.

**Reason**

To conserve and enhance biodiversity in accordance with policies LC5 of the North Lincolnshire Local Plan and CS17 of the Core Strategy.

7.

Within three months of the commencement of development, the applicant or their successor in title shall submit a biodiversity management plan to the local planning authority for approval in writing. The plan shall include:

- (a) details of bat roosting features to be installed;
- (b) details of nesting sites to be installed to support a variety of bird species;
- (c) restrictions on lighting to avoid impacts on badger setts and foraging areas, bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
- (d) prescriptions for the planting and aftercare of native trees and shrubs of high biodiversity value;
- (e) details of how the measures proposed will provide at least 10% biodiversity net gain in accordance with the Defra biodiversity metric 2.0;
- (f) proposed timings for the above works in relation to the installation of static caravans.

**Reason**

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

8.

The biodiversity management and species protection plans shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter,

unless otherwise approved in writing by the local planning authority. Prior to the installation of the 20th static caravan, the applicant or their successor in title shall submit a report to the local planning authority providing evidence of compliance with the biodiversity management plan and species protection plan.

**Reason**

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

9.

Prior to the laying of any hard-standing for the pitching of static caravans, a surface water drainage strategy shall be submitted to and agreed in writing with the local planning authority. The approved drainage scheme shall then be implemented in accordance with the agreed details prior to the first occupation.

**Reason**

To prevent the increase in flooding to themselves and others and to accord with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the Core Strategy, and paragraphs 155, 157, 163 and 165 of the National Planning Policy Framework.

10.

The service road shown on the site layout plan shall be laid, sealed and hardened prior to the first occupation.

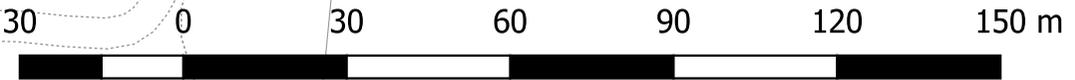
**Reason**

In the interests of highway safety and to accord with policies T2 and T19 of the North Lincolnshire Local Plan.

**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.

 Development Boundary



# Burton Stather

Brookside  
Country Park

STATHER ROAD

Kennels

**North  
Lincolnshire  
Council**

**PA/2020/1949**

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# PA/2020/1949 Existing and proposed caravans (not to scale)



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CLIENT  
**Brookside Caravan Park**  
Stather road  
Burton Upon Stather  
DN15 9DH

JOB TITLE  
Caravan Expansion

DWG. TITLE  
Location Plan A3

SCALE 1=1250

DRN SH

DWG. NUMBER  
**IP/CB/01**

DATE Dec 20

REV -