

**AGENDA ITEM NO: 8/2(g)**

<b>Parish:</b>	<b>West Walton</b>	
<b>Proposal:</b>	<b>Retrospective application for regularisation of use of land to residential, associated with lawful use of residential mobile home, boundary walling and gates along site frontage, and erection of domestic store</b>	
<b>Location:</b>	<b>Clark's Paddock 154 Salts Road West Walton PE14 7ED</b>	
<b>Applicant:</b>	<b>Hereward Services Limited</b>	
<b>Case No:</b>	<b>21/02158/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Bradley Downes</b>	<b>Date for Determination: 30 December 2021 Extension of Time Expiry Date: 10 June 2022</b>

**Reason for Referral to Planning Committee** – Parish Council response contrary to officer recommendation and Sifting Panel referred to Planning Committee

**Neighbourhood Plan:** No

**Case Summary**

The application is retrospective for the change of use of agricultural land to residential garden in association with mobile home. Also for the erection of 2m access gates and brick piers, and erection of domestic storage building to the rear. The site lies in the countryside on the east side of Salts Road. The mobile home has the benefit of a Lawful Development Certificate granted in 2002.

**Key Issues**

Principle of development  
Impact on character and appearance of the countryside  
Impact on amenity of neighbouring occupiers  
Any other material considerations

**Recommendation**

**APPROVE**

**THE APPLICATION**

The application is retrospective for the change of use of agricultural land to residential, erection of 2m access gates and with 1.5m brick walling, and erection of domestic storage building to the rear. The site lies in the countryside on the east side of Salts Road.

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The mobile home has the benefit of a lawful development certificate granted in 2002 under 2/01/1570/LD for the use of the land as a caravan site for not more than 1 caravan. The proposed development is in connection with the existing lawful use.

## **PLANNING HISTORY**

2/01/1570/LD: Application Permitted: 27/05/02 - Retention of residential caravan - Land Adj Dulce Domun, 140 Salts Road, West Walton

## **RESPONSE TO CONSULTATION**

### **Parish Council: OBJECT**

Object for following reasons:

- The development of this site is a breach of planning control. To have carried out development without the required planning permission appears to be an attempt to circumvent a refusal by presenting the planning authority with a fait accompli.
- Height of boundary wall is too high.
- Concerned about lack of visibility splay indicated on the plan and in existing construction.
- Boundary wall is out of keeping with the street scene.
- There is a history of refusal of planning permission on this site which should not be overlooked. (15/01313/F, 16/00629/F, 17/00975/O).
- In view of the significant size and dominance of this construction, reasons given for refusal of previous developments should be adhered to, namely that the construction would “have an adverse impact on the character and appearance of the countryside, that in this case there is no “specific justification why countryside protection should be relaxed” and that “countryside should be protected for its intrinsic character” and that “development will be resisted unless essential for agriculture or forestry needs”.
- This unlawful development is located outside the settlement boundary of West Walton and would result in the consolidation of the current rural housing along this part of Salts Road to the detriment of the character and appearance of the countryside.
- We suggest the current permission granted for a mobile home should be reconsidered and rescinded.
- If Council is minded to approve, “dwelling unit” should be re-worded to “mobile” to clarify the permission refers to a mobile unit only. If council fails to apply this clarification, it could be serious as it would have the effect of giving support for the replacement of a mobile unit with a permanent and larger building, which has been consistently refused for this site.

### **Highways Authority: NO OBJECTION**

## **REPRESENTATIONS:**

**NONE RECEIVED**

## **LDF CORE STRATEGY POLICIES**

**CS06 - Development in Rural Areas**

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**CS08** - Sustainable Development

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

### **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide 2019

### **PLANNING CONSIDERATIONS**

#### **The main considerations:**

- Principle of development
- Impact on character and appearance of the countryside
- Impact on neighbour amenity
- Any other material impacts

#### **Principle of development:**

The site lies outside the development boundary for West Walton and for Walton Highway as defined in the SADMPP 2016. Policy DM2 of the SADMPP 2016 states that outside development boundaries, development is more restricted and limited to those identified as suitable in rural areas as set out in other policies of the Development Plan. Policy CS06 states that in the countryside, the strategy will be to protect the countryside for its intrinsic character and beauty.

The lawful development certificate ref: 01/1570/LD was granted 27th May 2002 for "Use of land as a caravan site for no more than one caravan". Definition of Caravan Site is contained in the Caravan Sites and Control of Development Act 1960, Part 1, Section 1(4) which states a caravan site is "land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed". Effectively this means the residential occupation of a mobile home on the site is lawful and the land within red on the lawful development certificate that surrounds the mobile home also has a lawful residential use in association with the caravan.

The application is retrospective for a change of use of land to increase the area of land that can lawfully be used as garden in association with the mobile home unit. 2m metal gates and brick wall have been erected at the existing access point and a storage building has been erected to the rear of the mobile home for domestic storage and laundry. The approved lawful development certificate drew the red line tightly around the mobile home, thus providing very limited amenity space associated with the residential use. Therefore, while the site lies in the countryside, it is considered the limited additional 'garden' land sought is sufficiently justified as it provides a reasonable level of outdoor private amenity space for the mobile home.

The garden has only been fenced and manicured in its current states since at least 2019. Prior to the development being carried out the land has historically been informally used as garden for the mobile home since it was first. Aerial images from 1999 demonstrate this. The

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Parish Council have objected to the application and stated that permission should be refused for the same reasons as other refusals on this site. Examples provided include 15/01313/F, 16/00629/F and 17/00975/O. These applications relate to the vacant agricultural land to the north of the site and are not relevant planning history for this application site.

### **Impact on character and appearance:**

The proposed store/laundry room is situated behind the mobile home and it is not considered to have any significant impact on the character and appearance of the street scene. The proposed gates are set back approximately 6m from the edge of the carriageway. Either side of the proposed gate is an approximately 4.5m long strip of 1.5m high brick wall with 1.8m piers. The walling is set at an angle to create a cone shape at the point of access, starting at 2m from the carriageway and ending adjacent the gate at 6m set-back.

It is noted that the residential property to the north at No.164 has boundary walling adjacent the highway at a height of approximately 1.5m and the property to the south Dulce Domum has a 1.5m post and rail fence along the front boundary with 1.8m access gate and brick piers. Given the nature of boundary treatments on neighbouring property and the majority of the proposed wall is set-back from the street, it is considered the proposed wall sections do not have any significant impact on the character and appearance of the street scene.

The Parish Council have concerns that the development results in the 'consolidation of the current rural housing along this part of Salts Road'. The mobile home residential unit is already lawful and established. Therefore, in terms of the grain and pattern of development in the street scene, it is considered that the current proposal for alterations to the established unit has no significant impact.

The proposed change of use of land is not considered to result in any significant detrimental impact on the character and appearance of the countryside

Previously a 1.8m fence was proposed to the front boundary but this was considered to result in a detrimental impact on the character and appearance of the countryside. The applicant has since agreed to remove the fence and plant a hedgerow to the front boundary. This hedge will soften the visual impact of the gates/brick walling and the remainder of the site. Therefore, it is recommended a condition is applied to require the hedge to be maintained and retained. Overall, it is considered the proposed development will preserve the character and appearance of the area in accordance with Policy CS06 of the Core Strategy 2011 and DM15 of the SADMPP 2016.

### **Impact on neighbour amenity:**

It is considered the proposed change of use of agricultural land to be used as garden for the mobile home and erection of gates/walls to the access would not have any significant adverse impact on residential amenity. The proposed domestic store would be situated approximately 1.3m from the boundary with the neighbour to the south. The building has eaves and ridge height of approximately 2.34m and 3.32m respectively. It is considered the building is small enough in scale such that it doesn't have any significant adverse impact on the amenity of the neighbour to the south.

### **Other material impacts:**

The site lies in Flood Zone 3a, however the principle of the mobile unit is established and therefore flood risk on the mobile home is not subject of consideration in this application. The proposed domestic store would fall under the flood risk standing advice for 'minor

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development'. It is considered the building would not have any significant effect on watercourses, floodplains or flood defences, would not impede access to flood defence or management facilities and would not have a significant effect on local flood storage capacity. Therefore, it is considered the development would not be likely to raise flood risk issues.

The proposed gates and boundary wall are set back sufficiently from the highway and would not have any significant impact on highway safety. No alterations are made to the access point that would warrant access details such as visibility splays being shown on the plan. The Local Highway Authority does not object to the application.

It is considered the mobile home itself still meets the definition of a caravan in terms of degree of permanence and therefore use of the site as a caravan site would still be lawful.

For the avoidance of doubt and to ensure the approved garden space is clearly demarcated, a condition is recommended requiring a rear boundary fence to be erected in accordance with the approved plan and retained in perpetuity.

### **Specific comments and issues:**

The Parish Council have raised concern that the development has been carried out maliciously to circumvent a refusal. Retrospective nature of planning applications does not factor into the planning merits of a proposal. In addition, the Council can use planning enforcement legislation to resolve breaches in planning control.

The parish have suggested that the lawful development certificate be rescinded or re-considered. An application for a lawful development certificate does not assess planning merits and it was considered that on the balance of probabilities the site was being used for residential purposes as a caravan site under 01/1570/LD. That Certificate was issued in 2002 and clearly this lawful has continued and therefore there are no grounds to 'rescind' the use.

Lastly, the Parish Council have suggested the description be amended to refer to a mobile unit rather than a dwelling unit to avoid having 'the effect of giving support for the replacement of a mobile unit with a permanent and larger building'. For the avoidance of doubt this change has been made in agreement with the agent and the application description now refers to a mobile unit. However, it must be pointed out that any future planning application for development on this site would be considered on its own merits.

### **CONCLUSION**

The principle of the proposed development is considered acceptable as it involves a reasonable extension to the currently limited amenity space provision for the lawful mobile unit. The proposed boundary gate/wall and storage building, together with the change of use are not considered to result in any significant adverse impact on the character and appearance of the area and will not have any significant impacts on the amenity of neighbouring occupiers. The proposal is in accordance with Policies CS06 and CS08 of the Core Strategy 2011 and DM2 and DM15 of the SADMPP 2016. The application is therefore recommended for approval.

### **RECOMMENDATION:**

**APPROVE** subject to the imposition of the following condition(s):

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- 1 Condition: The development is hereby permitted in accordance with dwg no. 02 Rev E (Location Plan and Proposed Plans).
- 1 Reason: For the avoidance of doubt and in the interests of proper planning.
- 2 Condition: Within 3 months of the date of this decision, full details of a scheme for the removal of the 1.8m timber fence and planting of a new hedge in its place as shown on Dwg no. 02 Rev E shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants noting species, plant sizes and proposed numbers and densities where appropriate.
- 2 Reason: To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.
- 3 Condition: The planting of the hedgerow to the front boundary as shown on dwg no. 02 Rev E and required by condition 2, shall be carried out in accordance with the approved details. Any trees or plants that within a period of 5 years from planting die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.
- 3 Reason: To ensure that the work is carried out within a reasonable period in accordance with the NPPF.
- 4 Condition: Within a period of 3 months from the date of this decision, the new 1.8m close boarded timber boundary fence shall be erected at the rear boundary (east) of the approved garden area hereby permitted as shown outlined in red on dwg no. 02 Rev E, and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 4 Reason: In order that the domestic garden can be clearly differentiated and remain separate from the agricultural land for the avoidance of doubt.