DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H01-0486-19**	**Applicant:**	**Mr Robert Smith**
Proposal:	Change of use of agricultural land to dirt track		
Location:	Land Adjacent: A16 Cowbit Spalding		
Terminal Date:	13th August 2019		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
09	Promoting a Stronger Visitor Economy
28	The Natural Environment
30	Pollution
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 4, 6, 8, 12, 14 and 15.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	1
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	1	0	0	0
IAN MARSHMAN, HISTORIC	0	0	0	1

ENVIRONMENT OFFICER				
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	26	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Planning permission is sought for a change of use of agricultural land to a dirt track to be used for off-road karting (Madtrax ATV). Vehicular access would be off Drain Bank North via a track that runs alongside the A16.

Site Description

The site (some 2ha) is currently agricultural land located to the north-east of the A16. A small copse is located immediately to the east beyond a drain. An existing access off the A16 is situated to the south-east.

The nearest residential properties are situated to the south-west on the opposite side of the A16 off Capes Entry.

Policies/Constraints

The site is outside any settlement boundary as defined in the South East Lincolnshire Local Plan, 2019.

Representations

Cowbit Parish Council - The site is located adjacent to the A16, clearly an important road network, and we are concerned about site access due to the busy traffic flows.

The application makes no reference to screening to reduce viewing from motorists and noise levels (condition).

We would request that a full environmental survey is undertaken alongside an archaeological study (condition).

No reference is made for lighting the site. Again, if this was to occur, we are concerned that this would create a distraction to traffic flows (condition).

The proposed development is adjacent to the grazing of livestock and we concerned for their welfare.

The site has a number of residential homes and again we are mindful of the impact of such proposal on their homes and lives.

The opening hours reflect an operation of 10.00 - 16:00 seven days per week. We would hope that these hours are not extended upon those time slots (condition).

What consideration has been given to site signage and access for emergency vehicles? (condition).

The application we believe underestimates parking provision - does not reflect those participating and those coming to the next booking slots as well as visitors etc. This needs further thought. We suggest 20 places. No parking should be allowed on the grass verges of the A16 (condition).

As a motor sport activity we hope that the staff are fully trained in first aid and a full health and safety assessment is taken out (condition).

We presume that you have consulted with the drainage board regarding this application.
We are very concerned that this application is a stepping stone to gain planning consent for residential usage. Therefore no change of use (condition).

The site offers limited facilities for staff and visitors such as security and toilets. We believe that a disability access statement should be provided (condition).

The site should be visited by the Planning Committee and allow the Parish Council to show them the site.

Cllr. A R Woolf - I have a concern on how this application may impact nearby properties in Capes Entry from a noise level. Not knowing a great level of detail of the vehicles being used, would ask if this is going to be a noise disturbance for nearby residents? Operating hours of 10-4 do not seem a problem, but noise could well be.

LCC Highways/SUDs - Recommend refusal on basis that Drain Bank North is considered to be unsuitable, in terms of its carriageway width and its construction, to accommodate the vehicle movements associated with the change of use of the land proposed.

South Holland Internal Drainage Board - We note that the applicant has indicated that they intend to dispose of surface water via sustainable drainage systems. However they have not identified or provided a drainage strategy for the site within their application.

SHDC Environmental Protection - Concerned about the potential impact from noise on nearby residential properties.

Environment Agency - Comments concerning flood risk.

Lincolnshire Wildlife Trust - Site in close proximity (200m) of a Site of Nature Conservation Interest.

LCC Archaeology - No archaeological impact.

Lincolnshire Police - No objections to this development. The only consideration would be in relation to any significant noise that might impact on any surrounding or adjacent properties which would result in noise complaint. However I am assuming that this is an isolated location?

Objections/comments raised by local residents (summarised):
Contrary to policy; Not sustainable - urged to use less carbon fuel; Loss of agricultural land; Noise/disturbance, including weekends; Disturb/harm horses/farm animals; Dust; Eyesore; Harm the rural character of the area; Roadway is only a dirt track and is unsuitable for extra traffic; Drain Bank North unsuitable in width and construction for extra traffic - already serves Spalding Rugby Club; Additional passing bays would be required; Access onto A16 unsuitable; Visual distraction to the detriment of highway safety; Pollution/air quality; Security/anti-social behaviour; Cause health problems; Lead to additional uses (eg, paint balling, clay pigeon shooting, etc); Affect wildlife within area (eg, Barn Owls, badgers, bats, foxes, deer, etc); Damage neighbouring land and crops/encroachment; Devaluation of property.

Planning Considerations

The main issues in this case are:
- Whether the proposal is a sustainable form of development having regard to economic, socio and

environmental factors;
- Other material considerations such as flood risk and ecology.

Principle/Sustainability

As indicated in paragraph 47 of the National Planning Policy Framework, 2019, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The proposed development is outside any defined settlement limit within the South East Lincolnshire Local Plan, 2019. It is therefore within an area regarded as countryside. Policy 1 of the South East Lincolnshire Local Plan is therefore applicable. It states that development will be permitted in the countryside 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.

Policy 9 is also of relevance. It indicates that outside a settlement boundary small-scale development to support the visitor economy will be supported that does not conflict with neighbouring land uses, is in keeping with the character of the locality and demonstrates a functional link with an existing attraction or farm enterprise.

The above policies are in accordance with advice within the National Planning Policy Framework, 2019. Paragraph 83 states that planning decisions should enable sustainable leisure developments which respect the character of the countryside. Paragraph 92 indicates that planning decisions should plan positively for the provision of community facilities. Paragraph 11 indicates that decisions should apply a presumption in favour of sustainable development providing any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Addressing the above, the proposal would enhance existing recreational, tourist and leisure facilities within the district. It would also bring some economic benefits and may generate some employment opportunities. However, it is considered in this case that the aforementioned factors are outweighed by other adverse impacts.

Firstly, the proposal would have an adverse effect upon the character and appearance of the countryside. It would result in the loss of agricultural land and introduce an intrusive element into the rural landscape.

Also, the dirt track would be used by karts/buggies (Madtrax ATV). The vehicles have a 400cc 4-stroke Kohler engine. The applicant has indicated that noise levels would be 70dB. However, it is understood that this is a "no load idle" level. The expected noise level at "full load rated speed" would be significantly higher. Also, there would be 2-3 sessions per day involving between 3-6 vehicles. The sessions would be held between 9.30am and 5pm. Notwithstanding the proximity of the site to the A16 and also existing bunding, SHDC Environmental Protection are concerned about the potential impact from noise on nearby residential properties, especially those off Capes Entry.

Moreover, the County Highways Authority has expressed concern over access to the site. Drain Bank North is considered to be unsuitable, in terms of its carriageway width and its construction, to accommodate the vehicle movements associated with the change of use of the land which is proposed in this Application. The carriageway of Drain Bank North is single-track only with few opportunities for on-coming vehicles to pass each other. The increase in two-way vehicle movements along this road associated with the proposed use, together with the existing vehicle movements from the Spalding Rugby Club's use of this road, would increase unacceptably the frequency of vehicles meeting on the road which would thereby require drivers to either undertake unreasonable reversing manoeuvres or over-run the already weak carriageway edges and highway verges in order to pass one another. Furthermore, the site's proximity to the A16 and the proposed activity's conspicuousness to those travelling along that road, is likely to make direct vehicular access to the proposed development from this main arterial route and/or vehicle parking along the A16 verges a strong temptation, particularly so to those chosing not to drive their vehicles along the heavily rutted Drain Bank North and the unsurfaced track that links the end of Drain Bank North to the Application site. The slowing, waiting and turning of vehicles onto and off this fast and free-flowing A class road, where such manoeuvres would not be expected by following drivers, would have an unacceptable impact upon highway safety, contrary to the guidance provided within the National Planning Policy Framework of 2019.

Other Material Considerations

Flood Risk - The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and within an area identified as "Danger for Most". However, it is classified as a less vulnerable development. Consequently, the South East Lincolnshire Standing Advice Matrix states: the finished floor levels should be raised as high as practicable (minimum 300mm above the existing ground level). The Environment Agency recommends that appropriate mitigation measures/flood resilience techniques are incorporated into the development. This matter could be addressed by means of conditions if permission was forthcoming.

In terms of surface water, the development would mainly be permeable. As such, there would not be any significant issues concerning surface water run-off.

Ecology - Lincolnshire Wildlife Trust has indicated that the site in close proximity (200m) of a Site of Nature Conservation Interest. There is also a copse immediately to the east and residents have indicated the possible presence of protected species within the locality. It is therefore considered that an ecological survey would need to be carried out if permission was forthcoming. This could be addressed by means of a condition.

Other Matters - It is considered that there is not sufficient evidence to refuse the application on grounds of dust, air quality, health issues, anti social behaviour, animal welfare and possible crop damage. Some of these matters could be dealt with by means of mitigating conditions or separate legislation.

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.

Conclusion

The proposal would enhance existing recreational, tourist and leisure facilities within the district. It would also bring some economic benefits and may generate some employment opportunities. However, it is considered that these factors are outweighed by other adverse impacts.

Firstly, the proposal would have an adverse effect upon the character and appearance of the countryside. It would result in the loss of agricultural land and introduce an intrusive element into the rural landscape.

Also, the proposal would have a significant effect upon the amenity of nearby residents in terms of noise and disturbance.

Moreover, Drain Bank North is considered to be unsuitable, in terms of its carriageway width and its construction, to accommodate the vehicle movements associated with the proposed development.

The proposal is therefore contrary to Polices 1 and 9 of the South East Lincolnshire Local Plan, 2019. Policy 1 indicates states that development will be permitted in the countryside 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. Policy 9 stresses that outside a settlement boundary small-scale development to support the visitor economy will be supported that does not conflict with neighbouring land uses, is in keeping with the character of the locality and demonstrates a functional link with an existing attraction or farm enterprise. These policies are in accordance with advice within the National Planning Policy Framework, 2019. Paragraph 11 indicates that decisions should apply a presumption in favour of sustainable development providing any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.