

DECISION DELEGATED TO HEAD OF PLANNING
--

Application No:	H06-0404-23	Applicant:	Mr T Cunningham
Proposal:	New field access - Retrospective		
Location:	Land At Ryefield Lane Gedney Spalding		
Terminal Date:	12th September 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development

National Guidance**National Planning Policy Framework 2021**

12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a retrospective full planning application for a new field access on Land at Ryefield Lane, Gedney. The proposal seeks to retain a vehicular access completed in April 2019, that is 5.2 metres and sited to the south of Ryefield Lane, giving access to an agricultural field. The field is bordered by a post and rail fence with a steel barred gate approximately 1.2 metres high adjacent to the access. The area at the access point is grassed and overgrown. There are no buildings, structures or chattels on the field beyond the gated access.

A site visit occurred at this site on Friday the 4th of August.

SITE DESCRIPTION

The site is in the open countryside and the surrounding area is characterised by non-nucleated linear development of varying ages and designs. The site to the south is a grassed field bordered by post and rail fencing. Ryefield Lodge is located to the north of the access on the opposite side of Ryefield Lane, as well as fields and agricultural buildings. Fields and a property named Damrack are located to the east. To the west are fields and a property named Leydenhatch. The site is in Environment Agency Flood Zone 3 and is in a "Danger for Some" hazard area, with a maximum predicted depth of 0.5 metres. As the proposal is not for a building, there is not a requirement to raise site levels to address flood risk.

RELEVANT HISTORY

None

CONSULTATION RESPONSES

Lincolnshire County Council - Highways & SUDS Officer

No objection - *"This field access is not located where visibility for drivers entering the public highway is restricted and therefore the occasional vehicular use of this access, for entry to and exit from the adjacent field, would not be expected to have an unacceptable impact upon highway safety. The highway authority does not therefore wish to object to the grant of Consent for this Application."*

South Holland District Council - Environmental Protection Officer

No comments.

South Holland Internal Drainage Board

This application does not meet our threshold to comment.

Environment Agency

No comment.

Gedney Parish Council

No objections.

Members of the public

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, one letter of representation have been received. This can be summarised as:

Ryefield Lane is getting busier with vehicular movements.
The road at Ryefield Lane is in poor condition.

The land is contaminated with asbestos, animal carcasses and general waste
Gateway to front of site is located over a dyke that has been piped, causing flooding.
Applicant currently under investigation by the Environment Agency.
Land subject to Planning Enforcement
Potential for land to be used for persons living in caravans.

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are (but are not limited to):

Impact on highway
Condition of highway

EVALUATION

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed above.

The policies and provisions set out in the National Planning Policy Framework (updated September 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Principle

The proposal seeks to retain a retrospective vehicular access onto Ryefield Lane at the northern boundary of the site. There are no local or national policies that would specifically restrict the siting of an access in this location. It is therefore considered that the principle of an access in this location is acceptable. Matters relating to character, amenity and highway safety impact are examined below.

Character / Appearance

Section 12 of the National Planning Policy Framework (2023) specifically relates to 'Achieving well-designed places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130 of the National Planning Policy Framework (NPPF), 2023 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area. That they are visually attractive, as a result of good architecture, and are sympathetic to local character. Likewise, Policy 2 of the SELLP, states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

There are a number of agricultural field accesses in the vicinity of this site with a grassed entrance. It is not considered that the siting or use of grass at the entrance point materially affects the character of the surrounding area.

There is not considered to be a material impact on character and appearance from this proposal which accords with the relevant criteria of Policies 2 and 3 of the SELLP.

Amenity

Paragraph 130 of the National Planning Policy Framework (2023) states that development should

create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

There are a number of agricultural field accesses in the vicinity of this site with a grassed entrance. Provided the land beyond the access remains available to be used for agricultural purposes then there is not considered to be an amenity impact on the surrounding area.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

Parking / Highway Safety

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

The County Highways & SUDS Officer has no objections to the submitted details. There is good visibility in both directions of the exit point and there is not considered to be a material cumulative traffic impact on Ryefield Lane, nor a material impact on the road surface.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

Other consultation comments

At the time of the officer site visit, no animal carcasses or general waste were visible on site. As the application solely concerns the access location, the presence of asbestos does not impact the proposal. The Environment Agency has no objections to the application and no reference has been made as to whether the site is currently under investigation. With regard to any ongoing planning enforcement, this does not concern the access location and the retention of the access does not mean that the site would be used for residential purposes. The Local Planning Authority can only determine an application on the basis of the submitted information. Should the land be used for residential purposes, it would be unlikely to be supported due to being sited in the countryside, outside of any defined settlement limits.

Lawful Use

The submitted application states that the access was completed on the 21st of April 2019. No evidence has been brought forward to dispute this claim. Therefore it is considered that the proposal constitutes lawful development. This is because the access has been completed more than four years after the date of submission of this application.

PLANNING BALANCE

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted

Development Plan, unless material considerations indicate otherwise.

There is not considered to be a material impact on highway safety nor the amenity or character of the surrounding area from the retention of a field access off Ryefield Lane.

CONCLUSION

This application is considered to accord with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019, as well as the National Planning Policy Framework, 2023.

RECOMMENDATION

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

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.