

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H06-0658-22	Applicant:	T & S Cloona
Proposal:	Change of use of land from paddock to enclosed dog walking field		
Location:	Pegasus Dawsmere Road Gedney Drove End		
Terminal Date:	17th October 2022		

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

01	Spatial Strategy
02	Development Management
03	Design of New Development
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance**National Planning Policy Framework 2021**

Section 6 - Building a strong, competitive economy
Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	0	4	1	3

CASE OFFICER ASSESSMENT

Proposal

The proposal relates to a change of use from a Paddock to Dog Walking Field to operate between 7am and 6pm, 7 days a week. The use of the field will be by appointment only via an online booking system, for an exclusive 50 minute slot with a limit of 6 dogs per session and a maximum of 2 cars on site at any one time. A ten minute buffer time where one booking ends before the next one begins would ensure no overlap occurs between visitors.

A mobile field shelter is proposed at a maximum height of 2.96m x 4.96m deep and 2.15m to the eaves to provide shelter during bad weather, plus a picnic table. The mobile field shelter is on skids to move for grass mowing purposes and is shown on the plans towards the rear of the plot.

Moveable dog enrichment/interactive play equipment would also be present. The field is enclosed with a 1.9m post and wire mesh fence, to provide a safe area to walk, train and play with dogs. The idea of the proposal is to enable dogs to be exercised without fear of them affecting livestock and will also benefit people with mobility difficulties due to its enclosed nature. The proposed two car parking spaces are situated behind a gate and fence to ensure dogs do not escape on to the road.

The fencing along the rear boundary has been moved to accord with the requirements of the South Holland Internal Drainage Board during the consideration of this planning application. An amended plan was submitted in August 2022 to satisfy their concerns. A dog waste bin will be provided close to the entrance to the site, which will be emptied at regular recommended intervals via a specialised waste management company.

Site Description

The site is a former paddock, the majority of which is within open countryside situated behind residential properties on the north-east side of Dawesmere Road within Gedney Drove End village. The front portion of the site is within the settlement boundary. The paddock is laid to grass and is bounded by post and wire mesh fencing, and on the south-east side with a high hedge along three quarters of its boundary and an outbuilding to the adjoining property, with the north-west side having a more open aspect. The site area of the proposal is 0.57Ha and is largely rectangular in shape in a linear field stretching away from the built part of the village. A Board maintained watercourse (DRN201G4702-K47 Old Sea Bank) is adjacent to the north-east boundary.

The area is within Flood Zone 3. It has a greater than 2.0m depth max hazard notation on the Fluvial & Tidal Hazard Map, and a Peak Depth of 2m +.

History

None.

Consultation Responses

Gedney Parish Council

Raise no objections but note concerns over some residents at the proposed opening time of 7am, and suggest an 8am start and to restrict use for exercise and not for training.

Local Highway and Lead Local Flood Authority

Raise no objection.

South Holland Internal Drainage Board

Noted that consent was required under Byelaw 10 due to the site being within 9 metres of a Board maintained watercourse. Original plans therefore were objected to. A subsequent amended plan

repositioned the 1.9m fence to more than 9 metres from the brink of the Board maintained watercourse. It was noted that consent was no longer required and the Board made no further objection as a result of amended plans.

SHDC Environmental Protection

No comments in relation to land contamination.

Public

There were 8 responses received as a result of public consultation. Four of the responses fully supported the proposal, with one supporter stating that a 7am start was perfect for people who work, and that the facility would be safer for dogs. It was also suggested that two dog waste bins be provided.

Four responses objected to the proposal and cited some or all of the following reasons:

- proposal is in middle of residential area and will be a noise nuisance, should restrict use to 2-3 hours per day and be closed on Sundays. It should start at 8am, 7am is too early. There should be a trial period to monitor noise and traffic.
- restrict to 4 dogs rather than 6 and then 7am start is better than 8am. Should be closed on Sunday.
- opening hours unsuitable, dogs will bark at 7am and weekends, not best place for dog field, needs to be hedged, people will be bothered by dogs along footpath, will not benefit community

Planning Considerations

Gedney Drove End is within an area of development constraint and the main element of the proposal, being beyond the settlement boundary is within open countryside.

Policy 1 of the South East Lincolnshire Local Plan (SELLP) relates to the spatial strategy and makes it clear that Gedney Drove End is within an area of development constraint. Development in the countryside is only permitted subject to it being necessary in 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.

Whilst the proposed site is not within a sustainable location, the only physical structure on site apart from fencing is a field shelter, and this is not fixed to the ground. Due to its non permanent nature, this means that if the use were to end, the structure could be removed and the land could return to a paddock. There are limitations as to where the proposed use could locate, given that there is a need to ensure there is enough physical space to allow for the exercising of dogs - i.e. it could not be located within an urban area very easily. The proposal would help the rural economy in this location, in line with section 6 of the NPPF by helping to diversify services within the village. The use is restricted to 6 dogs which helps to control its scale, it is not likely to attract clients from a significantly great distance as a result, and as such, it is likely to be used by clients within a reasonably short catchment area. The part of the community that are dog owners will benefit from the proposal by providing a safe facility for them to walk their dogs. The use would therefore provide a service to the local community. In environmental terms, the field is preserved almost exactly as the original paddock. It is not therefore considered that the proposal significantly conflicts with policy 1 as a result.

Policy 2 of the South East Lincolnshire Local Plan aims to promote sustainable development in relation to, amongst other things, scale, layout, character and appearance, or impact neighbouring land by reason of noise, odour, disturbance or visual intrusion. The main consideration in this case is the potential for the use to impact upon neighbours in terms of noise and disturbance, from either barking dogs, or from general comings and goings of clients, as it is located within the village. The potential noise pollution is also covered by policy 30 of the SELLP.

The results of public consultation have been mixed, with half in support and half against. Whilst it is acknowledged that there is likely to be some noise from visiting dogs, the restriction to a maximum of 6 dogs at any one time is likely to ensure that the level of noise from the proposed use would not be so significant as to warrant refusal. It is noted that Environmental Protection did not raise any concerns with respect of noise. In order to monitor noise levels, it is suggested that permission be restricted to one year, during this time noise levels can be monitored. A further condition restricting the number of dogs would also control the scale of the use. Another condition is suggested which does not allow lighting to minimise light pollution.

Some local residents expressed concerns about the 7am start, although some supported this time. Restricting the business to operate only a few hours a day may affect the viability of the business, but there is also a need to ensure that residents are not disturbed unduly at the same time. Given that a condition to limit the number of cars to two on site at any one time, as well as a restriction to a maximum of 6 dogs, it is considered that noise as a result of a 7am start is not likely to happen regularly to cause material harm. It is also not likely that 6 dogs would be present at each slot during the day throughout the day. In order to protect the potential of noise and disturbance a temporary consent is suggested where the use can operate on a trial basis, as suggested by one respondent. If significant noise and disturbance occurs over the trial period of one year, the principle of the use can be reviewed at that time. The linear nature of the field also assists with directing the dogs away from nearby houses. It is therefore considered that the proposal accords with SELLP Policy 2.

Policy 3 of the SELLP relates to the design of new development. The use of the land for dog walking would not affect the sense of place, or the character of the surrounding area. The proposal is of a scale to match that of the village. As such the proposal does not conflict with policy 3.

Policy 4 of the SELLP relates to flood risk. Whilst the site is within Flood Zone 3, it is not a vulnerable use. No objection was received from the Lead Local Flood Authority. Given there are no physical permanent structures there are no habitable rooms which could be affected by flooding, and the use will not increase flooding elsewhere. There is therefore no conflict with Policy 4.

Policy 30 of the SELLP relates to pollution. The noise aspects are discussed above. One member of the public mentioned the need for waste bins. One bin is being provided as part of the proposal and will be regularly emptied by a specialist removal company. It is considered that this would adequately control dog waste. Conditions attached to control the use by limiting the number of dogs and cars, and by monitoring the use over a temporary period, are considered sufficient to ensure there is no conflict with policy 30.

Policy 36 of the SELLP relates to vehicle and cycle parking. The site has a linear design which could accommodate cycles should there be any dog walkers arriving by cycle (this is likely to be limited). The two parking spaces provided appear adequate for the scale of the proposal and the Highway Authority raise no objections. The booking system has a ten minute buffer between bookings which helps to control the scale of the use. There is no evidence of the use contributing to a highway safety problem. Therefore there is no conflict with policy 36.

Planning Balance

The location of the proposal being in an unsustainable countryside location weighs against the proposal to some degree, although this is mitigated by the scale of the use being local in nature, the fact that it is the use of a field with very little equipment and one field shelter and its control mechanisms to reduce the amount of car borne traffic to the site at any one time. The booking system limits the number of people at any one time which would therefore control vehicle numbers.

The economic activity of the proposal weighs in favour of the proposal as this is likely to boost the local economy and increase the economic diversity of the village. The weight attributed to this is significant.

It is not thought that there are significant environmental concerns that weigh against the proposal given that dog mess is to be controlled by the use of a bin and specialised collection company, and the use does not depart significantly from the character or appearance of the locality. Whilst equipment and a field shelter would be present, there is no material difference from dog play equipment to equestrian equipment. The use could revert to a paddock. The proposal is therefore neutral in this respect. The potential for noise and disturbance could weigh against the proposal, however, this is mitigated by conditions which restrict the hours of use for a temporary period, and also a condition which restricts numbers. It is therefore considered that in the planning balance with these environmental safeguards the proposal is neutral.

The proposal is considered to provide a community facility for the local area which weighs in favour of the proposal.

Overall in the planning balance the economic and community factors, weigh in favour of the proposal.

Conclusion

Taking into account the various aspects of the proposal, it is considered that in the planning balance, together with the safeguards associated with the proposed conditions, the proposal is considered acceptable when assessed against the policies in the Development Plan and the National Planning Policy Framework taken as a whole and approval is recommended.

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.