

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-0816-23 **Applicant:** T & S Cloona

Proposal: Change of use of land from paddock to enclosed dog walking field - approved under H06-0658-22. Removal of Condition 1 relating to the use of land having a limited period of one year and modification of Conditions 3 & 4 relating to the number of dogs and cars that can be on site and hours of operation.

Location: Pegasus Dawsmere Road Gedney Drove End

Terminal Date: 24th November 2023

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
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

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	0	0	0	1

INTERNAL DRAINAGE BOARD				
SHDC INTERNAL	1	0	0	0
RESIDENTS	3	7	0	0

CASE OFFICER ASSESSMENT

Proposal

Change of use of land from paddock to enclosed dog walking field - approved under H06-0658-22. Removal of Condition 1 relating to the use of land having a limited period of one year and modification of Conditions 3 & 4 relating to the number of dogs and cars that can be on site and hours of operation.

The first aspect of the scheme wanted to remove condition 1 which restricted the use to one year. This aspect of the proposal remains unchanged.

The second aspect of the scheme wanted to have up to 8 dogs on the site at any one time. This has been amended as a result of an objection from the Environmental Protection Officer. The proposal has now been amended to have up to 6 dogs at any one time, as in the original condition.

The third aspect of the scheme wanted to keep the opening hours at 07.00 but extend the opening hours to sunset or 8.00pm (whichever is the sooner) Monday to Sunday and at no other time. This has been amended to vary the opening hours between 07.00 to 20.00 Monday to Sunday at at no other time, as a result of comments from the Environmental Protection Officer and the Case Officer with regards to the ability to enforce a sunset closing given that the sunset in the summer will vary day by day - it would not be an enforceable condition.

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 with a pond with wildfowl in the garden. 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 near to the north-east boundary. A public footpath exists at the rear of the site.

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

H06-0658-22 - Change of use of land from paddock to enclosed dog walking field. Approved 13.10.2022.

Consultation Responses

SHDC Environmental Protection

Initially objected:

-an increase in dog numbers allowed on site could increase the risk of noise nuisance to local

neighbourhood. A reduction is needed to mitigate and reduce potential adverse impacts resulting from noise pollution on the health and quality of life to neighbouring residents.

Suggested withdrawing objection if the following conditions are agreed for this application.

-No lighting shall be erected or utilised on site without prior consent in writing of the local planning authority.

-Site shall only operate between the hours of 7am-8pm Monday to Sunday

-No more than 6 dogs and 2 cars shall be present on the site at any one time

Environmental Protection subsequently removed the objection due to amendments to proposed conditions in line with their suggested conditions.

Highway and Lead Local Flood Authority

No objection. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Internal Drainage Board

Having screened the application, whilst the site in question lies within the Internal Drainage District of the South Holland Internal Drainage Board the proposed application does not meet our threshold for commenting as per our Planning and Byelaw Strategy. Therefore the Board has no comments to make.

Gedney Parish Council

Council have had concerns raised by residents over noise, parking issues and having the dogs in the exercise area jumping up at the back fence when they or others walk along the public footpath. Therefore, Council considers the number of dogs, cars and hours of use at present to be at a maximum for the size of the area and its position in the village and should not be increased.

Public

Letters of Objection

2 letters of objection (1 objection submitted twice from same household) raise some or all of the following points:

-Object to hours that dog walking field will be open. Until 8pm 7 evenings a week will spoil use of the garden to sit out and enjoy quiet evenings all summer. 6 barking dogs are very loud and it could be up to 13 hours a day and it is a business, not family pets.

-If anyone walks past on the footpath at the end of the field that sets the dogs off jumping at the fence and barking. Noise concerns. Fear of dogs.

-No objection to Condition 1. Condition 3 should not be changed as barking can be noisy. Condition 4 - 8pm too late.

-Dogs bark at dogs along footpath at rear. No objection to no more than six dogs, 8 dogs will create more noise, cause stress to people walking dogs along footpath.

-Use of field to 8pm is definitely not acceptable. Property is a business and should only operate between 9-5pm.

-Signage at Pegasus is excessive and people turning from the road junction could become distracted by it.

Letters of Support

8 letters of support raise some or all of the following points (two letters from same household):

-Full support of their operation and have no objections regarding noise, access times, number of cars no numbers of dogs using the field.

-Strong endorsement of the dog walking and agility area. Provides safe and secure haven for our beloved pets whilst addressing challenges posed by extreme weather conditions, particularly during the summer months in the UK.

-Concept of a dedicated space for dog walking and agility is highly commendable, caters for well behaved pets and encourages responsible dog ownership, idea for dogs to engage in physical activity, socialisation to have quality time outdoors, off lead and under controlled circumstances.

Extending opening hours thoughtful and necessary - extreme heat makes daytime walks unbearable and unsafe for dogs and their owners, extended opening ours takes into account well being of pets and caregivers, ensuring they can enjoy outdoor activity during cooler part of the day. Invaluable to our community, reflects deep understanding of needs of pets.

-We take our dogs regularly to this paddock which is absolutely brilliant, very clean and well

equipped with dog bags. Very well run by the owners, who are very friendly and approachable. Its lovely to have the connection with the owners face to face rather than by email. Dogs love it so much freedom and exercise for them, rather than just being walked on a lead, very safe and quiet environment for dogs.

-We live next door to Pegasus Paddock and have no issues with noise or parking. Therefore we are happy to support the application.

-Direct next door neighbours no objection, no concerns regarding previous 10 months of operation. Not noticed uptick in noise, sometimes you hear barks from excited dogs on entering, but this only lasts a couple of minutes. Dogs walked in public are heard much more frequently across the village, since this is a community of dog owners.

-As only neighbours with an adjoining driveway, we have encountered no issues with parking and cannot see the proposed changes causing issues either.

-Public footpath that runs behind the paddock is a considerable distance from the fence of the paddock, dogs running at this fence would cause no more problems than meeting other dog walkers on the walk along the public footpath.

-It is very important, especially in this climate, to support small local businesses

-The paddock has proved to be a safe space for people to walk their vulnerable dogs and has acted as neutral ground for rescue dogs to meet their new owners and dog siblings.

-The paddock is also utilised for people who do not necessarily feel safe walking their dogs on their own in public as it provides them with a private, enclosed area away from the public.

-Field is invaluable. Before this we had to travel a considerable distance for access a similar area. This is particularly beneficial for those in our village who do not have access to private transportation. Addresses significant need. Secure enclosed space. Important for cautious owners.

-We live opposite the field, not experienced any noise or observed parking problems or disruptions from the field's presence. Valuable asset to our village. Has high standard of maintenance. Enhances our quality of life.

Planning Considerations

Principle and Sustainability

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

The principle of development has been established with the main approval. In addition, 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. There is no objection to Policy 1 of the SELLP.

Size, Scale, Layout and Design

Policy 2 of the SELLP states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to, amongst other things, size, scale, impact on amenity, character and appearance of the area and the relationship and impact on existing development and neighbouring land uses, and visual intrusion.

The field is open and only has a small amount of play equipment, none of which are tall. There is no significant visual intrusion, the scale of the use is being largely kept as operated over the last 10 months in terms of the number of dogs. The field is very large, so even 6 dogs would not over populate the field. The facilities themselves cause no significant impact on visual amenity. The fencing area at the front has an unloading area to unload dogs safely inside another set of gates to stop them running on to the road. Fencing is appropriate to the location. It resembles a horse paddock so is not out of character in visual terms.

The size, scale and layout of the development at a maximum of 6 dogs and 2 cars is acceptable in this location. There would therefore be no issue with making the use permanent, keeping the same number of dogs, and altering the hours.

There is no conflict with Policy 2 as a result.

Impact on Residential Amenity

Policy 3 of the SELLP requires all development to create distinctive places, be sensitive to the landscape character, and take into account residential amenity. The landscape is unaltered as the design is a fenced field. The scale of the use for 6 dogs and 2 car parking spaces means that this use can operate within a village without significantly affecting residential amenity, but it is acknowledged that two people object to the proposal. However, 8 other people support the proposal.

Both immediate neighbouring properties do not object to the proposal, one neighbour has a very tall boundary screen, the other neighbour has large birds including geese which generate noise. At the time of the site visit an owner and dog were using the facility and he was observed entering the paddock. It is factually correct that there is some barking when the dogs arrive, which did occur at the time of the site visit as the case officer was leaving the field and was a stranger to the dog. However, within 30 seconds of entering the field the barking stopped as the dog recognised that he had entered the paddock to play. At such a scale, whilst there is more noise compared with a house with no animals, it is considered that there would be no significant difference if a family used the paddock with their 6 dogs. In such a situation, there would be some barking, but not constant barking for the entire period the facility is open. The dog when observed within the paddock was engaged and quiet, so at worst - the barking would be intermittent depending upon the individual dog. It is not considered that this facility is like a kennels where dogs are constrained and want to get out so bark for attention for longer periods. It is noted that there have been two objectors to the proposal due to barking. Neither are immediate neighbours. It is not accepted that intermittent barking from dogs from where the objectors are located would significantly disturb their ability to enjoy their gardens to cause demonstrable harm, nor is it accepted that if walking along the public footpath behind the site, that noise would occur for a significant and prolonged period of time from dogs playing in the field - unless said walkers physically stopped to make eye contact with the dogs - in that situation barking may persist for a longer period, but it is not likely to occur regularly or for sustained periods.

Now that the use has been amended to reduce to a maximum of 6 dogs, it is considered that residential amenity from noise would be protected as the scale of the use is controlled.

It is noted that objections have also been received in relation to extending the opening hours from 6pm until 8pm with one objector stating that the use should operate between 9 to 5pm. The latter is not considered to be reasonable given the need for a use to be economically viable and given that the use has operated successfully for the last 10 months between 0700 to 1800. The applicants make the point that there is a need to ensure that users can walk their dogs after work, extending the hours until 8pm would enable that. A supporter has also pointed out that due to climate change, walking dogs later in the evening is beneficial for both owners and dogs as temperatures during the day are often excessive in summer. This is also a reasonable point. The original idea of closing at sunset was not considered practical given that sunset varies a few minutes a day, and the latest sunset time is 9.24pm. Closing at that time is considered to be excessive and may affect residential amenity. Having a closing time of 8pm is considered a reasonable balance between allowing dog owners to exercise their dogs after work, at cooler periods in the summer months, and not extending into all of the daylight hours in summer. As there is a suggested condition of no lighting, the use is unlikely to operate in the dark in the winter months, so in reality, the closing time of 8pm would be utilised in months when daylight is extended only. The objection to extending the hours is noted, but not accepted, especially as Environmental Protection suggested the condition can be amended to this time.

It is not considered that the proposal, in terms of its scale, opening times or general use would adversely affect residential amenity and as such the proposal is not considered to conflict with Policy 3 of the SELLP.

Economic Diversity

Policy 9 of the SELLP seeks to promote a stronger visitor economy. Policy 9 goes on to state that outside of the settlements, small-scale development to support the visitor economy will be supported provided it does not conflict with neighbouring land uses, it is in keeping with the character of the locality, and demonstrates a functional link with an existing rural attraction. Paragraph 4.4.3 of the reasoned justification to Policy 9 states that "other small scale rural

development, may be appropriately located outside a settlement boundary provided there is a clear link to an established rural enterprise and the quality of the design ensures no adverse impacts on the landscape, heritage or biodiversity".

Arguably the existing rural attraction is the area close to the sea, with a great deal of opportunities for recreational walking and the village itself, which it is understood to have a high number of families who own dogs both in the village and the area. Ensuring people can visit this area and provide a place for dogs to exercise is considered to conform with this aspect of Policy 9.

The use is small scale, with just 6 dogs at any one time being present to control the overall scale, which is not dissimilar to a large family household with multiple dogs. The use of the field for horses would be similar to use the field as a paddock for dog exercises. Because no dog training occurs, it is not considered that the use is fundamentally different to a large field at the back of a residential property to be used by horses or dogs. The next door neighbour has wildfowl including noisy geese in the field next to the paddock - again, it is not considered that there is a material difference between this field and the neighbouring field with animals present. It is not considered that the use therefore conflicts with neighbouring land uses. The fact that it is a field, with a few items for dogs to play is again not out of character compared with a paddock for horses with jumps. Paragraph 4.4.4 of the reasoned justification to Policy 9 states "Preference will be given to proposals which can be easily assimilated into the landscape". The proposed dog exercise paddock easily conforms with this preference and has been easily assimilated in landscape terms. The proposal is therefore considered to conform with Policy 9 of the SELLP.

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, and is itself a link to attract people to the village, and encourage village residents to exercise their dogs locally.

Noise Impacts

Policy 30 of the SELLP relates to pollution including mitigating the impact of noise.

The original proposal attracted an objection to the notion of 8 dogs, to which the agent amended the application.

This was a direct result of Environmental Protection asking for a restriction of 6 dogs. The use has operated successfully for 10 months without complaints, apart from the two objections submitted as part of this application. Even one of the objectors does not object to 6 dogs. The Parish Council object and state that the maximum number of dogs should be 6.

Taking into account residential amenity, keeping the maximum number of dogs to 6 appears reasonable to protect from noise and residential amenity.

It is noted that one objector cites parking problems as reported to the Parish Council. The drive and car parking areas are large, and the village is quiet. Two cars can easily fit in the car parking area. The immediate neighbour who shares a drive specifically mentions no parking problems have occurred, and also has noted that there has not been an increase in noise. The Local Highway Authority does not object.

It is considered that a maximum of 6 dogs and two cars would not result in excessive noise and as such, subject to conditions the proposal does not conflict with Policy 30.

Impact on Biodiversity

Section 15 of the National Planning Policy Framework seeks to promote a net gain in biodiversity and ecological networks that are more resilient to current and future pressures. Policy 28 of the SELLP seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace. Because the site is effectively being left as a green field, preserving that greenspace in itself is considered to make a biodiversity net gain. It is not thought that the proposal adversely affects Policy 28 of the SELLP as a result.

Highway Safety and Parking

Policy 36 of the SELLP states that all new development should provide vehicle and cycle parking in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (Appendix 6).

There are no particular standards with this type of use, but the Local Highway Authority do not object to the proposal. Whilst it is noted that there are some concerns with parking, there is no evidence to suggest this is the case from a physical inspection of the site and the amount of parking that is available. As such it is not considered the proposals conflict with Policy 36 of the SELLP.

Flooding Considerations

Policy 4 of the SELLP relates to the approach to flood risk and details how development proposals will be determined, including sequential testing and other relevant considerations. Because the site is being kept as a greenfield, the use would not increase the risk of flooding elsewhere and if flooded, the dogs and people could be evacuated. Surface water would be as the current state of the field is at the moment. Therefore it is not considered that the proposal conflicts with Policy 4 of the SELLP.

Planning Balance

Section 38 (c) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. To determine whether the proposal accords with the Local Plan it is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives. 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 principle has also been established in the previous approval.

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.

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

The site is well kept and clean, it is retained as an open field which is positive in environmental terms. It could be argued noise issues weigh against the proposal but these are being mitigated by an hours of use condition and restricting the number of dogs. In the planning balance it is considered that the proposal is neutral in environmental terms.

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.