CHAIRMAN'S PANEL Held On: 5th April 2024

Application No:	**H06-1137-23**	**Applicant:**	**Caudwell Farms**
Proposal:	Change of use from agricultural land to dog exercise paddock, altered vehicular access, parking and stationing of a field shelter		
Location:	Land Off Topsgate Gedney Spalding		
Terminal Date:	8th April 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed & beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

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	1
OTHER STATUTORY BODIES	0	0	1	1
RESIDENTS	11	1	0	1

Route for determination of application	Delegated	X	Committee	

CASE OFFICER ASSESSMENT

Reason for Chairman's Panel

Objections from residents and parish, disagreement with Environmental Protection conditions.

Proposal

The applicant proposes a change of use from agricultural land to dog exercise paddock, altered vehicular access, car parking, fencing and stationing of a field shelter.

Access is proposed to be taken from Topsgate where a car parking area is formulated along with field shelter. The parking area is 'inset' from Topsgate and behind a gated access. Existing hedging is retained around the site, which is outlined in blue, inside of the red line boundary is a maintenance strip before a 1.8m dog proof fence is proposed.

Site Description

The application site is located to the east of Topsgate and south of the A17, just outside the settlement boundary for Fleet Hargate. Chestnuts garden centre is located to the north west of the application site. The site within Flood Zone 3 in accordance with Environment Agency Planning Maps.

There is an existing passing place along Topsgate where the proposed access is to be located. The field is sloped, it slopes away from the A17 toward Gedney, which is located to the south. At present the site is used for agricultural purposes.

History
The planning history in relation to the site concerns extensions to and other works affecting the garden centre. These works are concentrated on the north west corner and do not affect directly this application site.

Consultation Responses

Parish

Council object to this application. They have concerns over the number of dogs proposed to use the facility at one time, 10 dogs in one area is too many. How will the area be policed or overseen? What provision is being made for the disposal of the dog waste? Increased traffic from Topsgate and onto the A17 at an accident area is also a concern.

Highways & SuDs

The Highway Authority have no objections subject to the attachment of planning conditions. The comments below are taken from LCC's response on highway safety and drainage.

Highways Capacity - The level of vehicle movements generated by the proposal is very low, with one or two vehicles accessing the facility each hour, assuming full use throughout the stated hours of operation. The existing volume of traffic on Topsgate is low, being typical of a rural road. There is no precise definition of "severe" with regards to NPPF Paragraph 115, which 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." Planning Inspector's decisions regarding severity are specific to the locations of each proposal, but have common considerations:

- The highway network is over-capacity, usually for period extending beyond the peak hours

-The level of provision of alternative transport modes
- Whether the level of queuing on the network causes safety issues

In view of these criteria, the Highways and Lead Local Flood Authority does not consider that this proposal would result in a severe impact with regard to NPPF (December 2023).

The site layout is acceptable and general of such uses. The parking area is adequate and provides space to allow vehicles to turn on site so they can enter and leave in a forward gear.

Drainage - This is an open field and the proposal will not change that so drainage will be natural drainage into the ground. The parking area will be of permeable hardcore.

Environmental Protection
No lighting on site, either fixed or temporary. Restrict operating hours to 7-20:00 Mon-Sunday no more than 6 dogs and two vehicles on site at any time; to protect amenity of nearby residents

IDB
No objections received

Representations
The application has been subject to representation, circa 15. One is in support, one representation, all others are objections.
In support the comments are summarised as:
-Wonderful recreational facility

The General Comments received are:
-Number of dogs should be taken into consideration
-Operating time should correlate with The Chestnuts

Those in objection are summarised as:
-Highways safety concerns
-Enough walking places for dogs
-Concerned about the loss of agricultural land
-Amenity impact from comings and goings
-Impact upon bus route
-Concerns regarding the maintenance of the site
-Already dog parks in the area

Planning Considerations

Section 38 (6) 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. The site is located within the open countryside as identified by the policies map.

The application site is located within the open countryside and outside of any defined settlement limit, with the closest settlement being Fleet Hargate. The following issues are considered to be relevant to this assessment:

Principle of Development
Environmental Issues
Highway Safety
Character & Landscape
Flood Risk

Principle of Development

SELLP Policy 1 sets out the overarching spatial strategy for the district. Part d is concerned with development within the open countryside, it states that:

In the Countryside development will be permitted 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.

Within the policy justification paragraph 3.2.15 expands upon appropriate countryside uses, it states that "Agriculture and forestry are clearly uses which must function in the Countryside but other uses which may diversify from agriculture and forestry, e.g. recreation and tourism, can meet the broad sustainable objectives of the Local Plan"

The proposal is for outdoor recreation, located close to (though just outside) an existing settlement. Therefore the basic principle of development is considered acceptable, subject to the proposed development meeting with the *broad sustainable objectives of the plan* which the rest of this report seeks to assess.

Environmental Issues

Policy 2 of the SELLP (2019) is concerned with development management, Point 1 and 6 of the policy are especially pertinent, they state "Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:

1.size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses And
6. impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;"

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

Environmental Protection have been consulted and have made the following comments in respect of mitigation "No lighting on site, either fixed or temporary. restrict operating hours to 7-20:00 Mon-Sunday no more than 6 dogs and two vehicles on site at any time -to protect amenity of nearby residents"

The applicant does not propose any lighting on site, a condition can remove the ability to erect lighting (that may require planning permission in its own right). The hours of operation are also succinct with the applicants request, though within the D&A the applicant suggests that the winter usage hours will be much shorter. Any permission will control the operating hours, the removal of the ability to provide lighting naturally policies the usage hours in winter, more akin to what is proposed within the D&A.

A point of dispute is the number of dogs. The D&A states that there will be no more than 10 dogs using the field at any one time, however the EPO suggest this should be capped at 6. It is not clear what the noise difference would be between 6 and 10 dogs (this is likely dependent upon the dog type and temperament). Environmental Protection have not given any reason as to why only 6 dogs is appropriate and therefore an understanding cannot be had regards whether such a condition would be necessary or even reasonable. However, that said South Holland District Council have applied such a condition across three sites (H06-0816-23, H17-0478-23, H11-0784-23) and this has been applied despite all sites being different in character from one another. Given the size of this application site, its proximity to commercial uses as well as the A17 which generates traffic noise it is considered that 10 dogs in this instance is appropriate.

Another stipulation by Environmental Protection is that only 'two cars' can be allowed in the car park at any one time; this again is to protect the amenity of nearby residents. The car park is located at a sufficient distance away from residential properties for unacceptable impacts to be mitigated should more than 2 cars arrive at the car park. The Chestnuts which is located closer to existing dwellings has no such restrictions on vehicular movements, with its access located opposite dwellings. Further to this is the noise from the A17. The car park also has an access controlled gate meaning that only prior bookings can enter the site. Therefore, this requirement is also considered to be unreasonable especially given that highways consider the car park and access safe.

Conditions would be applied to any permission that would restrict any lighting on site and the number of dogs and opening times will be controlled.

Highway Safety

SELLP (2019) 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.

SELLP (2019) 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.

SELLP (2019) Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

Highways have been consulted and consider that the proposal is acceptable in highway safety terms subject to a planning condition that would improve access visibility, this will be applied through planning condition. The works to the access would also require highway approval. In terms of parking the authority have stated "The parking area is adequate and provides space to allow vehicles to turn on site so they can enter and leave in a forward gear."

Therefore it is considered that the proposal would accord with SELLP (2019) Policies 2, 3 & 36.

Character & Landscape

Policy 2 of the SELLP (2019) 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. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it 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".

Paragraph 180 (of section 15) seeks to conserve and enhance the natural environment. Paragraph 'b' states that (proposals should contribute to and enhance the natural and local environment by) "recognising the intrinsic character and beauty of the countryside".

The applicant proposes a small shelter to the front of the site, however it is the infrastructure in terms of the fence and car park that would have the greatest impact upon character. In terms of the fence the applicant has provided elevations that the fence will be made up of '2.5mm thick tensile wire' and these are fastened to timber posts, with the fence standing at 1.8m in height. This type of fixture (albeit slightly lower) is not uncommon within the open countryside and so whilst having an impact upon the character, it would not be unacceptable. The height is necessary and standard for dog paddocks and so appropriate in this instance.

Information as to the texture of the car park has been provided stating that it will be graveled, the proposal would be acceptable given the car park is located on a low topography and would only be visible from Topsgate itself, furthermore the gavel is acceptable in terms of a rural material for car parking. The field shelter is timber framed and measures 4m x 3m with a total height to the ridge at 2.4m. The agent has confirmed that this would have a simple brown wood stain. Given its size and location this is also considered acceptable.

On this basis it is considered that the proposal would accord with SELLP (2019) Policies 2 & 3 as well as paragraph 180 of the NPPF.

Flood Risk

SELLP (2019) Policy 4 sets out the districts approach to flood risk. Outdoor sports and recreation are classified as 'water compatible development' by the vulnerability classification table. The proposed use is therefore acceptable in flood risk terms. As regards drainage the proposal is not considered to create a sufficient amount of surface water (only the shelter would represent a gain) given this it is considered that there is no requirement for any drainage related conditions.
On this basis it is considered that the proposal would accord with SELLP (2019) Policy 4.

Planning Balance

Whilst the usage would give rise to the need to place conditions on the development these impacts upon local amenity are not unacceptable. The proposal is for outdoor recreation within the open countryside, in so it would be acceptable in terms of its flooding, amenity, highways and character impacts. On this basis with all things considered the proposed development is considered to accord with SELLP (2019) Policy 1.

Conclusion

Taking into consideration that there are no issues relating to flooding, highway safety, amenity or character it is considered that the proposal would meet with the sustainable objectives of the plan and is therefore considered acceptable subject to conditions.

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.

Recommendations

Grant permission subject to conditions