

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0510-24 **Applicant:** Mr & Mrs L Curtis

Proposal: Formation of a menage on agricultural land within the curtilage of an agricultural building

Location: Adj Rosedale Chapel Drove Holbeach Drove

Terminal Date: 31st July 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

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

CASE OFFICER ASSESSMENT

Description of Proposal

This application is made under Class R of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. The description reads as follows "Formation of a menage on agricultural land within the curtilage of an agricultural building".

Site Description

The site is outside of any of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019, and as such, is considered to be within the open countryside. The area is agricultural in nature. The site itself is a small field/ paddock, with no agricultural buildings present on the site. It appears to have been used for grazing.

Relevant History

No relevant history.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Holbeach Parish Council

No objections

Environmental Protection

No comments regarding land contamination

South Holland Internal Drainage Board

The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which may require Land Drainage Consent from the Board as outlined in the table below and detailed overleaf. Please be aware of the potential for conflict between the planning process and the Board's regulatory regime.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

Schedule 2, Part 3, Class R

Class R of the Town and Country Planning (General Permitted Development) Order 2015 enables to change of use of agricultural buildings to a flexible commercial use. Class R enables the following:

*" Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use
(a) falling within one of the following provisions of the Use Classes Order
(i) Class B2 (general industrial) of Schedule 1;
(ii) Class B8 (storage or distribution) of Schedule 1;
(iii) Class C1 (hotels) of Schedule 1;
(iv) Class E (commercial, business or service) of Schedule 2; or
(v) Class F.2(c) (outdoor sport or recreation) of Schedule 2; or
(b) for the provision of agricultural training"*

Crucially here Class R refers to agricultural buildings. Within this application, no such agricultural building is present on the site. While the land does appear to be agricultural in nature, it does not appear to be within curtilage of an agricultural building. The site is a considerable distance from any agricultural building, and is clearly separated from any such buildings via the existing post and rail fence. In any event, the proposal does not seek to change the use of any building, purely the land, and as such would be contrary of the Class regardless.

As such, it is considered that the proposal does not conform to the provisions of Class R and cannot

be considered permitted development.

Operational Development

Class R does not permit operational development associated with the change of use. This position has been confirmed within appeal reference APP/W3520/W/22/3295602. It is considered that the menage would represent development in its own right, thereby exceeding the limitations of Class R. It is therefore considered that the menage could not be considered as permitted development under Class R.

Conclusion

Taking these factors into consideration, the proposal is considered to far exceed the limits of Class R. The site does not display a clear relationship with an existing agricultural building, and therefore, does not conform to the provisions of this Class. The proposal cannot therefore be considered to be permitted development.

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.

Recommendation

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