

## DECISION DELEGATED TO DEVELOPMENT MANAGER

**Application No:** H09-0665-20      **Applicant:** Mr P Jackson  
**Proposal:** Scramble Bike Track (retrospective)  
**Location:** Jacksons Caravan Park Penny Hill Holbeach  
**Terminal Date:** 30th October 2020

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### 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           |
| 28         | The Natural Environment          |
| 29         | The Historic Environment         |
| 30         | Pollution                        |
| 32         | Community, Health and Well-being |
| 36         | Vehicle and Cycle Parking        |
| APPENDIX 6 | Parking Standards                |

#### National Guidance

#### National Planning Policy Framework 2019

Sections 2, 4, 8, 12, 14, 15 and 16

### Representations:

|                         | Object | Support | No Obj. | Comments |
|-------------------------|--------|---------|---------|----------|
| PARISH COUNCIL          | 0      | 0       | 0       | 0        |
| WARD MEMBER             | 0      | 0       | 0       | 0        |
| HIGHWAYS & SUDS SUPPORT | 0      | 0       | 0       | 1        |
| SHDC INTERNAL           | 0      | 0       | 0       | 1        |

## **CASE OFFICER ASSESSMENT**

### **Proposal**

Planning permission is sought for the use of land as a scramble bike track. The planning statement indicates that the scramble bike track would be for private use only by the applicant and his family and not for business purposes. It stresses that since December 2012 the applicant's six children have used it for family fun activities after school and during weekends and school holidays.

### **Site Description**

The site (some 0.3ha) is situated on the western side of Penny Hill immediately to the north of a residential caravan park, which is a long established use. Access is via a gateway serving the caravan park. The eastern and northern boundaries are de-lineated by hedge/tree planting.

The nearest residential properties un-associated with the caravan park include a group of dwellings some 100 metres plus to the south-east, including The Granary, Chestnut House North and Chestnut House South, the latter two of which are grade II listed. Osborne House is situated some 430 metres to the north-east and Penny Hill Mill approximately 230 metres to the south-west. Outbuildings (including the mill tower) associated with the latter are also grade II listed.

### **Policies/Constraints**

The site is outside a defined settlement limit as defined in the South East Lincolnshire Local Plan, 2019.

### **Representations**

Holbeach Parish Council - No response received.

LCC Highways/SUDs - Does not wish to restrict the grant of permission.

Environmental Protection - No objections subject to the permission being made personal to the applicant.

Public - No response received.

### **Planning Considerations**

The main issues in this case are:

- Whether the proposal is a sustainable form of development having regard to economic, socio and environmental factors;
- Other material considerations such as flood risk.

### **Principle**

As indicated in paragraph 47 of the National Planning Policy Framework, 2019, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The proposed development is outside a defined settlement limit within the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore within an area regarded as countryside. Policy 1 of the SELLP is therefore applicable. It states that development will be permitted in the countryside 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.

The above policy is in accordance with advice within the National Planning Policy Framework, 2019. Paragraph 11 indicates that decisions should apply a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Policies 2 and 3 of the SELLP indicate that new development should protect the character and appearance of an area, whilst Policy 30 states that development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon noise, the health and safety of the public and the amenities of the area.

Addressing the above policies:

**Economic Factors** - The scramble bike track would be for personal use by the applicant and his family. and there would be some personal economic benefits in having such a facility on the applicant's own private land. However, there would not be significant economic benefits in terms of building a strong responsive and competitive economy.

**Socio Factors** - The proposal would be used by occupants of Penny Hill House, which adjoins and is associated with the caravan site. The site adjoins the latter and is in close proximity to the house. It is a suitable location for such a facility, which by its nature would not be wholly appropriate within a defined settlement limit.

**Environmental Factors** - The site is screened by trees and hedging along its northern and eastern boundaries and static caravans are located to the south. Consequently, it is not readily visible from either Peartree House Road or Washway Road. It is considered that the proposal would not harm the existing character of the rural locality or setting of listed buildings within the vicinity.

Scramble bikes can potentially be noisy. However, the track is solely for private use by the applicant's family and is only used on an intermittent basis. It should be noted that the track has been used since 2012 and that there have only been isolated complaints during this time when the track has been used for a lengthy period throughout the day. Environmental Protection (noise) have raised no objections subject to a personal permission. Given the nature of the development a temporary permission of 2 years is recommended and use of the track be restricted to a maximum of 2 hours per day to ensure that the amenity of nearby residents is adequately protected.

It is therefore considered that the proposal satisfactorily complies with Policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019, subject to mitigating conditions.

#### Other Material Considerations

**Flood Risk** - The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and within an area identified as "Danger for Some". However, it is classified as a less vulnerable development and no buildings or impermeable surfaces are proposed. Consequently, there are no objections on flood risk grounds.

In terms of surface water, the development would be permeable. As such, there would not be any significant issues concerning surface water run-off.

**Other Matters** - It is considered that there is not sufficient evidence to refuse the application on grounds of dust, air quality, health issues, possible anti-social behaviour, etc. Some of these matters could be dealt with by means of separate legislation if they were to subsequently arise.

#### **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.

### Conclusion

The proposal satisfactorily complies with Policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019. The proposal is considered to be sustainable and there are no overriding factors against the scheme, subject to mitigating conditions, including a personal permission. It is therefore recommended that the application be approved under delegated powers.