DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0790-23**	**Applicant:**	**Ms S Munn**
Proposal:	Change of use from agricultural to equestrian for personal use		
Location:	Land West Of Fensever Further Old Gate Holbeach		
Terminal Date:	5th December 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
28	The Natural Environment
30	Pollution
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
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	0
RESIDENTS	1	1	0	0

CASE OFFICER ASSESSMENT

Proposal

The applicant seeks a change of use of land from agricultural to equestrian for personal use. The site area is 9.34 Hectares. The application by default would seek to allow the existing agricultural storage building within the application site to be ancillary storage to the proposed use. No physical structures/development are proposed, the permission is for a change of use of the land.

Site Description

The application site is located within the open countryside and outside of any defined development limit as identified by the proposals map of the SELLP 2019. The application site is also located within flood zone 3 in accordance with Environment Agencies Mapping Systems.

The site is accessed from Further Old Gate and has a parking area to the front of the site. An agricultural building, which is located to the south of the site on the eastern boundary is sited, this was approved recently under planning application H09-1210-18. There are also a number of shelters dotted about the field, there are areas divided by temporary fencing for paddocks and numerous animals were seen grazing the field on site visit.

History

H09-0017-20 - Proposed dwelling (Paragraph 79 NPPF). Refused, Appeal dismissed 21-08-20

H09-1210-18 - Proposed Agricultural Store Building. Approved 11-01-19

Consultation Responses

Environment Agency - The Environment Agency does not wish to make any comments on this application considering the low vulnerability of the proposal

Highways & Suds - The equestrian use of this field, being proposed in this Application, is advised to be for the sole, personal benefit of the Applicant and therefore the vehicle movements to and from the site would not be expected to be any more numerous or onerous than those associated with the agricultural use of the land. No changes are proposed to be made to the access arrangements and the field will drain in the manner it always has. Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Environmental Protection - Ensure that waste materials are managed to avoid nuisance due to flies and odour. No comments regarding land contamination

Historic Places Team - No archaeological input required.

Parish Council - No comment

IDB - The board have provided some generic advice in relation to the 'alteration of a watercourse' and works within 9m of a watercourse. The advice is for the applicant's reference in relation to Section 23 of the Land Drainage Act 1991 and Byelaw 10 respectively.

Representations

A letter of support has been received which states "As this land is currently being used as a commercial livery facility (not for agriculture as stated on the application), an application for personal use only is welcomed. This would reduce traffic flow along the road which would be beneficial to all residents".

A letter of objection has also been received which states "We have read the application made by Ms S Munn for the above reference Planning Application and find it strange that a change of use from Agricultural to Equestrian for Personal use has been made for a number of reasons. - At no point since Ms Munn acquired the field has it been used for agricultural purposes. - Ms Munn has been running a livery yard business from the premises for over 4 years. - There are currently somewhere in the order of 10 horses on the land and to my knowledge none of them are owned by Ms Munn. The declaration made in her planning submission is inaccurate and an attempt to mislead the planning authorities, in signing item 26 Declaration she has committed an offence."

Planning Considerations

Determining Development Proposals - Legislative and Policy Framework

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.
In this case, the adopted Southeast Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies for the proposal subject to this advice, are detailed above.
The policies and provisions set out in the National Planning Policy Framework (updated July 2021) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Assessment

The proposal is located within the open countryside and outside of any identified development limits. The application is for the change of use of agricultural land to form an 'personal' equestrian use. The following issues are pertinent to this assessment.

-Principle of development
-Flood Risk and Drainage
-Environmental Issues
-Highways Safety and Parking

Principle of Development

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire until 2036. Policy 1 (Spatial Strategy) expresses the sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor

Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The application site is located within the open countryside and outside of any defined development boundary. Of these areas policy 1d states:

The rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside. 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.

An expansion in relation to this is contained within the policy justification regarding the countryside, it states "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"

Paragraph 84 of the National Planning Policy Framework is concerned with supporting a prosperous rural economy. It states that:

Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
b) the development and diversification of agricultural and other land-based rural businesses;
c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

The Provisional Agricultural Land Classification (ALC) which Natural England provides shows that the application site is ALC Grade 1 land. The proposal is to change the use of the land (over 9 acres) to form 'personal an equine use'. Following request, the applicant has provided a detailed breakdown of the requirements for each animal, in terms of requirements for shelter, pasture and space afforded based upon the animal's needs (this includes health conditions). This information is succinct with the 'Code of Practice for the welfare of Horses, Ponies, Donkeys and their hybrids' (Dept for Environment and rural affairs, 2017).

Pasture Requirements

In terms of pasture requirements DEFRA guidance states "The area of pasture required per horse will depend on the type of grass, ground conditions, time of year, type of horse and degree of pasture management employed. As a general rule, each horse requires approximately 0.5 - 1.0 hectares (or 1.25 to 2.5 acres) of grazing of a suitable quality if no supplementary feeding is being provided. Each donkey requires a minimum of 0.2 - 0.4 hectares (a half to one acre). A smaller area may be adequate where a horse is principally housed, and grazing areas are used only for occasional turnout. If stabling or a yard area is not available, a safely enclosed area of hard standing should be available to facilitate routine and emergency treatment, such as farriery, dentistry and veterinary attention." (Code of Practice for the welfare of Horses, Ponies, Donkeys and their hybrids',(2017). Section 1.2)

The applicant advises that the field is divided into a total of 3 paddocks:

-Paddock 1 - 2.86 acres
-Paddock 2 - 2.77 acres
-Paddock 3 - 2.9 acres

The applicant furthers "Each paddock has 3 horses on it - the horses are chosen to match the field that has the right grazing for their needs. Each of these paddocks can be internally sectioned accordingly to each horse/ponies needs and rotation of grazing and field maintenance."

Given the number of animals and the space requirements set out by good practice (DEFRA) the

change of use of over 9 acres is justified.

Shelter Provision

The DEFRA guidance on shelter states "Not all horses will need a stable/housing. Some horses, particularly native breeds, are capable of living outdoors throughout the year, provided they can obtain shelter from the prevailing winds, summer sun and flies. Shelter can be natural (for example trees or hedges) or man-made (such as a field shelter) depending on the field environment and type of horse. Living outdoors in a social group may be better for some horses than living inside."

The applicant states that "We have 6 stables which can be used by the horses and ponies according to their needs. The internal measurements of the stables are as follows:- 2 x 20ft by 15ft 1 x 16ft by 11ft 1 x 14ft by 11ft 2 x 10ft by 8ft" And "We also currently have 3 double shelters in the three main paddocks. We have another two shelters on order to place at opposite ends of two of the large paddocks which will make rotating paddocks easier with shelter always available."

From site visit it was clear that there were shelters on site, what was not clear was whether these structures required planning permission. This application however does not seek permission for the erection of any shelters that would require a separate planning permission. What is relevant to the assessment is that there is space within the site to provide the requisite amount of shelter for animals to respond with the DEFRA guidance.

Training Provision/ ancillary buildings

There is also a large, corrugated shed that was approved as an agricultural storage under planning application H09-1210-18. This would become ancillary storage to the equine use.
The additional information also adds that it is likely an application will come forward for the creation of a manege. For clarity purposes this application does not approve such a fixture.

Summary

It is therefore considered that the applicant has provided sufficient information to justify the change of use of this amount of agricultural land to form a personal equine use. Furthermore, there is a trend in the area for the creation of rural diversification uses, a dog kennel is located on the next plot. The proposal then is considered to accord with policy 1 of the SELLP as well as paragraph 84 of the NPPF. The proposal requires a countryside location, and the remaining assessment tests whether the proposal would accord with the broad sustainable objectives of the plan.

Flood Risk & Drainage

Policy 4 of the SELLP sets out the district authorities approach to flood risk and drainage. Point F is relevant, it states "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted, where ...demonstrates that the proposal will not increase risk elsewhere and that opportunities through layout, form of development and green infrastructure have been considered as a way of providing flood betterment and reducing flood risk overall"

The proposal is for outdoor recreation which is considered as 'water compatible' development under Annex 3: Flood risk vulnerability classification table. The proposal then to change the use of the application site to form a personal equine use is therefore acceptable.

At this stage the applicant has not provided a drainage strategy other than stating the land is drained through soakaway and given that additional built form is not sought for approval then this is acceptable. The IDB have made comment in relation 'alteration of a watercourse' and 'works within 9m of a watercourse'. These will be attached as informative to any decision for the applicants benefit and any future development of the site must consider these legislative requirements.

It is concerned that the proposal would accord with policy 4 of the SLEPP and Section 14 of the NPPF.

Environmental Issues

Paragraph 130 of the National Planning Policy Framework (2021) states that development should

create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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. It states that "Suitable mitigation measures will be provided, if required. Proposals will be refused if impacts cannot be suitably mitigated or avoided".

The applicant has stated that manure is placed in bags at the outside gate for passers by to collect. Also a local farmer collects manure in a mucking cart. It is considered that this process needs to be formalised to ensure waste is treated consistently and appropriately, this follows comments from Environmental Protection. Therefore, a condition requiring information on how waste is stored, in order to mitigate odour will be attached to any planning permission.
This application does not seek approval for any lighting. Any fixed lighting proposed is likely to require planning permission and should be considered if the applicant intends to submit an application for the formulation of a manege.

The operational activity associated with a 'personal' equine use is likely to have a limited effect upon the amenity of neighbouring land uses and therefore the proposal subject to the use being personal (which will be conditioned for amenity purposes as well as to reinforce the terms of the permission) is therefore considered acceptable.
The proposal would therefore accord with policy 30 of the SELLP and paragraph 130 of the NPPF.

Highway Safety and Parking

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. 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.

Section 9 of the National Planning Policy Framework (2021) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2021) 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".

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).

The applicant seeks to retain the existing access arrangement and parking provision exists close to this access point. The highway authority have been consulted and have stated that "The equestrian use of this field, being proposed in this application, is advised to be for the sole, personal benefit of the Applicant and therefore the vehicle movements to and from the site would not be expected to be any more numerous or onerous than those associated with the agricultural use of the land".

Therefore, subject to conditioning that the use is personal (both in the interest of highway safety and to reaffirm the terms of the permission) the proposal would accord with policy of the SELLP and section 9 of the NPPF.

Conclusion

The applicant has justified that this amount of land is required to support the proposed use, the use which is broadly acceptable with policy 1 of the SELLP has demonstrated that there is limited detrimental impact in relation to highways and amenity and appropriate in flooding terms. It therefore demonstrated that the proposed development would meet with the broad sustainability objectives of the plan.

The applicant is seeking a 'personal equine use' and this will be reinforced through condition to reaffirm the terms of the permission and also mitigate against, highway safety, amenity and flood related impacts.

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.