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TOWN AND COUNTRY PLANNING ACT 1990
SECTION 73 MODIFICATION

Reference: H12-0581-24 **Date of Decision:** 4th December 2024

Applicant: G H Hoyles Ltd.
C/O Robert Doughty Consultancy Ltd.
32 High Street
Helpringham
Sleaford
NG34 0RA

Location: Monmouth Lane Lutton Spalding

Description: Proposed Change of Use of agricultural land to dog exercise area and landscaping - approved under H12-0577-22. Modification of Conditions 2, 3, 4 and 5 relating to time limit, fencing and dog waste bins, number of dogs and hours of operation

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

1 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application Form
Letter written by Lewis Smith on behalf of Robert Doughty Consultancy, dated 2 July 2024
1622-1_FP_SP01 Rev B
Fenland Dog Park Noise Control & Complaints Management Plan, reference 1622-1_FDP - dated October 2024

Reason: For the avoidance of doubt and in the interests of proper planning.

2 The use of the site as a dog walking exercise area shall be carried out strictly in

accordance with the following requirements:

i) No more than six dogs and two vehicles shall be present on site at any one time. This quantum shall include dogs waiting in vehicles whilst the maximum number of dogs are using the enclosed paddock exercise area.
ii) No dogs are permitted to use the wildflower planting area or the wider site at any time outside of the enclosed paddock exercise area.
iii) The use shall operate via a booking system operating using 50 minute slots with a 10 minute gap between appointments to allow for the changeover of clients using the facility.
iv) The use of the site shall be for a dog walking exercise area and for no other use including group dog training.
v) The owner/operator shall maintain an up-to-date register of the names and contact details of all customers and record the number of dogs the customer has and brings on site at any one time. The register shall also contain information about the date and time of each customer's appointment, and this register shall be made available to the Local Planning Authority on request.
vi) The owner/operator shall use a complaints system to deal with complaints in relation to the use, noise, and clients not conforming with the number of dogs on site at any one time.

Reason: In the interests of amenity particularly in relation to noise.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

3 The site shall only operate between the hours of 07:00am and 20:00pm Monday to Sunday and at no other time.

Reason: In the interests of amenity and noise pollution.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

4 The Fenland Dog Park Noise Control & Complaints Management Plan, reference 1622-1_FDP dated October 2024, shall be implemented from the date of this decision and the details so approved shall be maintained thereafter in connection with the use.

Reason: To control noise pollution in relation to the use and in relation to the amenity of nearby occupiers.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

5 No lighting (either temporary or permanent) shall be erected or utilised on site without the prior consent in writing of the Local Planning Authority.

Reason: In the interests of amenity and light pollution.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

6 The scheme of wildflower and tree planting as shown on drawing 1622-1_FP_SP01 Rev B shall be carried out and completed in its entirety during the first planting season following the date of this decision and retained thereafter in accordance with those details.

All trees, and wildflower planting areas shall be managed and maintained by the owner or owners of the land on which they are situated and shall be maintained, managed and kept visually attractive for the duration of the use. All losses shall be made good as and when necessary for a period of 10 years following the date of this decision.

Reason: To ensure that the development is adequately landscaped and managed, in the interests of its visual amenity and that of the area in which it is set, and that Biodiversity Net Gain will be achieved.
This Condition is imposed in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan, 2019 and the Environment Act 2021.

7 Details of the existing and proposed boundary treatments, including fencing, entrance gates, boundary tree planting including details of the colour, materials, design and height of fencing along the eastern flank and front of the site, together with a schedule of fencing levels, heights and materials, and details of the size and species of any additional tree planting, shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this decision and the details so approved shall be implemented in full within 6 months of the date of this decision and shall be retained thereafter. No other fencing, gates, signage or other means of enclosure shall be erected on the site without the prior consent in writing by the Local Planning Authority. The details shall include signage to the entrance to the dog exercise area gates relating to the maximum number of dogs permitted on site at any one time.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan, or

(c) the development is exempt from the biodiversity gain condition.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at
https://www.gov.uk/guidance/biodiversity-net-gain.

Based on the information available and submitted in support of this application, the Local Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

Section 73 applications are not subject to formal Biodiversity Net Gain.

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is

minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

(a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and

(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

https://www.gov.uk/appeal-householder-planning-decision

https://www.gov.uk/appeal-planning-decision

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.