DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0538-24**	**Applicant:**	**Happy Tails and Dirty Paws**
Proposal:	Change of use from agricultural land to enclosed dog walking paddock/exercise field - previously approved under H16-0455-23		
Location:	Sycamore Farm Holbeach Road Spalding		
Terminal Date:	30th September 2024		

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
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 6 - Building a strong, competitive economy
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	0	1
RESIDENTS	0	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This application seeks full permission for the change of use from agricultural land to enclosed dog walking paddock/exercise field which was previously approved under H16-0455-23 and is now seeking to extend their permission which was previously granted for a year.

The previously approved hours of operation were 07:00am - 20:00pm Monday to Sunday, the amount of dogs on site at any one time was limited to no more than six with the vehicles also being limited to no more than two. Should the application be approved the same hours and limits will be applied to be in accordance with comments provided by Environmental Health. The accompanying business plans indicates that there have been no complaints regarding noise since the creation of this dog paddock. The field is fenced with 6ft high agricultural posts and heavy duty weld mesh fencing wire with a large 14ft gate, this enables the dogs to run around the fields whilst keeping them and their owners safe.

The use of the field will be by appointment only with each person booking an exclusive 50 minute slot online which grants them the exclusive use of the field to walk/exercise their dog(s). It is worth noting that the applicants aim to increase the limit of dogs from six to ten subject to agreement from Environmental Protection.

Site Description

The site is located off Holbeach Road. It is located outside any defined settlement boundary and on land regarded as open countryside. The parcel of land in question is currently associated with Redford Flowers Limited, formerly Sycamore farm. It is laid to grass and accessed off Holbeach Road via an access track running between current farm buildings to the north.

History

H16-0455-23 - Change of use from agricultural land to enclosed dog walking paddock/exercise field - Approved

Consultation Responses

South Holland Internal Drainage Board

No comments.

Environment Agency

We have no objection the application (ref: H16-0538-24). However, we would like to draw the applicant's
attention to the following information -

The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit https://www.gov.uk/sign-up-for-flood-warnings. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up. Flood warnings can give people valuable time to prepare for flooding - time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities. For practical advice on

preparing for a flood, visit https://www.gov.uk/prepare-for-flooding. To get help during a flood, visit https://www.gov.uk/help-during-flood. For advice on what do after a flood, visit https://www.gov.uk/after-flood.

Lincolnshire County Council Highways

Recommendation:

No Objections

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.

Comments:

The proposal is for the change of use from agricultural land to enclosed dog walking paddock/exercise field - previously approved under H16-0455-23. This is an established enterprise that has been running without any issues relating to highways. The proposal includes an additional area to be used as a secure dog paddock, for private hire - formally agricultural. The proposal will not have an adverse impact on the public highway.

South Holland District Council Environmental Protection

I request that the same conditions as was put on H16-0455-23 be applied for this application as follows:

1. 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
This condition is imposed in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

2. The site shall only operate between the hours 7am and 8pm Monday- Sunday

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

3. No more than 6 dogs and 2 vehicles shall be present on the 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.

Key Planning Considerations

The main issues and considerations in this case are (but not limited to):

- Principle of development
- Layout, design and impact on the character of the area
- Impact on neighbouring residents/ land users/ land use
- Flood Risk and Drainage
- Biodiversity Net Gain

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, 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 South East 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 are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Planning Considerations

Principle of Development and Sustainability

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 to 2036. Policy 1 (Spatial Strategy) expresses this 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.

Policy 1 states that "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". The existing residential site is outside any defined settlement boundary and is is therefore regarded as being within the countryside in policy terms. As such, the application site falls to be assessed as a 'Countryside' location, as detailed by this spatial policy.

Whilst the site itself is set outside a defined settlement boundary, the principle of development was deemed acceptable in the previous approval with this holding weight in this instance. Policy 1 of the SELLP states that development within the countryside is limited to that where it '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 development in this instance is considered to be necessary in this specific location as they are limitations as to where the proposed use could be located given that there is a need to ensure there is enough physical space for the dogs plus it would be unrealistic approve such a scheme in a settlement boundary where there is a high level of residential properties for examples. Furthermore, it is considered to provide economic and community benefits as it creates a service for the community to use to allow them to safely walk their dogs or multiple dogs. the use therefore provides benefits to the local community.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan, the proposal, for the reasons outlined above, are considered to be acceptable in this instance when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, parking provision, flood risk and, biodiversity net gain.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments 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, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require 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.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

Due to the nature of the proposal and as outlined in the previous report, there are minor physical changes to the site thus meaning no significant or material harm should occur. It would be commensurate with other dog walking fields as it features multiple bins, parking area, water stations, a shelter and a seating area. With the rest of the field in use for the main agility area surrounding by large fencing and a main entrance gate also. In addition to this, the minimal alterations results in the capacity and ability to return the site to its former use at ease should the use on site wish to be altered. As such, there is no material impact on the site or to the surrounding area meaning it is considered to be acceptable and suitable in this regard.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) 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.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

As discussed in the previous section of this report, there are minimal structures on site that could result in any potential overshadowing, in any case, this is further benefitted by the substantial distance to neighbouring properties and as such it is considered that there will be no material overshadowing. In addition to this, these distances also mean that no overlooking should occur from customers who are on site at any times with their dogs.

One bin would be provided within the site and a larger one adjacent to the site on land within the applicants ownership and these would be regularly emptied by a specialist removal company

therefore it is considered that dog waste would be adequately controlled/disposed. Conditions attached to control the use by limiting the number of dogs and cars, and by monitoring the use over a temporary period, are considered sufficient to ensure there is no conflict with Policy 30.

Previously, temporary permission was granted for a year to allow the Council to monitor noise levels to assess the acceptability of the proposal in this instance. It is to the best of the case officer's knowledge that during this time there have been no formal complaints to the Council or the Local Planning Authority which has also been supported by no objections being submitted on this formal application. Conditions also imposed that a maximum of six dogs at any one time were on site in another attempt to limit the potential for noise, it is important to note that the applicant seeks to increase this number with permission from Environmental Protection, however they have stated that they wish to keep it the same as the original permission. It would be considered that any more than six dogs from three different households could cause problems to the area although there have been no complaints with the current set up. As there have been no formal complaints brought forward to the Council nor has the case officer been made aware of any, it is considered that there is not a material or unacceptable level of noise generated from this site - of course it is acknowledged that there is some noise from the visiting dogs, however it is not of an unacceptable level. There are substantial distance to neighbouring properties with the closest being approximately 375m to the north east and a similar distance to the south west. These distances mean that there are no residential properties in the immediate area that could be materially impacted by this noise. With this in mind, subject to the proposal meeting other relevant requirements, if permission is granted, the case officer will allow this site to run on a permanent basis without the need to apply for further temporary permissions. Relevant conditions will be included within the decision notice to reduce any impact on residential amenity which will mainly focus on the amount of dogs on site at any one time, the opening times and a limit to not allow the erection of any permanent or temporary lighting without permission from the LPA.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) 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".

In respect of highway matters, 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.

Further, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards.

Lincolnshire County Council Highways Authority were consulted on this application and raised no objections during this process, they stated that 'This is an established enterprise that has been running without any issues relating to highways. The proposal includes an additional area to be used as a secure dog paddock, for private hire - formally agricultural. The proposal will not have an adverse impact on the public highway'. Parking spaces have been provided on site with Highways raising no concerns in this regard.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework (December 2023).

U]Flood Risk and Drainage

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 162 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "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" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. The latter have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. However, the maps are broad brush and do not take into account any flood defences. It is therefore necessary to use the refined flood risk information (Hazard and Depth Maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The SFRA indicates that the site lies within an area identified as Danger for All and Danger for Most, as such, the Environment Agency were consulted on this application for their comments on the safety of the development for this site. Importantly, they raised no objections but wish to draw the applicant's attention to the flood warning register for them to sign up to. From this, it is considered that despite its location in a high flood zone, due to the nature of the development there is no harm to those on site as it does not serve as a habitable area.

Biodiversity Net Gain

A biodiversity net gain statement has been provided within this application stating that they are exempt from the need to provide 10% net gain, the report states the following 'For the past year it has been utilised as a dog walking paddock. The grass area has been maintained. No impact on biodiversity will affect this area in a negative way. No development is taking place in this area. No loss of habitat'.

The LPA believe there is no need to present 10% biodiversity on this site due to the minor nature of the proposal in terms of permanent structures of a built form. The majority of the site remains grass with the only structure being a shelter on the southern section of the site, furthermore, the use as a dog walking paddock has been in operation for the past year, prior to the introduction of biodiversity net gain.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as

amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the 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.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 28, 30 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPFF) (December 2023). The are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

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