

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 20 July 2022

(Author: Sundas Shaban - Planning Officer)

Purpose: To consider Planning Application H17-0190-21

Application Number: H17-0190-21

Date Received: 23 February 2021

Application Type: FULL

Description: Change of use of land to dog training centre with associated works - re-submission of H17-0239-20

Location: Land at Gubboles Drove Surfleet Spalding

Applicant: Mrs H Laches

Agent: Mrs H Laches

Ward: Pinchbeck and Surfleet

Ward Councillors: Cllr S A Slade
Cllr J Avery
Cllr E J Sneath

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H17-0190-21>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application was previously reported to the Planning Committee on 29 April 2021 when it was deferred to clarify the position on the following matters:

- More information from Highways with regard to the access and vehicle generation;
- SHDC Environmental Protection with regard to the potential for noise;
- Hours of operation and how the impact could be reduced;
- Lighting mechanisms; and
- Noise mitigation.

2.0 PROPOSAL

2.1 This is a full planning application that seeks permission for change of use of land to dog training centre with associated works on land at Gubboles Drove, Surfleet, Spalding.

2.2 This application is a re-submission following the refusal under delegated powers on 2 October 2020 of application ref. H17-0239-20.

2.3 The applicant is a full-time self-employed dog trainer and behaviourist. They currently own dog training facilities elsewhere and wish to relocate them to the application site.

2.4 Training sessions for groups, regular private sessions and occasional training camps would take place for dog sport including the disciplines of Agility and Hoopers.

2.5 The sought operating hours would be at any given time from 09:00 to 20:00 Monday to Friday;

09:00 to 19:00 Saturday, Sunday and Bank Holidays. Clients would visit the site on an appointment basis. A maximum number of 8 clients would be anticipated for group training sessions and 16 clients for training camps.

- 2.6 The development proposals comprise an artificial grass training area (all weather surface area menage), grass protector mesh for parking area, stock fencing on the site boundaries and removable floodlights.
- 2.7 The application was deferred at the previous committee meeting held on on 29 April 2021 as further information was requested in terms of the nature of the proposed operation, more information from Highways with regards to the access and traffic generated from the proposed used, further clarification from SHDC Environmental Protection with regard to the potential for noise, hours of operation and how the impact could be reduced, proposed lighting mechanisms for the site and noise mitigation measures. The applicant also requested more time to resolve the access issue with the Parish Council.
- 2.8 The applicant has since submitted the following details:
- Operating hours and number of classes/training sessions
 - Details of floodlights
 - Plan showing new access and visibility splays (3985-22 01) as well as new permeable block paving roadway leading to the existing field access.
 - The applicant has also received advice from her solicitor regarding the legal status of the verge advising that the grass verge is maintained by highways therefore they have a right of access.

3.0 SITE DESCRIPTION

- 3.1 The site is a 1.85 ha. improved grassland field surrounded by offsite shallow ditches on all boundaries. Gubboles Drove runs to the north, Beach Bank to the west. A drain delimits the site on all its boundaries. A row of mature trees and dense hedgerows abuts the edge of the site with Gubboles Drove. There is a strip of grassed land or verge across the full width of the site.
- 3.2 The existing field access would be re-used which nearly merges with a highway junction between Gubboles Drove and Little Lane. These roads are single lane carriageway. Beach Bank to the west is also a single lane carriageway with further limited passing places and untreated surface.
- 3.3 The character of the area is visibly rural. Vast parcels of agricultural land buffers the application and beyond. Openness is perceived across multiple viewpoints. A few residential properties would not appear excessively distant from the site. Drove Farm is to the north-east on Little Lane, Gatehouse to the west on Gubboles Drove; and The New Gatehouse and The Cottage to the south-west on Beach Bank.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy 1 - Spatial Strategy;
Policy 2 - Development Management;
Policy 3 - Design of New Development;
Policy 7 - Improving S E Lincolnshire's Employment Land Portfolio;
Policy 28 - The Natural Environment;
Policy 30 - Pollution;

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 2 - Achieving Sustainable development;
Section 3 - Plan Making;
Section 4 - Decision Making;
Section 12 - Achieving Well-Designed Places;
Section 15 - Conserving and Enhancing the Natural Environment;

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H17-0239-20 - Change of use of land for use as dog training business with associated works - Refused 2 October 2020 for the following reasons:

"Paragraph 109 of the National Planning Policy Framework (2019) (NPPF) states 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. Likewise, Paragraph 127 of the NPPF sets out that development should function well and add to the overall quality of the area; and create places that are safe, inclusive and accessible, among other criteria. In terms of local policy, Policy 2 of the South East Lincolnshire Local Plan (2019) states access and vehicle generation levels as one of the criteria to be satisfied when assessing development proposals.

The Highways Authority have been consulted on the application and have objected to the proposal on the basis that the "existing highway along Gubboles Drove is a single track carriageway with limited passing places which cannot sustain frequent use of vehicles for this proposal to operate 13 hours a day, 7 days a week and 52 weeks of the year with the amount of traffic that will be generated including events and camping, without causing a detrimental impact upon the highway network and it's infrastructure. It should also be noted that Beach Bank would not provide safe and suitable access to the proposed development site due to the very narrow carriageway which is unable to accommodate the passing of two-way vehicle movements. The verges along Beach Bank are also very narrow with open drains on either side, which would mean users would have to reverse along the highway, increasing the likelihood of an accident occurring. Therefore, it is again in the opinion of the Highway Authority that a proposal for a vehicle access off Beach Bank would have an unacceptable impact upon highway safety in accordance with paragraph 109 of the National Planning Policy Framework."

Taking the above into account, the proposal is considered to be contrary to Policy 2 of the South East Lincolnshire Local Plan (2019) as well as Paragraphs 109 and 127 of the National Planning Policy Framework (2019).

Policy 2 of the South East Lincolnshire Local Plan (2019) (SELLP) states that proposals requiring planning permission for development will be permitted provided that certain considerations are met, including in relation to the impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion, among others. Likewise, residential amenity is one of the issues that is highlighted when considering proposals on the grounds of design and layout following Policy 3 of the SELLP (2019). Furthermore, Policy 30 states that development proposals will not be permitted where they would lead to unacceptable adverse impacts upon the amenities of the area by way of noise and light levels. Paragraph 127 of National Planning Policy Framework (NPPF), 2019 sets out that proposals 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, among others.

The hours of opening sought are 08.00 to 21.00 Monday to Friday, 08.00 to 20.00 Saturday, Sunday and Bank Holidays. It is appreciated that the dog training activities will not be carried out continuously, nor will the camping element (once a month for dog competitions), over these time periods. Notwithstanding this, there are five dwellings to the north-east, two further to the south-west and one further to the west within a 500 metre radius from the centre of the site. SHDC's Environmental Health Officer has been consulted and expressed concerns about the potential impact from noise on the surrounding residential properties.

The potential use intensity is such that it will potentially create excessive noise and disturbance from dog barking and vehicular traffic to the residents in the locality. The development is therefore considered contrary to Policies 2, 3 and 30 of SELLP (2019) as well as Paragraph 127 of National Planning Policy Framework (NPPF), 2019."

6.0 REPRESENTATIONS

6.1 District Councillors

5 District Councillors supported the resident objections in the following terms:

Cllr Jane King

"Without access to the field I cannot see how this application can go ahead. I also agree on the subject of noise and traffic"

Cllr Simon Walsh

"The applicants still do not appear to overcome the many objections/issues already raised with this application. I am all in favour of looking to support the enterprise of people setting up in business and providing needed services, this however cannot be to the detriment of the local area or residents. As the applicants are still to overcome the most basic need of "access", then I am unable to see how this application can continue"

Cllr Henry Bingham

"My comments remain the same as per the refused application previously. The entrance to the site is not within the ownership of the applicant and no changes to said access can occur without the landowners permission. A suitable entrance to the highway could not be achieved. The single track road is unsuitable for the proposed increased use. The hours and use would have a serious effect on the surrounding properties residential amenity. The application doesn't propose suitable fencing or screening to the site causing a risk to the general public. The application still does not specify fully the proposed layout/use and leaves it open to abuse. The proposed times of use not including camping etc will result in residents having constant noise pollution and nuisance. I would expect a full waste management proposal to have accompanied this app with the level of use proposed also."

Cllr Sally Slade

"I think that this business is unsuitable for this space. I am concerned about increased use of local roads for traffic and the lack of specification about disposal of waste and water. I am also concerned about inaccuracies in the application: it says that there are no trees or bushes locally, which is not the case. It also says that there are no water courses nearby, when it is surrounded by water on all four sides, as shown on the plan. They do not have official, agreed access to the site. I am also worried about the noise levels and inconvenience to the neighbours which this would cause"

Cllr Elizabeth Sneath

"I am objecting to this application, the proposed use of farmland in this rural setting is completely inappropriate and unsuitable. The noise and light pollution from then proposed operating hours are unacceptable. The narrow roads to the site are inadequate for the type and amount of traffic planned. The applicant has not resolved access issues to the site and has not addressed queries over waste disposal, both of business waste and waste from toilet facilities. This proposal is for a 75 hour a week business operation in an entirely unsuitable location and all the reasons for refusal last year are unchanged and still stand."

6.2 Gosberton Parish Council

Objection.

"Gosberton Parish Council are in support of objections raised by parishioners, and are also objecting as a parish council for the following reasons:

(i) loss of Grade 1 agricultural land (ii) inadequate highways to accommodate additional traffic due to the development (iii) high parking provision is at odds with the neighbouring uses in the area (iv) extensive hours of opening will harm the amenity of residents nearby (v) Floodlighting will impact on the local wildlife (vi) There is a 18 m wide verge between the field access and Gubboles Drove. It is owned by the Parish Council. Irrespective of ownership issues, the agricultural clause for access over this land has not been reverted nor resolved by the applicant and the council, therefore, the applicant does not have a prescriptive right of way over the land (vii) noise to neighbouring residential properties from dogs barking and traffic."

Access across the land for any other purpose other than agricultural and horticultural use, in line with all other residents in the area. The business outlined in this planning application does not fit into this criteria,

6.3 Surfleet Parish Council

Objection.

"The parish council strongly objected to the previous application last year, this so called amended application has not fundamentally changed from the first request. All our original objections remain. The roadway is single track with no passing places and narrow verges, it will not sustain the potential level of traffic that is likely to be generated. There will also be a significant impact on neighbouring properties and the environment. Local residents will be impacted from both traffic movements and the level of noise disturbance that will be generated from training and particularly the monthly and annual shows that are proposed. This is grade 1 agricultural land that has been sympathetically managed to sustain the local wildlife for many many years.

We have been contacted by significant numbers of parishioners who strongly object to this proposal. The Council also understands that the required right of way to access the site is not in place and is unlikely to be granted in the future, despite this we have seen evidence of the programme of events already being advertised for later this year. This application should be refused."

6.4 LCC Highways/SUDS Authority

The proposed access is acceptable therefore there is no objection to this. Legal Services has confirmed that the grass verge is not owned by highways and is in fact owned by the Parish Council who would not consent to allow an access to be created across their land. This seems to be a conflict of interests between the applicant and the Parish Council; however, the Highway Authority are satisfied with the current proposal and have no objections.

6.5 SHDC Environmental Protection (Noise)

Objection.

"I remain concerned over the potential impact of noise from dog barking on properties in the surrounding area"

6.6 SHDC Nature and Tree Conservation Officer

No objection.

Agrees with the Preliminary Ecological Assessment.

6.7 Welland & Deepings IDB

The Board's Old Beach Drain West runs along the northern boundary of the site and is afforded the protection of a 9 metre byelaw distance. The applicant has previously had consent granted by the Board to install a new fresh water supply within our 9m easement area but if anything new were proposed inside the easement strip then the same process would need to be followed.

6.8 Sir John Hayes MP

"I remain concerned that Gubboles Drove and Little Lane are narrow, single track lanes in a poor state of repair, and unsuitable for the increase in traffic movements this proposal would bring, furthermore, visibility when exiting the site, is impaired by mature trees. Furthermore, will there be sufficient off-road parking or will clients of the business park on the roadside which could be hazardous along a single track lane, and in the winter months, cause damage to the verge.

As stated in my objection to the original application, this proposal will see prime Grade I

agricultural land removed from food production which would be undesirable. It is so important that farming land, such as this site, remains in production to ensure that food prices remain affordable, and that we maintain food security and protect our environment. I understand the proposed hours of business have reduced to 75 hours per week, however, noise would still have a detrimental impact in such an ordinarily quiet rural area with no commercial premises nearby. The noise and light pollution from this business will see a loss of amenity for neighbouring properties. I am sure that there are the facilities and infrastructure in place in Surfleet to support this application."

6.9 Public

16 representations have been made supporting the proposals in the following terms:

- A new business to the local economy that has been heavily affected during Covid times
- Much needed professional dog training
- It will bring benefits to other local businesses (b&b and hotel accommodation, restaurants, pubs and so on)
- The scheme will help people with limited mobility and also give them a chance to socialise with like minded people

A large number of representations have been made against the proposals. The main issues are summarised as follows:

- No facilities for clients when training camps are held.
- Further clarification on hours of opening, the appointment basis and flows of clients coming and leaving the site
- No evidence that the ownership issue regarding the verge has been resolved between the applicant and the Gosberton Parish Council.
- The ecology survey is not accessed for the members of the public.
- Harm upon the biodiversity significance of the site and its surroundings. Owl boxes and deer have been observed on the site, among others.
- Loss of Grade I arable land.
- Dog training has already taken place after the previous planning refusal and complaints about noise disturbance from dog barking were made to South Holland Environmental Health Department.
- Noise pollution from dog barking would undermine the residential amenity.
- Concerns about the environmental harm of dog foul. Further details about disposal and collection should be provided.
- Events of dog fouling in Surfleet would be a precedent of likely consequences of the development.
- Increase in vehicular traffic would exacerbate poor highway safety in Stockhouse Lane, Gubboles Drove and the junction near the site access.
- The new access cannot be achieved and maintained as the land is not in the applicants ownership
- No details have been provided about the floodlights in terms of their height, number etc or where they would be located and oriented on the site when in use
- The other dog site applications referred to by the applicant as not relevant given the application site has residential dwellings in closer proximity.

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

7.2 Principle of development

7.3 The application site is in the countryside as per the Policies Map of the South East Lincolnshire Local Plan (SELLP), 2019.

7.4 Policy 1 of the Local Plan sets out the spatial strategy for new development and ensures that positive improvements are sought in the quality of the built, natural and historic environment, as well as to residents' quality of life.

7.5 This Policy states that "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".

- 7.6 Economic - Two supporting statements has been provided by the applicant. Throughout both documents, it is justified that the proposed dog training centre would thrive the local economy. The development would entail an additional business to the area. Especially when training camps are held, clients would be visitors from far away that would pay for accommodation in bed and breakfast, hotels etc., buy food in local supermarkets and other food outlets, and pay for meal in restaurants, public houses etc. during their stay.
- Environmental - A Preliminary Ecology Survey has been also submitted with this application. No unacceptable harm has been identified by virtue of the proposals. Recommendation measures are proposed for protecting identified habitats during the construction works. Also, mitigation and enhancement recommendations has been made for ecological receptors. SHDC Nature & Tree Officer has raised no objection to the relationship of the development with the biodiversity significance on the site and its setting.
- 7.7 Social - The purpose of the dog training centre is to serve the local community as well as other people from further away. There have been numerous representations supporting the grant of permission to the proposal and, at the same time, multiple objections from local residents. Without prejudice of the applicant's aim with this proposal, the social aspect of the dog training centre at such location might not be the most appropriate in view of the neighbour consultation's outcome.
- 7.8 On balance, the principle of developing the dog training centre would be deemed acceptable having weighed up its impacts and benefits. The development overall would be capable of achieving sustainable development in the countryside and therefore the application accords with Policy 1 of SELLP (2019).
- 7.9 Policy 7 of the Local Plan is aimed to ensure that economic growth takes place in the most sustainable locations. For this reason, it provides a portfolio of employment land from strategic established sites to windfall sites for industrial/commercial purposes.
- 7.10 The application site is not allocated for any employment purpose. Thus, the site is classed 'Other Employment Sites'. As such, this policy states that "new employment development/businesses or the extension of an existing business outside the above allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land or the conversion/re-use of redundant buildings.
- 7.11 It goes on to say that "where it can be demonstrated that no suitable building capable of conversion/re-use is available or the re-use of previously-developed land is not available or is unsuitable, proposals on non allocated sites may be acceptable provided:
- a. the development does not conflict with neighbouring land uses;
 - b. there is no significant adverse impact upon the character and appearance of the area;
 - c. the design is responsive to the local context;
 - d. there will be no significant adverse impact on the local highway network;
 - e. there will be no significant adverse impact upon the viability of delivering any allocated employment site;
 - f. proposals maximising opportunities for modal shift away from the private car are demonstrated; and;
 - g. there is an identified need for the business location outside of identified employment areas on the Policies Map".
- 7.12 The scale of the development has been reduced in comparison with the proposal that was previously refused. The camping area for training camp visitors has been removed from the proposal which significantly reduces the adverse impact on the local highway network to an acceptable level. The Highway County Authority has raised no objection in this regard.
- 7.13 There are some residential properties in the area and numerous objections pointed out the likely impact of the dog training centre upon the amenity of residents nearby by reason of noise and disturbance from dog barking. SHDC Environmental Health agrees with this regard.

- 7.14 An artificial grass training area, protector mesh for parking area, stock fencing and removable floodlights would not be significantly intrusive to the openness of the landscape. Therefore, the design of the development is deemed appropriate to prevent any adverse impact upon the character and appearance of the area.
- 7.15 Identified employment areas in the Local Plan's portfolio are for industrial uses which is unrelated with the nature of the proposed use. Thus, the dog training centre should be outside of identified employment areas on the Policies Map.
- 7.16 On balance, the development is considered to accord with Policy 7 of SELLP (2019).
- 7.17 Design and layout
- 7.18 Paragraph 130 of National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 7.19 Policies 2 and 3 of SELLP 2019 amongst other matters seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. The development proposals comprise an artificial grass training area (all weather surface area menage), grass protector mesh for parking area, stock fencing on the site boundaries and removable floodlights.
- 7.20 The proposal that was previously refused sought permission for two large dog training areas in the form of a menage. A large parking area was also sought with hard surfacing. It also included a camping area within the site.
- 7.21 This time, the re-submission has been made for one artificial grass training area of much smaller size and the use of grass protector mesh for the parking area. Floodlights would be removable which prevent to make them permanent on the site. Stock fencing would be in principle of low height and a characteristic element of farms with sheep and cattle.
- 7.22 The material proposals would be clearly functional to the dog training centre. The scale and design of the development would be far less intrusive upon the countryside. The resulting character would not be tremendously at odds with the rural character of the area.
- 7.23 In summary, the application satisfactorily complies with Paragraph 130 of National Planning Policy Framework (NPPF), 2021; and Policies 2 and 3 of SELLP 2019.
- 7.24 Residential amenity
- 7.25 Paragraph 130 of National Planning Policy Framework (NPPF), 2021 sets out that proposals 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, among others.
- 7.26 Policy 2 of SELLP (2019) states that proposals requiring planning permission for development will be permitted provided that considerations are met, specifically in relation to impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion, among others. Likewise, residential amenity is one of the factors to take into account when designing new development in accordance with Policy 3 SELLP (2019).
- 7.27 Policy 30 of SELLP (2019) states that development proposals will not be permitted where they would lead to unacceptable adverse impacts upon the amenities of the area by way of noise and light levels.
- 7.28 The hours of opening for the dog training centre would be at any given time between the hours of 09:00 and 18.00 any day. Clients would visit the site on an appointment basis. A maximum number of 8 clients and 16 clients would be anticipated for group training sessions and training

camps respectively.

- 7.29 There are five dwellings to the north-east, two further to the south-west and one further to the west within a 500 metre radius from the centre of the site. SHDC Environmental Health Department has been consulted and remains concerned over the potential impact of noise from dog barking on properties in the surrounding area. However, they have advised that they have not received any noise complaints since the business has been operating. Notwithstanding this, the appointment basis has been proposed with this re-submission. It would prevent numerous clients with their dogs at the same time and therefore noise and disturbance might be to some extent mitigated. As such on balance any noise impacts on neighbouring amenity would be within acceptable tolerances.
- 7.30 Impact upon habitats and wildlife
- 7.31 The supportive text of Policy 28 of SELLP (2019) states that "it is important that the natural environment is protected from avoidable development and improvements are made on a landscape-scale". Paragraph 180 of NPPF (2021) established that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"
- 7.32 The site does not benefit from any designation with regard to habitats and biodiversity. Therefore, it is subject to the third section of this policy which sets out the following:
- "Addressing gaps in the ecological network:
- a. by ensuring that all development proposals shall provide an overall net gain in biodiversity, by:
 - i. protecting the biodiversity value of land, buildings and trees (including veteran trees) minimising the fragmentation of habitats;
 - ii. maximising the opportunities for restoration, enhancement and connection of natural habitats and species of principal importance;
 - iii. incorporating beneficial biodiversity conservation features on buildings, where appropriate; and maximising opportunities to enhance green infrastructure and ecological corridors, including water space; and
 - iv. conserving or enhancing biodiversity or geodiversity conservation features that will provide new habitat and help wildlife to adapt to climate change, and if the development is within a Nature Improvement Area (NIA), contributing to the aims and objectives of the NIA."
- 7.33 This application is accompanied by a Preliminary Ecological Assessment. The assessment concludes that the land within the site is an improved grassland field with low to negligible ecological value due to its homogenous structure, and species-poor botanical communities present. The surrounding fields are considered to be of low ecological value as a result of their seasonal dryness and lack of suitable connections to good quality aquatic and terrestrial habitats within the wider landscape. A set of recommendations has been also made in order to enhance ecological receptors and protect the assets during the construction works.
- 7.34 SHDC Trees and Nature Conservation Officer has been also consulted and confirmed the appropriateness of the Preliminary Ecological Assessment.
- In summary, the applications accord with Paragraph 180 of NPPF (2021) and Policy 28 of SELLP (2019).
- 7.35 Highway safety
- 7.36 Paragraph 111 of NPPF (2021) establishes 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.
- 7.37 Policy 2 of SELLP, 2019 sets out access and vehicle generation levels as one of the criteria to meet when assessing development proposals.

- 7.38 The Highway Authority initially requested further information with regards to the access. The applicant has since provided a plan showing the location of the proposed access and visibility splays. She has also submitted information from her solicitor regarding the legal status of the verge advising that the grass verge is maintained by highways therefore they have a right of access.
- 7.39 Lincolnshire County Council has been re-consulted and they have advised that the proposed access is acceptable therefore there is no objection to this. Legal Services has confirmed that the grass verge is not owned by highways and is in fact owned by the Parish Council who would not consent to allow an access to be created across their land. This seems to be a conflict of interests between the applicant and the Parish Council, however, the Highway Authority are satisfied with the current proposal and have no objections.
- 7.40 With regards to obtaining permission from the Parish to allow a crossover this is a civil matter and can be dealt with outside of planning therefore a grampian condition has been appended requiring the applicant to resolve the access issue with the Parish Council before the proposed use is commenced.
- 7.41 In summary, the proposals are acceptable on highway safety grounds. The application on balance accords with Policy 2 of SELLP, 2019.
- 7.42 Other matters
- 7.43 Some representations were made against this application based on an unresolved issue about the ownership and use of the verge. This strip of land would include the field track which is sought to be re-used as an access to the dog training centre.
- 7.44 Without prejudice of subsequent discussions, the applicant served notice to Gosberton Parish Council and signed Certificate B of the form when the planning application was submitted to the Local Planning Authority. Although no agreement has been reached at this stage, this is considered to be a civil matter and can be resolved outside of planning.
- 7.45 Planning Balance
- 7.46 The site is in the countryside as per South East Lincolnshire Local Plan (SELLP). On balance, the principle of developing the site as proposed would be acceptable subject to further material considerations.
- 7.47 The scale of the development has been reduced in comparison with the former proposal. The built form would be far less prominent upon the openness of the landscape. Training sessions and training camps would be arranged on an appointment basis which would prevent unacceptable levels of noise and disturbance that would harm the residential amenity. Subject to further details, the safety standards would be ensured for highway users in the immediacy of the application site. Appropriate assessment has been carried out to demonstrate the low biodiversity significance of the site and its setting. Thus, the proposal would not harm the natural environment of the location.
- 7.48 The proposal is therefore in accordance with Policies 1, 2, 3, 4, 11, 29, 30 and 36 of the South East Lincolnshire Local Plan, 2019.
- 7.49 Conclusion
- 7.50 The planning balance lies in favour of the proposal for the reasons outlined above therefore the application is recommended for approval.
- 7.51 **Additional Considerations**
- 7.52 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.

7.53 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.

8.0 **RECOMMENDATIONS**

8.1 **Grant permission subject to conditions listed at Section 9.0 of this report.**

9.0 **CONDITIONS**

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan

Block Plan

Supporting Information

Preliminary Ecological Assessment (Landscape Science Consultancy Ltd. dated February 2021)

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

3. This permission shall operate for the benefit of Ms. Hayley Laches and the use hereby approved shall be terminated at such time as Ms. Hayley Laches ceases to occupy the premises.

Reason: To enable consistent standards with regards to the facility and standards in care which have been demonstrated by the applicant in this matter.

Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4. The training of dogs shall only be undertaken between the hours of 09:00 to 20:00 Monday to Friday; 09:00 to 19:00 Saturday, Sunday and Bank Holidays.

Reason: To enable the Local Planning Authority to mitigate any harm the development may have on local residents and the amenities of the locality.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5. The training methods shall be in accordance with those outlined within the supporting information accompanying the application.

Reason: This condition is imposed in accordance with Policy to further define the terms of the permission in the interests of the amenities of the locality.

6. None of the existing trees on the site shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority. If any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of existing trees on the site, in the interests of the visual amenity of the locality.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

7. Prior to its installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

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.

8. Prior to commencement of the use hereby permitted the location of the proposed floodlights shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and highway safety in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

9. No part of the development hereby permitted shall be commenced until the access and roadway shown on drawing 3985-22 01 has been implemented and brought into use.

Reason: To ensure the provision of safe and adequate means of access to the permitted development.

This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

10. 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 subsequently determining to grant planning permission.

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

Background papers:- Planning Application Working File

Lead Contact Officer

Name and Post:	Richard Fidler , Development Manager
Telephone Number:	01775 764428
Email	rfidler@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

