

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H17-0239-20 **Applicant:** Mrs H Laches
Proposal: Change of use of land for use as dog training business with associated works
Location: Land At Gubboles Drove Surfleet Spalding
Terminal Date: 7th August 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
30	Pollution

National Guidance

National Planning Policy Framework 2019

Paragraphs 8, 109 and 127

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	2	0	0	0
WARD MEMBER	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2
OTHER STATUTORY BODIES	1	0	0	0
RESIDENTS	54	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is a planning application that seeks full permission for change of use of land for use as dog training business with associated works at land off Gubboles Drove, Surfleet, Spalding.

Having reviewed the plans and documents that accompany this application, it is considered appropriate to clarify the nature of the proposed development.

Dog training facilities and associated works comprise an open-air exercise area, 4 no. rings, one portaloo, trade stands and a parking area. However, there is also provision of a camping area with caravan pitches which is substantially a separate use in conjunction with the dog training business but by no means can be considered solely as associated works. The purpose of the camping area is to provide on-site accommodation for the dog owners when monthly competitions are held on a weekend once a month. The camping area users will benefit from a fit-for-purpose roadway and a portaloo.

Site Description

The site is arable land in the open countryside. 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 stand on each side of Gubboles Drove. Adjoining to the southern trees and hedgerow, there is a strip of grassed land or verge across the full width of the site.

The existing field access will be re-used for the intended development. It is nearly merging 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. It has no smooth tarmac but hardcore on the surface.

The site itself and the immediate surroundings are visibly countryside. However, a few residential properties will not be excessively distant from the proposed development. 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.

History

None.

Consultation Responses

Members of the public

Although a few of them come from the same households, 56 representations have been made against the development raising the following issues:

- Noise and disturbance to the residents by reason of dog barking, excessive vehicular traffic and floodlighting.
- Extensive hours of openings (89 hours per week) will harm the residential amenity.
- Low highway safety for road users given the high number of vehicles due to the proposed development and poor conditions/limited layout of adjoining highways.
- The verge is owned by Gosberton Parish Council
- Loss of high quality arable land
- The development detracts from the countryside character of the area.
- Light pollution from floodlighting that will harm residential amenity and local wildlife
- Lack of details and accuracy on the plans submitted with this application.
- Dog training activities have been carried out prior to the determination of this application. Noise and disturbance to the residents nearby is being occurred.

- No mention about two owl boxes on the site.
- No consideration on the wildlife and biodiversity on the site and surroundings.
- No provision of refuse collection and storage.

Cllr Henry Bingham

Objected the proposals reflecting the main resident concerns as above.

Cllr Elizabeth Sneath

Objected the proposals reflecting the main resident concerns as above.

Sir John Hayes MP

A letter has been received raising the following issues:

- Gubboles Drove and Little Lane are single track lanes in a poor state of disrepair
- Visibility splays from the site access are not sufficient as there is restriction by mature trees.
- Ownership issues should be resolved with Gosberton Parish Council as to the 18 metre wide verge abutting Gubboles Drove.
- Loss of Grade 1 agricultural land
- Proposed hours of opening are extensive and would create loss of amenity for neighbouring properties.
- Pitches for caravans and camping completely change the character of the area and will be at risk of high flood risk.

Gosberton Parish Council

Objected the proposals raising the following issues:

- Loss of Grade I agricultural land.
- Inadequate highways to accommodate additional traffic due to the development.
- High parking provision (40 vehicles) is at odds with the neighbouring uses in the area.
- Extensive hours of opening (89 hours per week) will harm the amenity of residents nearby.
- Floodlighting will impact on the local wildlife
- There is a 18 metre wide verge between the field access and Gubboles Drove. It is owned by the Parish Council. Irrespective of ownership issues, no details have been provided for proposed works for the access. The visibility westwards might be low by the row of mature trees.

Surfleet Parish Council

Objected the proposals raising identical issues as Gosberton Parish Council.

It has been added that the applicant is already advertising dog training events on the internet.

LCC Highways/SUDS Authority

Objected to the proposal in the following terms:

- Gubboles Drove is a single track carriageway with limited passing places which cannot sustain frequent use of vehicles for this proposal and a detrimental impact will occur upon the highway network and its infrastructure.
- Should the development be only a dog training facility and visiting times be equally spaced, there would be lesser impact on the highway and further safety of other users.
- Upgrading works should be proposed and subsequently approved to ensure safe and suitable access in accordance with County Council's specification.
- An alternative location for the vehicular access in Beach Bank would not be acceptable. It is a very narrow carriageway which would be unable to accommodate the passing of two-way vehicle movements. There are open drains on each side which would increase the likelihood of an accident occurring when vehicles reversing.

SHDC Environmental Health

Concerns have been raised about the potential impact of the development by way of noise on the surrounding residential properties.

Welland and Deepings IDB

No objection.

Reminds that the Board's Old Beach Drain West runs along the northern boundary of the site and Board's consent should be sought for proposed works within a 9 metre byelaw distance from this watercourse.

Planning Considerations

Principle of development

Policy 1 of SELLP 2019 is aimed to identify the most sustainable locations for new development. Settlement boundaries have been defined to provide a degree of certainty to the community and to developers where such locations are. Any location outside the settlement boundaries is classed as countryside. Following the Policies Map of SELLP 2019, this is the case with the application site.

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".

No sequential-based approach has been applied to justify the need of locating the proposed development at the application site and not elsewhere. Neither any statement has been provided to demonstrate the extent to which the development proposals achieve sustainable development. Paragraph 8 of the National Planning Policy Framework specifies the three principles of sustainable development which provide guidance towards sustainable solutions.

Therefore, the proposed development fails to comply with the local spatial strategy set out in Policy 1 of SELLP 2019. Notwithstanding this, further assessment should be made with regards to other planning material considerations.

Impact upon the character of the area

Paragraph 127 of National Planning Policy Framework (NPPF), 2019 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, among other considerations. Likewise, Policy 2 of the SELLP states 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.

The site is arable land in the open countryside. The adjoining land consists of open flat fields that characterise the Fenlands landscape. There is no visual evidence that the site was previously developed. In this context, the development proposals will entail surface treatment (hardstanding for the parking area, bark chippings on the roadway to the camping area, surface finished for rings) and means of enclosure across the site (e.g. ring fencing). Albeit being mobile structures, the portaloo's, caravans and trade stands would also appear on the site. The development will not be in keeping with the intrinsic character and beauty of the rural landscape that the site lies within. This application is contrary to the above-mentioned policies concerning design, layout and character of the local area.

Highway safety

Paragraph 109 of NPPF (2019) 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. Likewise, Paragraph 127 of NPPF 2019 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 SELLP, 2019 states access and vehicle generation levels as one of the criteria to meet when assessing development proposals.

The proposed vehicular access is an existing field access which is in close proximity with the highway junction between Gubboles Drove and Little Lane.

The access appears to be a crossover between Gubboles Drove and the site over the drain running to the north of the site. It is known that it had been used for tractors and other agricultural vehicles. There is a wide grassed verge behind the mature trees and hedgerow onto Gubboles Drove. With no mention on the documents submitted with this application, the verge has been reported throughout the consultation process to be under the ownership of Gosberton Parish Council.

Seemingly the Parish Council's strip of land extends 18 metres. In order to clarify the ownership and size of the verge, it has been requested to the Gosberton Parish Council the submission of a legal document (e.g. title deeds) showing the boundaries but no sound evidence could be provided. Irrespective of the issue about the verge's ownership, the proposed vehicular access has been assessed having regard the existing conditions of highways nearby and the scale of the development.

LCC Highways Authority has been consulted and subsequently has objected to the proposal. The objection is quoted in full below for completeness:

"The Highway Authority are in the opinion that the proposed application would not be suitable for change of use of land for the use as a dog training business with associated works as daily usage and events/camping at this location. 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.

That said, the Highway Authority believe that the provision of a dog training facility only, would be more suitable and have a lesser impact on the highway and safety of other users. Vehicle movements of those arriving for a class would not generally meet those departing from a class that has ended, if visiting times were equally spaced, as the narrow carriageway of Gubboles Drove is not wide enough to accommodate the passage of two vehicles without causing over-run damage to the carriageway edge and rutting of the highway verges.

The Highway Authority are aware that the substantial grass verge between the highway and the application site, is in fact registered in the ownership of the Parish Council, however the current access arrangement will have to be upgraded in accordance with the County Councils specification including the re-alignment for visibility, where the applicant will have to submit details demonstrating these improvements to ensure safe and suitable access can be provided for all users.

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 accomodate 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 occuring. 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."

In light of the Highways Authority consultation response, it has been demonstrated that highway safety will result unacceptably undermined should permission be granted and therefore the application fails to comply with the policies mentioned above in this section.

Residential amenity

One of the most recurrent issues through the representations received has been concern regarding the potential for noise and disturbance associated with dog barking, vehicular traffic and flood lights.

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 issues when considering proposals on the ground of design and layout following Policy 3 of 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 intended hours of opening are 08.00 to 21.00 Monday to Friday, 08.00 to 20.00 Saturday, Sunday and Bank Holidays. Having regard to the subsequent clarification from the applicant, the dog training activities will not be carried out continuously neither the camping (once a month for dog competitions) over the time periods. Flexibility is basically sought in order to hold the dog training events at any time within the time periods indicated.

However, 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 Officer has been consulted and expressed concerns about the potential impact from noise on the surrounding residential properties.

The development proposals also include floodlights around the ring areas to allow training during evenings in the winter. It is said that the floodlights will be arranged insofar as no light will be casted onto the highways and beyond. The residential properties are not immediately adjacent to the site. Therefore, the floodlights might not create any adverse impact upon the occupiers of the neighbouring properties.

Concerns remain about the impact of the intended lighting upon the wildlife of the site and its surroundings. This could be tested in the context of the aforementioned ecology survey but it carries no weight in regard to residential amenity considerations.

In summary, the potential use intensity is such that it might 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.

Impact upon habitats and wildlife

The site does not benefit from any policy protection with regard to habitats and biodiversity. However, the site appears to contain some significant features after conducting the site inspection.

Lincolnshire Wildlife Trust Conservation Officer has been consulted. It has been reminded that New Gate House Field is relatively near the application site and was proposed to be designated as Site of Nature Conservation Importance (SNCI). However, this site was discounted for such designation as shown in the Sustainability Appraisal Scoping Report (Topic Paper 2 - Biodiversity, Geodiversity and Green Infrastructure Final Version - October 2016) for the preparation of South East Lincolnshire Local Plan (SELLP).

SHDC Trees and Nature Conservation Officer has been also consulted and confirmed that the northern part of the site comprising the trees, hedgerow and verge may potentially have botanical nature conservation interest.

In view of the consultation responses, there might be sound basis to request an ecological survey to support the application in the interest of the natural environment. An appropriate assessment will contribute to clarify whether the natural assets are or not of relevant significance and whether the development proposals will adversely affect or not the integrity of the habitats site.

No ecological survey has been formally requested as the adverse impact of the development on the grounds of highway safety merits refusal of the full application.

Conclusion

The site is on land designated countryside and no justification of the development proposals at such location neither their benefits in terms of sustainable development have been provided.

The existing vehicular access to the site is proposed for the intended dog training business and camping site. It has been deemed that it is inadequate for the level of additional vehicular traffic that the proposed use will cause. Likewise, the conditions of the adjoining highways are not appropriate to address such amount of additional vehicles entering and egressing the site.

Other negative impacts will be the harm upon the character of the local area, residential amenity

and habitats and biodiversity.

The site and its immediacy is purely countryside. The proposal will dramatically transform the rural appearance of the location without having demonstrated the benefits which might outweigh such harm upon the character of the local area. There are also concerns about the impact of the development upon the residential amenity of the neighbours nearby by reason of noise and disturbance. No reference has been made about the habitats and biodiversity significance that the site might have. Further assessment should be carried out and provided to the Local Planning Authority for consideration in order to ascertain the value of the natural assets of the site and its surroundings and how the development proposal might affect them.

Taking into account the considerations above, the proposed development is contrary to Policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan (SELLP), 2019 as well as Paragraphs 8, 109 and 127 of the National Planning Policy Framework (NPPF), 2019.

It is accordingly recommended to refuse this planning application via delegated powers.

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.