

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-0478-23 **Applicant:** Mrs H Laches

Proposal: Change of use of agricultural land to leisure use to include dog training/walking/exercise for private use - retrospective

Location: Land At Gubboles Drove Surfleet Spalding

Terminal Date: 31st July 2023

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

01	Spatial Strategy
02	Development Management
03	Design of New Development
07	Improving South East Lincolnshire's Employment Land Portfolio
28	The Natural Environment
30	Pollution

National Guidance**National Planning Policy Framework 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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	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	1

RESIDENTS	9	0	0	0
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CASE OFFICER ASSESSMENT

Proposal

This is a planning application that seeks full permission for change of use of agricultural land to leisure use to include dog training/walking/exercise for private use (retrospective) at land off Gubboles Drove, Surfleet, Spalding.

Equipment will be stored in the south east corner of the land which is near to where they will be training however if the ground is wet then they would need to move around in order to avoid churning the ground up and effecting the field to the point they can no longer train in certain areas.

Site Description

The site lies approximately 1800m outside the settlement boundary of Holbeach as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP) and sits on grade 1 agricultural land. There is a drain that surrounds the land which is a common theme for the fields along Gubboles Drove and surrounding roads. It is set back over 15m from the road and in between the entrance and roadside there is a row of trees which span the whole front length of the field. There is a small fence and gate that acts as the entrance to the site which will also be the primary access for the owner when entering. Directly across from the site entrance there is a house known as 'Drove Farm' which is the nearest property, further down this road there are multiple houses, a few residential properties will not be excessively distant from the proposed development. Gatehouse to the west on Gubboles Drove; and The New Gatehouse and The Cottage to the south-west on Beach Bank

Gubboles Drove itself is a narrow country road which connects at a junction opposite the site to Little Lane which is also a country road. The road on the west side of the proposed site is Beach Bank, this road is rough and uneven with cracks in the road surface and little to no room for cars to pass along side each other.

History

H17-0239-20 - Change of use of land for use as dog training business with associated works - Refused

H17-0190-21 - Change of use of land to dog training centre with associated works - re-submission of H17-0239-20 - Refused - Appealed '1241'dismissed on 18/05/23

Consultation Responses

Welland & Deepings Internal Drainage Board

No objections.

Lincolnshire County Council Highways

Approve with conditions -

Highway Informative 03

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. Any traffic management required to undertake works within the highway will be subject to agreement. The access must be constructed in accordance with a current specification issued by the Highway Authority. Any requirement to relocate existing apparatus, underground services, or street furniture because of the installation of an access will be the responsibility, and

cost, of the applicant and must be agreed prior to a vehicle access application. The application form, costs and guidance documentation can be found on our website, accessible via the following link:

<https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb>.

Highway Informative 08

Please contact the Lincolnshire County Council Street works and Permitting Team on 01522782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit our website via the following link: Traffic Management -

<https://www.lincolnshire.gov.uk/traffic-management>

Surfleet Parish Council

Objections - We are strongly opposed to this application as we have stated in the past. The application is ignoring previous requests to not undertake events, all previous applications are retrospective. We do not believe proper access to the site has been agreed. There is no adequate parking arrangements there has been disturbances for local residents.

SHDC Environmental Protection

Requested three conditions -

- Permission be granted to the applicant only for a period of 12 months
- A limit of 6 dogs at any one time at this location
- Use of this site be limited between the hours of 7am-7pm 7 days a week

Members of the public

There has been 9 representations made against the development raising the following issues:

- Believes the applicant currently has 10+ dogs, which create a great deal of noise
- Concerns that the noise and disruption would not change from the original application
- No fencing to contain the dogs
- The dogs have been left unattended and killed chickens
- The dogs are not constantly watched or controlled, could expose others to potential incidents
- The land is Grade 1 agricultural and should remain that way, would be a waste of 'excellent farming land'. The Councils policies should prohibit such changes
- Has had impacts upon the wildlife, the animals haven't returned
- The roads are not designed for the amount of traffic, near misses with cars pulling out
- Line of trees near the site entrance means the visibility is poor
- All previous reasons for refusal are still valid
- During the last 3 years there has been a 'flagrant breach' of the 28 Day Rule for non-agricultural events held on such land
- This block of land should remain agricultural use for cropping and grazing
- Since the appeal was refused there is still dog training equipment being stored on the site
- Believes the applicants previous behaviour indicates that she will use the site for events other than exercising her own dogs
- Causes stress and disturbances to the neighbours
- Multiple people and dogs camped on site in vans and tents over a ten day period in May 2022
- Close proximity to several private houses and proven concerns over noise and disturbance from dog barking and shouted instructions
- Dog mess is left and is hazardous
- Outside the current development boundary
- Extensive dog training has been taking place for several years against planning legislation
- Local residential properties will lose their security/privacy, use will be continuous

Planning Considerations

Principle of Development

The site is outside a settlement boundary as defined in the South East Lincolnshire Local Plan, 2019. Therefore, the site is located within the countryside. Policy 1 of the SELLP 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. No statement has been provided to demonstrate the extension to which the development proposals achieve sustainable development, as referenced in Policy 1. It can therefore be considered that the proposed development doesn't comply with this policy.

Layout, Design, Size and Scale

Paragraph 130 of the 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, that they are visually attractive, as a result of good architecture, and are sympathetic to local character. 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.

Policies 2 and 3 of the SELLP 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 area to store the training equipment on site which is not a permanent structure.

The first proposal that was previously refused wanted two large dog training areas in the form of a menage. It also required a large hard standing area for vehicle parking. It was also suggested that a camp site area be brought in as part of the proposal to allow customers to stay for multiple days during events. The most recent application included an artificial grass training area which was smaller in size and instead of a vehicle hardstanding they would use a grass protector mesh. The floodlights that would allow training to take place during the evening and darker hours would not be permanent and could therefore be removed when not in use.

This current proposal does not include these features and now only includes a small equipment store area on the far south east corner which is not a permanent structure. The visual impact has been significantly reduced.

It can therefore be considered that the proposal is in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF, in terms of visual impact.

Impacts Upon Resident Amenity

Paragraph 130 of NPPF 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.

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).

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.

The applicant states that the proposal is for private use and following on from further consultation to the applicant to confirm these details it was determined that the people on site would be minimal with no set times or days as it is solely train their own dogs. The owner currently has 14 dogs with the potential that they could care for family/friends dogs, this could mean there could potentially be up to 20 dogs on site. The applicant would want the ability to be flexible in the hours as they will train/exercise around working hours.

There are five dwellings to the north east, two further to the south west and another towards the west all within a 500m radius of the site. The site is proposed to be for private use, however, as mentioned the owner/applicant has 14 dogs of their own which in itself is a high number of dogs. This number could potentially rise following the taking care of family and friends dogs at certain times when necessary.

Policy 2 states that 'Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to - impact upon neighbouring land uses by reason of odour'. It has been mentioned by a member of the public following consultation that 'Dog mess is hazardous, which is not cleaned up as she states it is left on the field for the crows to peck at', it can be considered that in doing so this goes against this policy and would cause harm onto the neighbours by leaving it on the field, 14+ potential dogs would cause a high amount of mess. Policy 30 states a similar thing 'Development proposals will not be permitted where, taking into account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon - air quality, including fumes and odour', at present no mitigation measures have been brought forward and suggested how they will prevent this from creating unacceptable adverse impact upon the air quality through odour onto neighbours. Therefore, it also conflicts Policy 30 in relation to odour.

When compared to the sites present use as an agricultural field, a dog training/exercising area of this kind would lead to a noticeable increase in general activity and noise from the dogs and the owners. These potential dogs could cause unacceptable levels of noise and disturbance to the nearby residents. As mentioned in the previous appeal decision, those consulted on this application have highlighted experiences of increased noise in conjunction with past training events. Although it has been proposed that as it is no longer open to the public and private, the number of dogs would still be high.

Although on the face of it a separate issue to the application under consideration, in some ways, the keeping of 14 dogs is far beyond what would normally be classed to be an ancillary domestic use, and could be considered to create a change of use in its own right. The usually accepted number of dogs that can be kept as domestic pets is 6.

It can be considered that the potential use and the amount of dogs that could possibly be on site at any given time would potentially create excessive noise and disturbance through barking, shouting and vehicular traffic to the residents in the locality. The development is therefore considered to conflict both Policies 2, 3 & 30 of the SELLP and Section 12 of the NPPF.

Highway Safety

Paragraph 111 of the NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. 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.

On previous applications the Highways Authority have objected to this proposal on the grounds that the highway would not be suitable for the proposal due to Gubboles Drove being a single track carriageway with limited passing places which cannot sustain frequent use of vehicles. However, it is noted now that it is considered by Lincolnshire County Council that 'this proposal would not present a severe impact on highway safety or capacity issues, in accordance with the National Planning Policy Framework and as such we do not have the grounds to recommend refusal'. This comes with some relevant conditions should permission be granted. 'There is still a requirement to provide a new vehicle access across the grass verge from the adoptable highway to the field access gate' this verge that is needed to access the site is owned by the Parish Council, it has been advised that this is a civil matter and can be dealt with outside of planning, subject to any approval this will require the applicant to resolve with the Parish Council before the proposed use is commenced.

In summary it can be considered that the proposal is acceptable in relation to highway safety, it is therefore in accordance with Policies 2 of the SELLP.

Planning Balance

The site is outside any settlement boundary and is therefore classed as being in the countryside, no sequential test was submitted to show that this land is the most suitable place for proposed dog training area. It can be considered that the proposal wouldn't cause substantial impact upon the locality or the character of the area in terms of appearance.

Concern has been raised by residents about the potential impact of development upon the residential amenity through noise and disturbance and also in relation to pollution issues regarding odour. As such, this is the main reason for refusal.

For the reasons mentioned above and throughout the report, particularly in consideration of the potential for noise and impact upon resident amenity, the proposal would effect the neighbours and the area as a whole. The development therefore conflicts with Policies 1, 2, 3 & 30 of the SELLP and Section 12 of the NPPF. .

Taking the above into account, the development conflicts with Policies 1, 2,3 & 30 of the SELLP and Section 12 of the NPPF.

Conclusion

The recommendation is therefore 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.