DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0207-25**	**Applicant:**	**Mrs K Heywood**
Proposal:	Use of site for residential & nature-based therapeutic activities for individuals & groups		
Location:	1 Field Farm 2a Spalding Gate Moulton		
Terminal Date:	30th April 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the proposed use of the application site for residential and nature-based therapeutic activities for individuals and groups. The applicant wishes to establish if the proposed use requires full planning permission, or if the proposed use is considered to be ancillary to the existing residential use of the site.

The application is submitted under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The application site comprises land at 1 Field Farm, 2A Spalding Gate, Whaplode. The wider site features a dwelling, various outbuildings, a garden, grazing space and a driveway. The land within the red line boundary however only includes an area which is used as garden space and an outbuilding. The site is within a relatively rural location and there are no dwellings located next to the site.

Planning History

H23-0556-95: (Full Application) Change of use of building to store for garden materials - approved 20 July 1995

Consultation

There is no statutory obligation for the Local Authority to publicise an application for a certificate of lawful development.

For lawful development certificates, planning policy guidance is clear that there is no statutory requirement to consult third parties including parish councils or neighbours (Paragraph: 008 Reference ID: 17c-008-20140306). A site notice has however been displayed in this case for transparency. Planning policy guidance is also clear that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are therefore not relevant (Paragraph: 009 Reference ID: 17c-009-20140306).

Water Management Alliance: No consent is currently required from the Board.

Key Planning Considerations

Relevant Legislation

Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether
(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall
(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d)specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.]"

Therefore, the local planning authority needs to be provided with sufficient information to demonstrate that, on the balance of probability, the proposed use is lawful in planning terms and would not require full planning permission for a change of use.

Assessment

The Town and Country Planning Act (1990) sets out that there are two main types of "development". One is operational development, such as the erection of a building, and the other is the material change of use of land.

In terms of potential operational development, there are various elements of the proposal which are set out on the submitted block plan. The submission sets out that the intention is to convert an existing workshop building into a space that can be used for activities. It is unclear what the existing use of this building is as there are no planning applications to indicate any previous consented use. It is however presumed that the use would either fall under an ancillary use to the main dwelling

within the site, or formerly agricultural. No external changes are proposed to this building other than replacing the external door. This would not require planning permission as the building is not listed.

Various activity areas are proposed within the north-eastern area of the curtilage of the site. This includes a caravan tea bar, picnic tables, a guinea pig enclosure, a rabbit and amp, a book nook, an outdoor dolls house, a play house, mud kitchens, a sandpit, a road tyre play station, a dinosaur dig pit, a bell tent, and a horticultural area. The exact dimensions of the proposed structures are not provided. Typically, these types of structures are likely to comprise permitted development if they are used for residential ancillary purposes. As the proposed structures would be for an alternative use (to deliver nature-based activities etc.), it is considered that planning permission is likely to be required for the structures.

The application also seeks to establish whether the proposed use of land within the site for residential and nature-based therapeutic activities would require planning permission by resulting in a material change of use of the land. The planning unit in this case appears to include the main dwelling, various outbuildings and the associated garden space and driveway. The current use of the site is therefore residential. Whether planning permission is required to run a business from home is a matter of fact and degree, and largely depends on the intended use and operations. For example, various factors are relevant such as how intensely the site might be used, if any particularly noisy activities are associated, if there is sufficient parking within the site and the level of disturbance that might arise from the proposed use. It is established planning law that a material change of use will only have occurred if there has been a change in the definable character of the use of the site. Assessments need to be made on a case-by-case basis and the change needs to be one of substance.

According to the application form, the applicant intends to use land within the site to run nature-based activities for a range of age groups. Only the applicant and one other person would be employed. According to an email from the applicant dated 10 March 2025, the proposed hours of use would be 9am to 6pm, seven days per week. The applicant did however set out during a verbal discussion on the site that the hours would likely be five days per week. Sessions would be arranged in advance and sessions would typically include around 15 people, however numbers would vary. The proposed activities would take place within the existing workshop building within the site and externally within the garden/field space.

The site is located within a rural area and there are no dwellings located next to the site. The nearest dwelling to the site is 2 Field Farm which is located approximately 280m to the south of the site. The access to the site is located to the west of 2 Field Farm, and the access road extends northwards. Due to the lack of nearby dwellings to the site, this reduces the potential for the proposed use to disturb nearby dwellings. Notwithstanding this, there would still be potentially significantly more people visiting the site on a much more regular basis.

The application is accompanied by a supporting statement within which the applicant has outlined the anticipated activities that would take place. This includes play sessions, education sessions, physical fitness sessions and animal-assisted therapy. A 'pop-up tea bar within a vintage caravan' is proposed which would serve hot drinks and food. It is unclear if the proposed provision of food and drinks would require an increase in deliveries to and from the site. As set out above, it is also proposed to re-purpose the brick-built workshop to deliver activity sessions.

The proposed operating hours would be for at least five days per week for large portions of the days. Furthermore, the proposals could result in significantly more people visiting the site. This has the potential to change the character of the use of the property which is currently only residential. It is therefore considered that the proposed use would not be ancillary, and the proposed use would represent a material change of use of the land. Full planning permission would therefore be required for the proposed change of use.

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

The proposed change of use would not be ancillary and would require a full change of use application. It is therefore considered that the certificate of lawfulness should not be granted.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under delegated authority.