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**Rutland County Council**

Catmose,  
Oakham,  
Rutland  
LE15 6HP

Application:	2023/0613/FUL	ITEM 3	
Proposal:	Change of use of land from agricultural to equestrian use and the erection of a stable building.		
Address:	Land to the west of Uppingham Road, Seaton		
Applicant	Mr Giles Gilbey	Parish	Seaton
Agent:	Mr Angus McLeish	Ward	Lyddington
Reason for presenting to Committee:	Previous application determined at committee		
Date of Committee:	24 October 2023		
Determination Date:	23 August 2023		
Agreed Extension of Time Date:	27 October 2023 (tbc)		

## EXECUTIVE SUMMARY

**The proposal is a resubmission and comprises the change of use of land from agricultural to equestrian use and the erection of a stable. The proposal is acceptable in terms of land use, occupying a countryside location. The proposed stable building is appropriate for the site and would not be unduly prominent or dominant. The proposal would not be harmful to residential amenity. The proposal to create a new access and to close off the existing access would provide a safe access to serve the site. It is considered the previous ground for refusal, highway safety, has been addressed and the application is recommended for approval.**

## RECOMMENDATION

**APPROVAL**, subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of 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 not be carried out except in complete accordance with the details shown on the submitted plans:

- Location Plan
- B-22-0018/HY01 Rev G – Site Access Arrangements
- 22831/01 Rev H - Proposed Block Plan and Stable Building

Reason: For the avoidance of doubt and in accordance with Policies CS19 and CS22 of the Core Strategy, Policies SP15 and SP20 of the Site Allocations and Policies DPD.

3. Development shall be carried out in accordance with the materials contained in the application.

Reason: To ensure that materials of an acceptable quality appropriate to the area are used and to accord with policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

4. Prior to any above ground development a landscaping scheme comprising native planting shall be submitted to and be approved in writing by the Local Planning Authority. This shall include proposals to replace the laurel hedging. The proposals, planting, seeding, or turfing shown on the approved details shall be carried out during the first planting and seeding season (October - March inclusive) following the approval of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the landscaping is carried out at the appropriate time and is properly maintained and in accordance with Policies CS19 and CS22 of the Core Strategy and Policies SP15 and SP20 of the Site Allocations and Policies DPD.

5. Prior to the first use of the site for equestrian purposes a manure and foul bedding management plan shall be submitted to and be approved in writing by the Local Planning Authority. The use of the site shall thereafter take place in accordance with this agreed plan. The details submitted within the plan shall include means for the collection, storage and disposal of manure and foul bedding, or if a fixed store is to be constructed, details of this structure and its use.

Reason: In the interests of residential amenity and in accordance with Policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

6. No external lighting of the site shall come into operation until details of such lighting and an assessment of the potential for light impact has been undertaken, submitted to and approved in writing by the Local Planning Authority. The use of lighting the development, and used at individual premises, shall not exceed the obtrusive light limits specified for environmental zone E2 in the Institution of Lighting Professionals document "Guidance Note 01:21, The Reduction of Obtrusive Light". All lighting provided shall be in accordance with these approved details.

Reason: In the interests of visual and residential amenity and in accordance with Policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

7. The site and building shall be used only for personal equestrian purposes and shall not be used as a livery, commercially or host any events or for any other purpose.

Reason: For the avoidance of doubt and in the interests of residential amenity and highway safety and in accordance with Policy SP15 of the Site Allocations and Policies DPD.

8. Prior to the first use of the development hereby approved, the vehicle to vehicle visibility splays shall be provided in accordance with the details shown on the approved layout plans, kept free of any obstructions for the lifetime of the development and thereafter be so maintained.  
Reason: In the interests of highway safety and in accordance with Policy SP15 of the Site Allocations and Policies DPD.
9. No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary.  
Reason: In the interests of highway safety and in accordance with Policy SP15 of the Site Allocations and Policies DPD.
10. The existing access shall cease to be used by vehicular traffic before the new access hereby approved by this permission has been brought into use. The permanent closure (including new boundary hedgerow planting as indicated on the submitted plans) shall be carried out prior to first use of the site, or within 3 months of the new access being brought into use, whichever is sooner.  
Reason: In the interests of highway safety and in accordance with Policy SP15 of the Site Allocations and Policies DPD.
11. The existing close boarded fencing shall be removed within two months of the date of this permission.  
Reason: In the interests of visual amenity and in accordance with Policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

#### Infomatives

1. Section 184 Highways Act 1980  
The proposed development involves the creation of a new access within the public highway. A S184 permit is required before any works can be carried out within the adopted highway. Further details can be found at:  
<https://www.rutland.gov.uk/roads-transport-parking/highways/dropped-kerbs>
2. Penalty for Depositing on the Highway - Section 148, Sub-Sec C Highways Act 1980  
It is an offence to deposit anything including building materials or debris on a highway which may cause interruption to any user of the highway (including footways and verges). In the event that a person is found guilty of this offence, a penalty may be imposed in the form of a fine. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.
3. Removal of Deposits on the Highway – Section 149 Highways Act 1980  
If anything is so deposited on a highway as to constitute a nuisance, the Local Highway Authority may by notice require the person who deposited it there to remove it forthwith and if he fails to comply the Local Highway Authority may make a complaint to a Magistrates Court for a Removal and

Disposal Order. In the event that the deposit is considered to constitute a danger, the Local Highway Authority may remove the deposit forthwith and recover reasonable expenses from the person who made the deposit. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

## **Site & Surroundings**

1. The field is located on Uppingham Road, at the western edge of the village of Seaton and comprises an approximately rectangular parcel of land. The site is bordered by hedges alongside the highway. Work has taken place on the site to clear landscaping, to provide hardcore and to alter the access. The site lies with fields to the north and west, the highway to the east and neighbouring dwellings to the south.
2. The site lies outside of the settlement limits of Seaton, but within the Seaton Conservation Area.

## **Proposal**

3. The application comprises the change of use of land from agricultural to equestrian use and the erection of a stable building. Work has taken place to clear the site of trees and shrubs and the site is now grassland. The proposal is to allow the applicant to stable a horse, mostly during winter months. The application includes the erection of a timber stable building incorporating a tack room and feed store. The stable building would be of timber construction on a concrete base, clad with timber boarding with a profiled metal pitched roof and would be located in the north-east corner of the site. The site would be served by a new vehicular access with the existing access permanently closed off.

## **Relevant Planning History**

2021/1450/FUL – Change of use of land from agricultural to equestrian use and the erection of a stable building. – Refused 14/12/2022 on the following grounds:

The proposed equestrian use of the site would utilise the vehicular access that, by reason of substandard visibility splays, the intensification of the use of the access above the extant agricultural use of the site, the likely size and nature of vehicles accessing the site and the highway being subject to the national speed limit of 60mph, would have a detrimental impact on highway safety. The application is therefore contrary to Policy SP13 f) of the Site Allocations and Policies Development Plan Document 2014 which requires development to have an adequate, safe and convenient access.

2023/0016/APPEAL has been submitted in relation to the above refusal and is pending.

1981/0164/HIST Use of land for the erection of a dwelling – refused and appeal dismissed.

## **Planning Guidance and Policy**

### **National Planning Policy Framework NPPF 2019**

Chapter 2 – Achieving Sustainable Development

Chapter 9 – Promoting Sustainable Transport

Chapter 12 – Achieving Well-Designed Places

Chapter 15 – Conserving and Enhancing the Natural Environment

Chapter 16 Conserving and Enhancing the Historic Environment

### **Site Allocations and Policies DPD (2014)**

SP7 – Non-Residential Development in the Countryside

SP13 – Agricultural, Horticultural, Equestrian and Forestry Development

SP15 – Design and Amenity

SP19 – Biodiversity and Geodiversity

SP20 – The Historic Environment

### **Core Strategy DPD (2011)**

CS4 – The Location of Development

CS19 – Promoting Good Design

CS21 – The Natural Environment

CS22 – The Historic and Cultural Environment

### **Neighbourhood Plan**

None

### **Other**

None

## **Officer Evaluation**

### Principle of Development

4. The site is on land classed as countryside, adjacent to the boundary of the village to the south. The proposal seeks permission to use the site for equestrian purposes and to erect a stable building. Policy CS4 states development in the countryside will be strictly limited to that which has an essential need to be there and will be restricted to particular types of development to support the rural economy. Policy SP7 states sustainable development in the countryside will be supported for, amongst other things, agriculture, horticulture, or forestry or for the essential provision of sport or recreation. Policy SP13 states development comprising equestrian buildings and structures will be supported provided the tests in the policy are met.

5. The proposal comprises use of the land for equestrian purposes, specifically for the site to accommodate a horse and a stable. Although the field is of a limited size, in planning policy terms the proposal is an acceptable countryside use.
6. As part of the consultation process, comments have been received stating that the area of the site is not sufficient at 0.21 hectares gross to accommodate a horse, that the stable is only suitable for one small pony and the proposals would not meet the British Horse Society standards. Whilst this is noted, this is separate to planning legislation under which no objection can be raised to the size of paddock or stabling for the horses.
7. As such, the proposal complies with Policy CS4 of the Core Strategy and Policies SP7 and SP13 of the Site Allocations and Policies DPD in terms of the principle of development.

#### Impact of the use on the character of the area

8. Policy CS19 requires new development to contribute positively to local distinctiveness. Policy SP7 requires development to not be detrimental to the character and appearance of the landscape, visual amenity or setting of villages. Policy SP13 requires development to not be unduly prominent and not to detract from the landscape. Policy SP15 relates to design.
9. The site is within the conservation area and covered by the Article 4 Direction. The Local Planning Authority is required to ensure that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area, through the Planning (Listed Buildings and Conservation Areas) Act 1990 at Section 72. Policy CS22 seeks to conserve and enhance the built and historic environment. Policy SP20 seeks to protect and enhance historic assets and their settings.
10. In assessing the potential impact of the proposals, consideration has been given to the condition of the site prior to the tree/shrub clearance. Evidence from the previous planning application in 1981 and historic Google Maps/Earth images have been used.
11. From this assessment, it is clear a significant proportion of the site was covered by trees/shrubs. However, from the historic images, it is also clear that the height of the trees on site were limited and not comparable to the mature tree that abuts the south-west corner of the site. On this basis, together with the reports of the site having accommodated an orchard, the Council is content that the trees removed from the site were not worthy of a Tree Preservation Order and therefore their benefit to the character and appearance of the conservation area was limited.
12. The site occupies a countryside location on the approach into the village of Seaton. The site is landscaped along the site boundaries although it has been cleared of landscaping within the site which now comprises grassland but has

a rural appearance. The proposal to use the site for equestrian purposes would be visually acceptable and would be appropriate for this site.

13. The proposed stable would be of a limited size and height, occupying a location adjacent to the site boundary. It would have a typical appearance of an equestrian building, with external timber cladding and a grey metal profile roof. The proposed building is considered to be acceptable for the rural site and would not result in harm to the character or appearance of the conservation area.
14. Works to the access have resulted in the provision of timber screens to each side. These are visible and prominent when viewed from the public realm and detract from the site and surroundings. They are domestic in appearance and at odds with the prevailing rural character. Furthermore, they are harmful to the appearance of the conservation area, introducing a domestic visual element into the rural environment.
15. As part of this application, this access would be closed off with a hedge reinstated adjacent to the highway. A condition is recommended to secure this together with a condition to remove the above-mentioned fencing.
16. The proposed closure of the existing access and the creation of the new access would result overall in a neutral visual impact on the site and surroundings.
17. As such, the proposals are considered to be visually acceptable and to preserve the character and appearance of the conservation area and the site and locality. The proposal is therefore in accordance with Sections 12 and 16 of the NPPF (2021), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014).

#### Impact on the neighbouring properties

18. The site occupies a countryside location with fields to the north and west and highway with further fields beyond to the east. To the south the site is adjacent to a terrace of properties with gardens to the rear of these.
19. The proposed use of the land is considered compatible with the surrounding land uses. The equestrian use would not result in undue noise, disturbance or odour and the limited size of the site would ensure the use remains at a low intensity. The stable building would be located to the north-east of the site, maximising the separation distance from the neighbouring dwellings.
20. Although there is a terrace adjacent to the site to the south, the proposals would not result in undue harm to the residential amenities of occupiers of those properties.
21. The proposal is therefore acceptable in this respect, in accordance with Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and



### Highway issues

22. The previous application was refused on the grounds of highway safety by reason of intensification of the use of the existing access having substandard visibility splays. The current application seeks to address this by submitting a Transport Note accompanied by a speed survey and has also provided a revised site layout plan showing the existing access closed off and a new access created in a position closer to the village and with better forward visibility in each direction.
23. The speed survey recorded 85th percentile speeds of 38.5mph for vehicles travelling in both directions. As such, it is evident that vehicles travel significantly below the speed limit of the road (60mph). In addition, the Council's Highway Officer undertook a separate speed survey of vehicles travelling along Uppingham Road within the 30mph speed limit, which confirmed the results of the submitted survey.
24. Following liaison between the applicant and the Highway Officer it was agreed that a reduced visibility splay of 2.4m x 60m would be considered suitable for the site, which has been demonstrated can be achieved from the site access within land owned by the applicant and within highway boundary land.
25. **Rutland CC Highways** have commented on the proposal as follows:

The applicant has carried out a speed survey as and we have approved the speed survey results and therefore accept the reduced visibility splay of 60 metres. The Local Highway Authority has carried out a further speed survey at this location, which also confirms the applicants speed survey results. The reduced visibility splay of 60m has been measured on site with the applicant and the Local Highway Authority. This can be achieved to the near side edge of the carriageway. The Local Highway Authority therefore raise no objections, subject to conditions.

Therefore it is considered that the applicant has now overcome the earlier highway objections relating to this proposal, and it is now considered to be accordance with Section 9 of the NPPF (2021) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014). Conditions relating to the new access, closure of the existing access and hardsurfacing are recommended.

### **26. Ecology**

The site was cleared of landscaping prior to the submission of the previous application. At the time, the Ecology Officer raised concerns given that as the site was formerly an orchard, this would have been a UK BAP Priority Habitat. Furthermore, they also stated that where activities have recently been carried out which caused a reduction in the biodiversity of the site the biodiversity net gain required would relate to the former biodiversity of the site.

As works to clear the site were carried out before the earlier planning application was submitted this has potentially resulted in a loss of biodiversity. However, given the works carried out, it is not possible to quantify the ecological value of the site prior to these works. On this basis, a scheme to increase biodiversity will be sought via a planning condition which would require the submission of satisfactory landscape plans that addresses these requirements.

27. **RCC's Forestry Officer** raises no objection to the current proposal.
28. On this basis, the proposal therefore complies with Policy CS19 of the Core Strategy and Policy SP21 of the Site Allocations and Policies DPD.

### Trees and Enforcement

29. The site has historically been an orchard and was referred to as an orchard in the appeal decision listed above. Historic images from Google Maps/Earth illustrate a significant site coverage with landscaping although the information gleaned is limited in terms of the height of specimens and the species of trees/shrubs. The site was then cleared of all planting prior to the previous application being submitted.
30. The Council were alerted to potential development taking place in August 2021 and the owner at the time confirmed he had cleared an old orchard from the land over a period of time and then cleared overgrown vegetation before selling the site to the applicant.
31. As part of the Council's enforcement investigation aerial photography was assessed which indicated that the land clearance began after 2018; however, there was insufficient evidence to pursue the alleged works to the trees in the conservation area as there was no evidence that the trees on the site would have been worthy of a Tree Preservation order. From the evidence available, it does not appear the trees were of such amenity value to justify further protection.
32. Trees in a conservation area that are not protected by a Tree Preservation Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the Council, using a section 211 notice, 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6 week period if the Council gives consent. This notice period gives the Council an opportunity to consider whether to make a Tree Protection Order on the trees.
33. The Council can deal with an application in one of three ways. It may:
  - make a Tree Preservation Order if justified in the interests of amenity, preferably within 6 weeks of the date of the notice;
  - decide not to make an Order and inform the person who gave notice that the work can go ahead; or

- decide not to make an Order and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.
34. The Council's main consideration should be the amenity value of the trees. In addition, Council's must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
35. Anyone who cuts down, uproots, tops, lops, wilfully destroys or wilfully damages a tree in a conservation area (if that tree is not already protected by an Order), or causes or permits such work, without giving a section 211 notice (or otherwise contravenes section 211 of the Town and Country Planning Act 1990) is guilty of an offence, unless an exception applies.
36. People are not required to submit a section 211 notice to the Council for:
- the cutting down, topping or lopping or uprooting of a tree whose diameter does not exceed 75 millimetres; or
  - the cutting down or uprooting of a tree, whose diameter does not exceed 100 millimetres, for the sole purpose of improving the growth of other trees (e.g. thinning as part of forestry operations).
37. In either case, the diameter of the tree is to be measured over the bark of the tree at 1.5 metres above ground level. These exemptions do not apply in circumstances where a tree has more than one stem at a point 1.5 metres above the natural ground level if any stem when measured over its bark at that point exceeds the relevant minimum.
38. Therefore, consent is not required to remove trees that fall within the size limitation above. Furthermore, when an application to fell is received, the Council would approve the works unless the trees were deemed of such amenity value as to warrant protection under a Tree Preservation Order.
39. The Council assessed the evidence available through the enforcement investigation and concluded it was highly unlikely the trees removed would have been worthy of a Tree Preservation Order. On this basis, it was not considered expedient to pursue the matter. Whilst it is regrettable that the trees were removed without submitting the required application, it is not considered there are grounds to justify further action being taken. It is also stressed that the visual assessment of the proposal and the assessment of impact on the conservation area takes into account the site prior to its clearance.

#### Other Matters

40. It is acknowledged the application has again generated a significant level of objection from residents and the Parish Council on several grounds including impact on nature, loss of trees, inappropriate replacement hedge planting, hedge poisonous to horses, highway safety, traffic generation, inadequate parking, loading and turning, access dangerous with poor visibility, land not large enough to accommodate a horse, the building size is excessive for the

associated grazing land, better roof material should be sought in the conservation area and traffic noise.

41. Seaton Parish Council has also provided a detailed objection to the proposal, elaborating on the above points – in particular re-iterating the relatively small size of the field relative to the needs for each horse to graze (British Horse Association guidelines), the loss of existing woodland which should have required conservation area consent for its removal and the unsafe nature of the site access.
42. The concerns of the local residents and the Parish Council set out above are noted and broadly repeat those received when the previous application was considered. However, the previous planning application that was reported to the Planning Committee (2021/1450/FUL) did consider these matters fully at that time and the application was refused solely on highway safety grounds. These have now been overcome by the submission of the Transport Report/Speed Survey and the relocation of the access to a point where better visibility for vehicles leaving the site can be achieved.
43. A landscaping condition is recommended to address some of the loss of mature planting and a condition requiring the removal of the close boarded fencing is also recommended.

#### Crime and Disorder

44. It is considered that the proposal would not result in any significant crime and disorder implications.

#### Human Rights Implications

45. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
46. It is considered that no relevant Article of that act will be breached.

#### **Consultations**

Below is a summary of the comments. Full details can be viewed on the Council's website. ([https://publicaccess.rutland.gov.uk/online-applications/?\\_ga=2.69299920.1503643438.1693558555-1954588303.1693558555](https://publicaccess.rutland.gov.uk/online-applications/?_ga=2.69299920.1503643438.1693558555-1954588303.1693558555))

47. **Seaton Parish Council** object on the grounds that the site should be restored to its original condition of July 2021, the application should not be determined until enforcement action is taken, the shape of the site differs from the previous application, loss of native hedging, planting of inappropriate laurel, services already provided, the site is below the British Horse Society recommendations, the building is below the required size, intensification in the use of the access, loss of woodland and harm to biodiversity.

A letter submitted by Howes Percival on behalf of the Parish Council raises a legal question in relation to assessing the planning application and its impact

on the conservation area given the site clearance. A response to this will be provided at committee.

48. **Highway Authority** raise no objections subject to conditions.
49. **Public Protection** raise no objection subject to conditions.
50. **Forestry Officer** raises no objection. The only tree close to the development is an ash tree of low value, which is to be retained.
51. **Health and Safety Executive** raises no objection.
52. **Ecology** notes the trees have already been removed and that the laurel hedging should be replaced.

### **Neighbour Representations**

Below is a summary of the comments. Full details can be viewed on the Council's website. ([https://publicaccess.rutland.gov.uk/online-applications/?\\_ga=2.69299920.1503643438.1693558555-1954588303.1693558555](https://publicaccess.rutland.gov.uk/online-applications/?_ga=2.69299920.1503643438.1693558555-1954588303.1693558555))

32 representations have been submitted objecting on the following grounds:

- Retrospective development
- Already have a low loader and tractor on site
- Harm to conservation area
- Loss of woodland
- Increase in traffic
- Unsafe access
- Fence not in keeping
- Plot too small for keeping of a horse
- Harmful to biodiversity
- Laurel planting inappropriate

2 representation in support on the grounds the change of use would be innocuous and the site has no real agricultural value.

### **Conclusion**

53. Taking the above into account, it is considered that subject to the imposition of conditions the application is acceptable in principle and would not result in harm to the character or appearance of the Conservation Area. There would be no harm to residential amenity or highway safety. The proposal is in accordance with Sections 2, 9, 12, 15 and 16 of the NPPF, Policies CS4, CS19, CS21 and CS22 of the Core Strategy and Policies SP7, SP13, SP15, SP19 and SP20 of the Site Allocations and Policies DPD.