



PINS Ref: 6014854

LPA Ref: H16-0462-26 (1374)

TOWN AND COUNTRY PLANNING ACT 1990

WRITTEN REPRESENTATIONS PROCEDURE

APPEAL BY

Maggie's Furry Friends

STATEMENT OF CASE FOR THE LOCAL PLANNING AUTHORITY

Enclosures:

- Statement of Case
- Appendix 1: Conditions recommended by the Local Planning authority if the appeal is allowed.

South Holland District Council
Council Offices
Priory Road
Spalding
Lincs
PE11 2XE

Statement of Case for the Local Planning Authority

1.0 Background

- 1.1 The application was refused as a delegated decision for the reason set out within the decision notice dated 15th July 2026 and as set out in Paragraph 6.1 of this Statement.

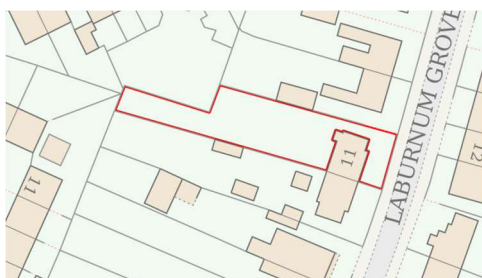
2.0 Proposal

- 2.1 The application sought consent for a lawful development certificate for the use of the property for dog boarding and daycare.
- 2.2 Consent was sought under Section 191 of the Town and Country Planning Act (1990) (as amended).

3.0 Appeal Site and Surrounds

- 3.1 The application site comprises land at 11 Laburnum Grove in Spalding. 11 Laburnum Grove is a semi-detached two-storey dwelling located to the west of Laburnum Grove. The site includes a relatively long linear rear garden which is a similar length to the nearest dwellings to the south of the site. The site is within a residential area, being surrounded by dwellings on all sides.
- 3.2 The red line boundary shown within the submitted location plan for the application excluded the dwelling within the site and only included the garden and driveway area. This was queried with the applicant, and they were given the opportunity to provide an amended plan that includes the dwelling; however, an amended plan was not subsequently provided.
- 3.3 It is noted that the appellant has provided a revised location plan with the appeal, and this includes a larger red line boundary area and appears to include a neighbouring dwelling (9 Laburnum Grove). It is considered that neither of the red line boundaries accurately identifies the planning unit in this case and the local planning authority wishes to draw the Inspector's attention to this matter so that it can be considered appropriately. If the location plan submitted with the appeal is accepted this could mean that both 9 and 11 Laburnum Grove could be used for dog boarding and daycare. Alternatively, if the location plan submitted with the application is accepted, this would not include the dwelling within the site.

Location Plan submitted with H16-0462-26:



Location Plan submitted with Appeal:



4.0 Relevant Site History

- 4.1 H16-0462-26: (Section 191 Certificate of Lawfulness) Use of property for dog boarding and daycare – refused 15th July 2026.

5.0 Legislation and Relevant Planning Guidance

- 5.1 Section 191 of the Town and Country Planning Act (TCPA) (1990) (as amended) - sets out the following:

"(2)For the purposes of this Act uses and operations are lawful at any time if: - (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."

- 5.2 Section 191(4) further sets out that:

"(4)If, on an application under this section, the local planning authority is provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

- 5.3 National Planning Practice Guidance clarifies that it is the responsibility of the applicant to provide sufficient information to support the application (Paragraph 006 Reference ID: 17c-006-20140306). The evidence provided needs to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability rather than beyond reasonable doubt.

- 5.4 Section 171B(3) of the TCPA further sets out the following:

"(1)Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of: (a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed."

- 5.5 National Planning Practice Guidance (NPPG) also provides relevant guidance. Amongst other matters it states that an application may be refused if there is insufficient or precise information.

6.0 Reason for Refusal

- 6.1 The application was refused on 15th July 2026 for the following reason:

"The proposed use of the site for dog boarding and daycare as set out within the submitted documents is considered to comprise a material change of use that requires full planning permission."

7.0 Statement of Case

- 7.1 As set out above, the application was refused as it was considered that based on the information received and the potential use of the site, the proposal amounted to a material change of use. As such, it was considered that full planning permission was required for the proposals.

- 7.2 Whether a proposal amounts to a material change of use is a matter of fact and degree that needs to be assessed on a case-by-case basis. As set out within the delegated

assessment for the application, it was considered that based on a combination of factors, the proposal would amount to a material change of use.

- 7.3 Various matters were taken into account including the context of the appeal site and its immediate surroundings. For example, the site includes a semi-detached dwelling which is located within an existing cul-de-sac and the site is surrounded by residential development. The proposal includes unrestricted opening hours which could result in multiple trips from customers to and from the site per day and night.
- 7.4 There was also a lack of clarification regarding the provision of on-site parking and given the site's location within a relatively quiet cul-de-sac, this was regarded as contributing to a material impact on the area by requiring customers to park on the road. The public representations received during the determination of the application suggested that customers had been parking on Laburnum Grove rather than within the appeal site.
- 7.5 Furthermore, representations were received from various neighbours suggesting that the use had resulted in noise and disturbance to neighbouring properties resulting from the use.
- 7.6 The appellant has submitted an appeal statement within which the appellant sets out that the business is appropriately managed to reduce its impact on neighbouring properties. For example, the appellant considers that drop offs and pickups are appropriately managed, there is space for visitors to park within the driveway within the site, and noise is minimised as much as possible. Some of the information was not previously provided to the LPA and as set out previously, Planning Practice Guidance sets out that the onus is on applicants to provide sufficiently precise and unambiguous information to justify the grant of a certificate, without which refusal can be justified.
- 7.7 Notwithstanding this, the additional information has been reviewed; however, the LPA continues to consider that the proposal would result in a material change of use that requires planning permission. Whilst the appellant has set out how they intend to control and manage the business, the existing site context and the potential of the proposed use still suggests that the proposal would result in a material change of use.
- 7.8 The appellant's statement sets out that "the Council's own report identifies that views expressed by third parties on the planning merits of an LDC application are not relevant"; however, as set out previously Planning Practice Guidance sets out it may be reasonable for LPAs to seek evidence from neighbours if there is good reason to believe they may possess relevant information. In this case, the proposal is for an existing business and as such, it was considered appropriate to display a site notice to notify neighbouring properties of the application to establish if there was a perceived impact from the proposed use of the site. Based on the representations that were received, it appeared that the use had resulted in a material impact as a result of noise and vehicles parking on Laburnum Grove. Public representations were received from several neighbours and it was appropriate to take such representations into account.
- 7.9 The appellant has set out that the LPA placed too much reliance on the potential maximum usage of the site rather than the likely usage; however, it was considered appropriate to consider the potential maximum usage as this is what was applied for. For example, the opening hours are unrestricted, and as such dogs could be boarded within the site throughout each day and each night. Whilst this might not occur, this is

nonetheless a possibility, and it was considered appropriate to consider the potential full impact of the use particularly as the site comprises a semi-detached dwelling and perhaps the greatest impact is likely to be on 9 Laburnum Grove, which is attached to the site.

8.0 Conclusion

- 8.1 Therefore, the LPA continues to consider that the proposal amounts to a material change of use and as such, it is considered that full planning permission would be required. Therefore, the LPA considers that the appeal should be dismissed.

Appendix 1

Draft List of Conditions

1. Schedule 1 - Description of Use or Operation

Use of property for dog boarding and daycare

Schedule 2 - Land Specified

11 Laburnum Grove, Spalding, PE11 2LX

2. Notes:

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 as amended. It certifies that the use, operations or matter specified in Schedule 1 taking place on the land described in Schedule 2 was or would have been lawful on the date of the application, and thus was not or would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.

This Certificate applies only to the extent described in Schedule 1 and to the land specified in Schedule 2 and on the attached plan. Any use, operation, or other matter which is materially different from that described, or which relates to other land, may render the owner or occupier liable to enforcement action.

3. The determined plans are:

- Application Form
- Site Location Plan
- Supporting Statement
- Summary of appointments, dates and payments