DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H02-0747-23**	**Applicant:**	**Mr G Jenkins**
Proposal:	Change of use of dwelling to include the use for dog breeding - re-submission of H02-0030-23 - retrospective		
Location:	67 North Street Crowland Spalding		
Terminal Date:	26th December 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application, seeking permission retrospectively for the change of use of part of the residential garden, to include the use for dog breeding, at 67 North Street, Crowland.

The site is currently licensed for 30 adult dogs, but currently have 16 adult dogs on the property. The site will have a maximum of 10 litters per year.

This application is a resubmission of refused application H02-0030-23, that requested permission to keep 30 dogs.

Site Description

The site is situated within the settlement boundary of Crowland, according to Policy 1 of the South East Lincolnshire Local Plan, 2019. The property is also situated within the Crowland Conservation Area. The dwelling is a terraced property, fronting the main road of North Street. There is shared access to the northern boundary between no.67 and no.69 North Street.

The rear gardens of the terraced properties along North Street are mostly characterised by long and narrow rear gardens.

History

H02-0030-23 - Change of use of dwelling to include the use for dog breeding - retrospective - Refused 09 June 2023

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Ward Member Bryan Alcock

It is a totally inappropriate site for the use applied for, being in close proximity to a number of residential properties. Although few complaints may have been received nearby residents' enjoyment of their environment would continue to be adversely affected. The flow of visitors to the premises either buying or bringing dogs to the site increases the number of vehicular movements in and already saturated street scene.

Waste disposal remains a concern. The only access appears to be through a shared passage on to North Street as the property is not shown to adjoin Cluttons Close.

Crowland Parish Council

Objection The Parish Council remains of the opinion that this town centre location is unsuitable for a dog breeding business due to the inevitable noise and odour issues emanating from this activity.

North Level District Internal Drainage Board

Please note that North Level District Internal Drainage Board have no comment to make in relation to the above planning application.

Conservation Officer

I wish to raise no objections to this proposal on heritage conservation grounds. The associated heritage assets are the Crowland Conservation Area (CCA), and the adjacent grade II listed

property. It is not considered that the rearward physical development of kennels would harm the appreciation of the heritage assets from public realm views.

Local Highway and Lead Local Flood Authority

No objection: This is a re-submission of an Application that had previously been refused Consent. The reason for refusal was principally on the grounds of noise disturbance to neighbours, rather than adverse impact upon the highway. The highway authority did not object to the previous Application and so, in the absence of any new evidence of adverse impact upon the safe use and the capacity of the highway, does not object to this re-submission. The reasons for this are as before, in that this property has no on-site parking for either residents of the property or visitors. However, the breeding of dogs from the rear garden area of a terraced house would not normally be expected to generate frequent movement of vehicles. There does appear to be several areas where visitors may be able to park safely on-street and without unreasonably obstructing the passage of other road users. This is a retrospective Application so if there are no objections to the proposed use, from neighbours, on the grounds of obstruction or safety, it might be concluded that it is possible to operate this business, from this dwelling, without having an unacceptable impact upon highway safety.

Please refer back to the highway authority if there are such objections but otherwise, the highway authority does not wish to object to this Application.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, two letters of representation have been received.

These can be summarised as:
-The plan does not really show the neighbouring properties very well
-The plan does not give a feel for the impact on the neighbouring properties
-Concerns regarding the dogs barking everyday/the noise from the dogs is constant
-The number of dogs is not normal
-Concerns regarding dog waste
-Continual stream of people with dogs parking anywhere and everywhere
-Dogs have been left in the cars alone so they bark and bark
-There are occasionally people selling dog product out of the back of cars or vans.

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations
- Heritage Considerations
- Biodiversity

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Principle of Development and Sustainability

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location in terms of sustainability.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within Main Service Centres, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

The application site in this instance is within Crowland, a Main Service Centre, and lies within the defined settlement boundaries as detailed by Policy 1. However, it does not lie within a defined retail centre. The principle of keeping dogs as an incidental use to the enjoyment of a dwelling house is acceptable. However, the application proposes the change of use of dwelling house to include the use for dog breeding. Policy 7 relates to Improving South East Lincolnshire's Employment Land Portfolio, within this policy it states that "new employment development/businesses or the extension of an existing business outside the above allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land or the conversion/re-use of redundant buildings." The policy then goes on to state "where it can be demonstrated that no suitable building capable of conversion/re-use is available or the re-use of previously-developed land is not available or is unsuitable, proposals on non allocated sites may be acceptable provided" certain criteria is met.

When taking this into account, whilst not strictly in accordance with Policy 7, the proposal seeks a partial use of an established residential dwelling to be used for business purposes solely attached to the occupants of that dwelling. Examples of this, to a lesser extent can be demonstrated within the area, with a number of minor scale businesses operating from home. Whilst the overall resultant impact and scale of this proposal is not considered to be acceptable, as detailed below, the principle of a modest and unharmful use of a similar nature could be considered acceptable in principle. Further, it is not considered that the operation of this business, which is small in scale, in this location would undermine the viability of the district's retail centres.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (2023) specifically relates to 'Achieving well-designed places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130, contained within section 12 of the National Planning Policy Framework (2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments 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 other considerations.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require 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.

There are several single storey dog kennels within the rear garden of No.67 North Street, Crowland. The siting of the dog kennels, when considered alongside the siting of the host dwelling, ensures that the dog kennels are largely screened by the host dwelling, with only a minor extent of the rear being visible from the highway, or public vantage points along North Street. Therefore, the dog kennels, given their scale and siting, would not be a prominent or visually intrusive addition, and would not cause an adverse impact to the character or appearance of the area.

The dog kennels are considered to be proportionate to the size of the existing plot. The site is of suitable size to comfortably accommodate the dog kennels without resulting in overdevelopment of the site and would also retain an adequate amount of outdoor amenity space.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

Impact on Residential Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (2023) states that development 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Two letters of objection have been received from nearby neighbours siting concerns that the proposal creates unacceptable noise levels and the close proximity of the kennels to the adjoining neighbours.

The application site is a mid-terrace property with a long garden, within a residential area of Crowland. The kennels to the south are right on the shared boundary of the Old Crown Cottage 65 North Street, with the kennels on the north being around 1.29m from the boundary of No.69 North Street. There are also neighbouring dwellings to the rear of the site, with the separation distances varying between 4m and 37m from the kennels. At such separation distances, the number of dogs is sufficiently high to create disturbance to the residents of the nearest dwellings.

The layout and nature of the site within a residential area means that the proposed use is within close proximity to a number of neighbouring residential properties. Dog barking and noise disturbance from up to 16 adult dogs (in addition to the further litters on site), with such minimal separation distances to these neighbouring properties, is considered to have an unacceptable impact upon surrounding residential amenity.

As detailed above, the scale and nature of the proposal is not considered to be acceptable, there would be significant and unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal is not considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) advises 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".

In respect of highway matters, 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. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Further, policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

Residents have raised objections on grounds that the dog breeding business results in an increase in traffic movement in the street and causes problems with parking. The concerns are noted; however, it is not considered that there would be a significant increase in traffic on a daily basis. In addition, after two site visits to the application site, on both occasions there where several places to park on North Street the Local Highway Authority have been consulted on this application and have not raised any objections to the scheme, statin "this property has no on-site parking for either residents of the property or visitors. However, the breeding of dogs from the rear garden area of a terraced house would not normally be expected to generate frequent movement of vehicles. There does appear to be several areas where visitors may be able to park safely on-street and without unreasonably obstructing the passage of other road users."

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

Other Matters

It has been noted that the submitted block plan and site location plan is not accurate. Within the submitted covering letter the applicant has stated that "have rehomed 10 of our dogs and currently have 16. 5 of which live in doors" As some of the dogs are living inside the dwelling house and not outside within the kennels the dwelling house also needed to be included within the red outline of the site location and block plan. The covering letter also confirms that "our puppies are raised in a downstairs puppy room within the house," highlighting further that the dwelling house is used for the dog breeding business.

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal does not represent appropriate development within a residential area. The keeping of up to 16 dogs at such location easily undermine the residential amenity of the neighbouring residents. The separation distances with the nearest dwellinghouses are not sufficient to prevent unacceptable impact upon other residents by reason of noise.

Conclusion

Taking into consideration these factors, the proposal is considered to be contrary to Policies 2, 3,

and 30 of the South East Lincolnshire Local Plan (SELLP), 2019, as well as advice within the National Planning Policy Framework (NPPF), 2023.

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.

RECOMMENDATION

The application is refused under delegated authority.