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South Holland District Council
Priory Road
Spalding
Lincolnshire
PE11 2XE

Date: 13th September 2023
Our Ref: PH/446/23
LPA Ref: H06-0658-22 (Original Application)

Dear Maxine

S73 APPLICATION TO REMOVE/VARY CONDITIONS 1, 3 AND 4 OF PLANNING PERMISSION H06-0658-22 FOR THE CHANGE OF USE OF LAND FROM Paddock TO ENCLOSED DOG WALKING FIELD, LAND AT PEGASUS, DAWSMERE ROAD, GEDNEY DROVE END, SPALDING, LINCOLNSHIRE, PE12 9PQ.

My clients, Tracy and Susan Cloona, have instructed me to submit this s73 application to you for your consideration.

The application is made under S96A of the Town and Country Planning Act 1990, which stipulates that:

1. *A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.*
2. *In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.*

As you will be aware, planning permission was granted on the 13th October 2022 for the change of use of a paddock to an enclosed dog walking field on land at Pegasus on Dawsmere Road, in Gedney Drove End. The planning permission was implemented shortly after this, and the Applicants have successfully operated the business now for over 10 months.

There were 5 conditions on the planning permission, with 3 of these imposing certain restrictions on the development/business in terms of its operation for only 12 months (Condition 1), the number of dogs and cars that could be on the site (Condition 3) and the hours of operation (Condition 4).

Clearly the Applicants wish to continue with the business, and to improve it where possible so as to provide a better service for their established and proposed customer base, at the same time as improving profitability. To do this they need to ensure that this is a permanent use of the site, and that the other minor restrictions are relaxed and varied, as set out below.

Condition 1 states:

The use of the land for the purposes of dog walking hereby permitted shall be for a limited period of one year from the date of this decision. At the end of this period the use of the land for dog walking shall cease, and all materials and equipment brought onto the land in connection with that use shall be removed within 21 days, unless non-material variations which do not give rise to additional or different likely significant effects are agreed in writing with the Local Planning Authority.

The given reasons for this condition were so that the use could be monitored in terms of its effect upon residential amenity over a temporary period in terms of noise, disturbance and hours of use.

To our knowledge there has been no adverse impacts whatsoever on any of the nearby residential properties as a result of the use of the field for dog walking purposes. The Applicants have certainly not been made aware of any complaints in this regard directly from the neighbours. Moreover, they have received nothing but praise for the business, and many of the users of the site are local residents in any case, so they are fully supportive of the business. In addition, Council have never contacted the Applicants in order to notify them of any complaints that they may have received, so it has to be assumed that **zero** complaints or objections have been raised over the use of the land for the last 10 months.

On this basis, it is requested that **Condition 1 is removed**, allowing the business to continue to operate and thrive on a permanent basis at the same time as providing a good local service to the residents within the area.

Condition 3 states:

No more than 6 dogs and 2 cars can be present on the site at any one time.

The business has been very popular for 'meet ups' of local dog owners, larger family dog walks, and for local dog carers/walkers who use the facility whilst looking after several dogs at the same time. In this regard, the restriction of only 6 dogs on the site has proven to be overly restrictive on occasion and has resulted in a loss of bookings. An allowance for up to 8 dogs on the site at any one time would overcome this and would allow for a minor expansion of the business.

In line with this, the omission of the limit to the number of cars that can use the site would be beneficial, especially as this can be completely controlled by the Applicants, and because they can always use their property for any overflow car parking, should it prove difficult for more than 2 cars to be on the site at any one time. As there is no overlap to the use of the site, giving users the time to arrive after other

users have left and depart before the next users arrive, this should not be an issue at all in terms of traffic management.

On this basis it is requested that **Condition 3 be varied** as follows:

No more than 8 dogs can be present on the site at any one time.

Condition 4 states:

The site shall only operate between the hours of 0700 and 1800 Monday to Sunday and at no other time.

There is no issue with the start time in this regard, as 7am is early enough for most people but, over the summer months, when many people are wanting to exercise their dogs later, in the cooler evenings, having to close the field at 6pm is proving to be restrictive on the business. Closing at 6pm also prevents people returning from work after 5.30pm from using the field, even though their dog(s) will still need some exercise in the evening.

The extension of the hours of use to sunset or 8pm at the latest, will greatly improve this and will only allow for the full use of the site until 8pm for May, June, July and August, in accordance with the average sunset times within the UK. At all other times, the site would be closed before 8pm, as sunset has happened before then. The site cannot be used after sunset in any case as no lighting is permitted by Condition 5.

On this basis it is requested that **Condition 4 be varied** as follows:

The site shall only operate between the hours of 7.00am and sunset or 8.00pm (whichever is the sooner) Monday to Sunday and at no other time.

In terms of planning policy, the proposed changes to the original planning application are entirely in accordance with the economic, social and environmental objectives as set out in paragraph 8 of the National Planning Policy Framework (NPPF). The lifting of these restrictions from the original application allows the business to become part of a strong, responsive and competitive economy. It will also meet the social objectives by helping to support a vibrant and healthy community, and meets the environmental objectives by protecting and enhancing the use of the natural environment and through making an efficient use of the land.

The proposal is a very good form of sustainable development, thus addressing the objectives of paragraph 11 of the NPPF accordingly.

Paragraph 56 of the NPPF states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to the development permitted, enforceable, precise and reasonable in all other respects. In my opinion, having had the business successfully operational for over 10 months, with no objections whatsoever, Conditions 1, 3 & 4 of the permission, in their original form, are no longer 'necessary', 'relevant' or 'reasonable' to control the development. It is therefore argued that Condition 1 should be removed and that Conditions 3 and 4 should be varied as set out above, to still give the Council the control over the use of the land, but without hindrance to operation and profitability of the business.

In all other respects, the permanent use of this site as a dog walking field addresses the guidance set out in paragraphs 84 and 85 of the NPPF, which focus on 'Supporting a Prosperous Rural Economy'.

The application has been submitted electronically and, as a s73 proposal pursuant to an extent planning permission, does not have to be supported by any plans or drawings. The submission is therefore formed only by this covering letter, the completed application forms and the appropriate fee.

The fee for this application is **£234**. This fee will be paid directly by my clients, via the Planning Portal, on the submission of the application.

I trust that this application is complete and can be registered without delay. I look forward to the receipt of your acknowledgement of the registration of the application in due course and it would be appreciated if you could keep me informed on the progress of the application as it moves forwards.

Yours sincerely



Matt Hubbard

PG Dip TP, MRTPI
Director

CC - Clients by email

Encs - Drawings and Documents as Listed