DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H07-0723-20**	**Applicant:**	**Mrs S McLellan**
Proposal:	Use of site for the keeping of more than 6 dogs (retrospective) - approved under H07-0765-19. Removal of Condition 2 to allow permanent use.		
Location:	Saranden 22 North Road Gedney Hill		
Terminal Date:	28th October 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
30	Pollution

National Guidance

National Planning Policy Framework 2019

Paragraph 127 of Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	3	0	0

CASE OFFICER ASSESSMENT

Proposal

Section 73 of the Town and Country Planning Act 1990 allows the variation or removal of conditions

associated with a planning permission.

Under this section, this planning application seeks to remove the condition for temporary use of the site for the keeping of more than 6 dogs at 22 North Road, Gedney Hill, Spalding.

Permission was previously granted under H07-0765-19. Condition 2 of this permission restricted the keeping of more than 6 dogs to twelve months as of the date of the decision notice (17 October 2019).

Site Description

The area is purely residential. The property is a detached bungalow forming part of a well-defined frontage development along the northern-east side of North Road. The site boundaries shape a sizeable long linear narrow curtilage.

From front to rear and adjacent to the southern-east boundary, there is a garage, garden sheds and the puppies' area to the rear of the house. The kennels with fenced paddock land are located approximately 34 metres away from the house as well as neighbouring properties. The remainder of the site consist of further paddock land.

There is at least 3 metre high conifer hedgerow in the first half of the northern-east boundary adjacent to No. 24. Identical boundary treatment is in the rear half of the southern-west boundary. The remainder sections on both boundaries have planting of at least 2 metre height or wire fencing with concrete posts and overgrown shrubs. The site is heavily obscured and views from the adjacent land are inexistent.

History

H07-1272-79 - Residential development (4 plots with access at North Road) - Approved

H07-0765-19 - Use of site for the keeping of more than 6 dogs (retrospective) - Approved

Consultation Responses

SHDC Environmental Health

No objection.

Members of the public

Three different residents made representations supporting this application on the grounds that no significant noise and disturbance from the dogs has occurred.

Planning Considerations

Principle of development

The site location is within the settlement boundary for Gedney Hill as set out in the Policies Map of South East Lincolnshire Local Plan, 2019. Therefore, the principle of development is acceptable unless planning material considerations indicated otherwise in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Residential amenity

This is the key material consideration of this application. It is paramount to ascertain whether unacceptable noise and disturbance has occurred or not in association with the operation of the dog kennels on the site.

Policies 2 and 3 of SELLP, 2019 establish residential amenity as one of the key principles of design and development management. Policy 30 states that development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon the amenities of the area by way of noise, among other factors. Likewise,

criterion (f) of Paragraph 127 of National Planning Policy Framework (NPPF) 2019 sets out that planning decisions should ensure that places are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

SHDC's Environmental Health Officer has been consulted in this regard and no objection has been raised. Additionally, the residents nearby have not expressed concerns neither fiercely objected the continuation of the keeping of multiple dogs within the curtilage as occurred in the previous planning application.

Conclusion

In summary, no unacceptable noise and disturbance due to the dogs have been identified over the last twelve months and therefore this application will be acceptable in terms of residential amenity.

Taking into account the considerations above, the proposal is considered to comply with Policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan (SELLP), 2019; and Paragraph 127 of the National Planning Policy Framework (NPFF), 2019.

It is accordingly recommended to approve this planning application via delegated powers subject to no condition for temporary 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.