DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H09-0213-20**	**Applicant:**	**Miss J Ford**
Proposal:	Use of site for keeping of more than 6 dogs		
Location:	Red House Farm Bass Chase Holbeach Bank		
Terminal Date:	2nd 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	1	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	3	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application that seeks retrospectively permission for use of site for keeping of more than 6 dogs at Red House Farm, Bass Chase, Holbeach Bank, Spalding.

Site Description

Red House Farm is located approximately 1.58km due north-east of the built-up area of Holbeach Bank and 412 metres due north of Roman Bank. The wider location is rural characterised by flat open fields and drains of the Fenlands landscape. There a few more dwellings in the locality.

The site is bounded by a drain to the west and Bass Chase to the remainder of directions. Red House Farm is a former agricultural holding. To the front of the dwelling, there is a long shed and spacious fenced chicken run. The residential property is a large detached two-storey cottage facing north. A gravelled driveway runs between the cottage and the chicken run.

To the south, there is a sizeable domestic garden with different areas. Immediately to the rear elevation, there is a patio with young trees, plants and garden paraphernalia. Vegetation visually separates the patio from the remainder of the garden. Adjacent to it, there are two log cabins which are visibly of incidental use to the householders. The land is grassed. The garden has mature hedge on the boundaries which obscure views from any point of the adjacent land.

History

H09-0677-07 - Proposed conservatory - Approved
H09-0953-06 - Single-storey 'granny annexe' extension - Approved
H09-0268-06 - Extension to form annexe - Refused

Consultation Responses

Members of the public

One resident has objected to the application raising the following issues:

-Dog breeding and selling of pugs have been undertaken on the site. RSPCA should be contacted in this regard
-Unsafe premises for such activity. There was an incident where the Rottweiler dog escaped and attacked the objector's pet.
-Unacceptable noise and disturbance from dog barking.
-The large outbuilding is owned by a third party and the red boundaries of the submitted plans should be accordingly altered.

Mary Bass Trust has raised a letter alongside with maps raising the issue that the chicken run and large shed at the northern part of the site are being leased to the applicant. It is also stated that having such a high number of dogs will contravene the lease as to the prevention of activities that may become a nuisance or annoyance to the Landlords or owner or occupiers of any neighbouring property.

SHDC Environmental Heath Officer

No objection.

It is requested that the number of dogs be limited to current number the applicant has and that the permission be personal to the applicant.

Holbeach Parish Council

No objection.

Planning Considerations

The site lies in the countryside as set out in the South East Lincolnshire Local Plan (SELLP), 2019. However, the principle of accommodating more than 6 dogs as an incidental use to the enjoyment of a dwelling house is acceptable. Material planning considerations will contribute to ascertain

whether the keeping of more than 6 adult dogs is or not incidental to the residential use.

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The key material considerations are addressed below.

Design and layout

The entire site approximately amounts to 2315 square metres, and the domestic garden roughly 1686 square metres. With such dimensions, it is considered that the site is largely spacious to accommodate twelve dogs regardless of their age.

Two log cabins on the rear garden are furnished and kept tidy and clean. The applicant confirmed that the dogs sometimes run between the house, these outbuildings and the garden at sociable hours. Notwithstanding this, the log cabins appear to be ready for the householders themselves rather than for the dogs. No kennels have been observed on the site neither any structure relating to dog breeding.

In summary, the keeping of twelve dogs will be acceptable at such location given the dimensions of the curtilage and especially the domestic garden. No physical change has occurred by the siting of kennels and any other infrastructure for dog breeding or care.

Residential amenity

This is one of the key principles of design and development management as set out in Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) (SELLP). Likewise, Paragraph 127 of National Planning Policy Framework (NPPF), 2019 establishes that developments should ensure a high standard of amenity for existing and future users, among other considerations. Additionally, Policy 30 of the SELLP 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 pollution (amongst other matters).

There are currently two occupiers of Red House Farm. There is a total of twelve dogs, 7 dogs for the applicant and five dogs for her mum. There are two semi-detached properties approximately 200 metres to the west (No. 47 and 48 Middle Marsh Road), two further 110 metres to the south (No 1 and 2 Bass Cottage). The nearest properties are not in the immediacy of Red House Farm. However, the noise pollution from dog barking might potentially harm to some extent the amenity standards of the residents of such properties.

To ascertain whether the dog barking might be considered a source of noise pollution or not, SHDC's Environmental Health Officer was consulted. The consultee raised no objection. It was though requested to grant permission subject to conditioning the number of dogs on the site to twelve and make the dogs of personal use to the existing occupiers.

This application was submitted and neighbour consultation was subsequently undertaken. Only one of the residents has raised an objection on the grounds of residential amenity. The retrospective application has not been widely and fiercely objected by the local community. Without disregarding the merit of the aforementioned objection, on balance there is no significant opposition to the use of the site for more than six dogs.

In summary, the presence of 12 dogs for private enjoyment on the proposed location will be acceptable in terms of residential amenity. This application therefore accords with Policies 2, 3 and 30 of SELLP (2019) and Paragraph 127 of NPPF (2019).

Other considerations

Mary Bass Trust raised that the curtilage boundaries on the submitted plans encompass the northern end of the curtilage which is owned by themselves. After discussing with the applicant, revised location plan and block plan were submitted to the Local Planning Authority to correct accordingly the boundaries.

I am mindful of the presumably contravention of the use of the site for keeping more than 6 dogs with some provisions of the Lease agreement between Mary Bass Trust and the applicant. However, this is purely a civil matter between both parties. The determination of this application is

made solely on the basis of planning legislation/considerations excluding any other legislative regime.

Conclusion

The site is broadly sizeable to accommodate such number of dogs. No kennel neither evidence of dog breeding has been observed on the site. The nearest properties are not immediately adjacent to the application site. No concerns have been raised by SHDC Environment Health Officer with regards to noise and disturbance. Overall, the keeping of the dogs is purely for private enjoyment of the householders. No detrimental material change is considered to have occurred.

Taking into consideration the above, the proposed development accords with Policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan (SELLP), 2019 as well as Paragraphs 8, 109 and 127 of the National Planning Policy Framework (NPFF), 2019.

It is accordingly recommended to approve this planning application via delegated powers.

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.