

DECISION DELEGATED TO DEVELOPMENT MANAGER**DECISION DELEGATED TO DEVELOPMENT MANAGER**

Application No: H09-0369-20 **Applicant:** Mr P Bradley

Proposal: Use of site for keeping of more than 6 dogs - retrospective

Location: 11 Sluice Road Holbeach St Marks Spalding

Terminal Date: 1st July 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**

Section 12. Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	6	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application that seeks retrospective permission for the use of the site for the keeping of more than 6 dogs at 11 Sluice Road, Holbeach St Marks, Spalding.

13 adults dogs had been previously on the site and two further are currently on the site. The applicant has stated that the keeping of the dogs has been carried out on site for the last 9 years.

Site Description

The site sits within a small cluster of frontage residential properties and there are further clusters to the north and south. The wider setting is rural in character.

The property is a two-storey semi-detached house adjoining No. 12 Sluice Road. There are also 4 other residential properties within 130 metres of the site.

The curtilage of the property is fairly spacious. The site levels are visibly lower than the highway. The property is confined to the northern part of the curtilage. A timber shelter structure formerly used for storage is close to the house and positioned along the eastern boundary. Further to the south, there is a wooden kennel unit. An old outbuilding is on the edge of the drive towards the southern boundary. To the rear, there are further kennels.

Mature trees forms a hedgerow on the eastern and southern boundaries of the site so that there is no direct views from the road or adjacent land.

History

None.

Consultation Responses

Members of the public

Four representations have been made objecting to the proposals in the following terms:

- The conditions of the property, site and kennels are not adequate for the welfare of the dogs.
- Excessive noise and disturbance from dog barking and excrement odours.
- No details about waste management.
- Highways safety is undermined as some episodes of dogs escaping the site have occurred.

LCC Highways/SUDS

Does not wish to restrict the grant of permission.

SHDC Environmental Protection

Given the proximity of the proposed kennels to the neighbouring property and the number of dogs at the premises I am concerned about the potential impact of noise from dog barking.

Planning Considerations

Principle of development

The site lies in the countryside as set out in the South East Lincolnshire Local Plan (SELLP), 2019. The principle of accommodating kennels as an incidental use to the enjoyment of a dwelling house is acceptable. However, 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 site is fairly spacious. The dwellinghouse is confined to the northern boundary. It faces onto Sluice Road to the west. A drive and parking area extends from the vehicular access at Sluice Road to the centre of the site.

There is a timber open air storage structure onto the drive. It is positioned in parallel with the eastern boundary and used for kennels. One further timber open air storage outbuilding is adjacent to the south. 4. no. metallic kennels which measure 6.35m long and x 1.95m wide protrude from the open elevation towards the south. There is also one large stable unit onto the drive which is positioned along the southern boundary and close to the vehicular access at Sluice Road. 3 no. 3.3m long metallic kennels have been erected to its rear.

The scale of the kennels is considered acceptable. They appear subservient to the host outbuildings from which they are attached. The footprint of the development is well accommodate within the curtilage. On balance, the design and layout of the kennels are not at odds with the existing development and character of the site/area.

Residential amenity

Residential amenity 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).

No. 11 Sluice Road is a semi-detached property and therefore the adjacent property (No. 12) is in very close proximity to the site. There are also 4 other residential properties within 130 metres of the site. Concerns have been raised by members of the public regarding excessive noise and disturbance generated by dog barking as well as excrement odours. Likewise, SHDC Environmental Health colleagues have stated that they have some concerns about the potential impact of noise from dog barking, especially upon the residents of the adjacent property No. 12.

No works have been carried out, nor are proposed as part of this retrospective application, to upgrade the kennels in order to mitigate the detrimental noise levels.

Taking the above into account, it is considered that the keeping of over 6 adult dogs at this residential property causes unacceptable harm to the amenity of neighbouring properties and impacts upon their living conditions through noise and disturbance, and will continue to do so. The site is therefore not considered to be suitable for the keeping of more than 6 dogs and is contrary to Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019, as well as Paragraph 127 of the National Planning Policy Framework, 2019.

Conclusion

The keeping of a range of adult dogs between 13 and 15 is such that a material change of use has been created on the residential curtilage and therefore such use cease to be incidental to the dwellinghouse.

The noise and disturbance associated with the dogs and their care is considered to be excessive insofar as the amenity of residents nearby is being unacceptably undermined, especially the house occupiers of the adjacent property No. 12.

Taking into account the considerations above, the current use for keeping such number of dogs is deemed to be contrary to Policies 2, 3 and 30 of the South East Lincolnshire Local Plan (SELLP), 2019; and also Sections 12 of the National Planning Policy Framework (NPPF), 2019.

It is accordingly recommended to refuse 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.