

## DECISION DELEGATED TO DEVELOPMENT MANAGER

|                        |                                                                                                                                                                                                                                                                                                                                               |                   |                     |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------|
| <b>Application No:</b> | <b>H09-1169-19</b>                                                                                                                                                                                                                                                                                                                            | <b>Applicant:</b> | <b>Mr J Russell</b> |
| <b>Proposal:</b>       | Proposed erection of a purpose-built 20 kennel unit to house 20 adult dogs and retrospective planning permission for the siting of an existing outbuilding (approved under H09-0548-16) 65.81 metres from the road, retention of outbuilding for sheep food & straw storage, and change of use of proposed site from agricultural to domestic |                   |                     |
| <b>Location:</b>       | Duntreath Cackle Hill Lane Holbeach                                                                                                                                                                                                                                                                                                           |                   |                     |
| <b>Terminal Date:</b>  | 6th April 2020                                                                                                                                                                                                                                                                                                                                |                   |                     |

## Planning Policies

## South East Lincolnshire Local Plan - Adopted: March 2019

|    |                           |
|----|---------------------------|
| 01 | Spatial Strategy          |
| 02 | Development Management    |
| 03 | Design of New Development |
| 04 | Approach to Flood Risk    |
| 30 | Pollution                 |

## National Guidance

## National Planning Policy Framework 2019

Section 12. Achieving well-designed places  
 Section 14. Meeting the challenge of climate change, flooding and coastal change  
 Section 15. Conserving and enhancing the natural environment

## Representations:

|                         | Object | Support | No Obj. | Comments |
|-------------------------|--------|---------|---------|----------|
| PARISH COUNCIL          | 0      | 1       | 0       | 0        |
| WARD MEMBER             | 0      | 0       | 0       | 0        |
| HIGHWAYS & SUDS SUPPORT | 0      | 0       | 0       | 1        |
| SHDC INTERNAL           | 0      | 0       | 0       | 2        |
| OTHER STATUTORY BODIES  | 1      | 0       | 0       | 0        |

|                        |   |   |   |   |
|------------------------|---|---|---|---|
| OTHER STATUTORY BODIES | 0 | 0 | 0 | 1 |
| RESIDENTS              | 7 | 0 | 0 | 2 |

|                                        |           |   |           |  |
|----------------------------------------|-----------|---|-----------|--|
| Route for determination of application | Delegated | X | Committee |  |
|----------------------------------------|-----------|---|-----------|--|

## **CASE OFFICER ASSESSMENT**

### **Proposal**

This is a full planning application for the proposed erection of a purpose-built 20 kennel unit to house 20 adult dogs and retrospective planning permission for the siting of an existing outbuilding (approved under H09-0548-16) 65.81 metres from the road, retention of outbuilding for sheep food & straw storage, and change of use of proposed site from agricultural to domestic at Duntreath, Cackle Hill Lane, Holbeach, Spalding.

Originally, the application was submitted in order to gain permission for a new outbuilding to host kennels for 20 adult dogs. The description of the proposal has since been altered in order to regularise three issues which were raised by the neighbour consultation and constitute a breach of previous planning decisions and permitted development rights.

- *Position of existing outbuilding:* Permission was granted for a proposed agricultural building under application H09-0548-16. The approved block plan shows the footprint of such building 40.3 metres set back from the road. However, aerial views demonstrate that the building has been built approximately 65 metres from the road.

- *Use of existing outbuilding:* Permission was granted for agricultural purposes under application H09-0548-16. To regularise its use so far and prevent any enforcement action in the future, the last revised plans show sheep food & straw storage which would fully comply with the agricultural use previously permitted.

- *Change of land use from agricultural to domestic:* Historical aerial views reveal that the land where the proposed development would be located was agricultural in 2007 and converted into domestic use at some point between 2007 and 2016. The agent has submitted a copy of the Land Registry deed but without a map, thus this does not prove that the vast grazing land adjacent to the rear of the farmhouse has traditionally had a domestic use. Additionally, there has always been a boundary separating the residential plot of Duntreath with the remainder of the land and this has even been marked on the location plan for this application.

The purpose of the proposed outbuilding is to host kennels for 20 adult dogs. There are dogs currently on site within outdoor metal kennels. The current animals would be relocated to the intended building. As mentioned below, planning permission was granted under application H09-0959-18 for use of site to keep more than 6 adult dogs. Condition 2 set out that the number of dogs on site shall not exceed 25 adult dogs at any one time and 'adult' dog shall be defined as any dog over the age of 15 months. Therefore, the proposal would comply with the grounds of the extant permission.

### **Site Description**

The surroundings are characterised by open agricultural fields. The site lies in an area classified as countryside in the South East Lincolnshire Local Plan (SELLP), 2019.

'North View' is the nearest residential property approximately 164 metres to the north-east of the application site. The second nearest is 'Star Cross Farm' 175 metres to the north. Ribbon development comprising mostly detached houses is approximately 350 metres to the west.

The site comprises a well defined residential plot stretching along the front boundary bordering Cackle Hill Lane and vast grazing land extending to the rear. Within the plot, there is a large two-storey detached farmhouse, a modern barn between the house and the drive running along the southern boundary and the outdoor dog kennels adjacent to the northern boundary. On grazing land, the agricultural outbuilding approved under application H09-0548-16 remains half-built and two small sheep sheds at the rear part of the site. Mature tall hedges heavily obscure views from adjacent land to the entire site.

## **History**

H09-0959-18 - Use of site to keep more than 6 adult dogs - Approved

H09-0548-16 - Proposed agricultural building - Approved

H09-0214-16 - Proposed single storey extension to dwelling with rooms in roof - Approved

H09-1049-13 - Erection of detached dwelling - Refused

## **Consultation Responses**

### Members of public

Six residents have made representations to object to the proposal on the following basis (summarised):

- Noise and disturbance has been caused so far due to the kennel dogs barking on a daily basis.
- Conflict between aggressive dogs at the front/side driveway and neighbours walking on the lane.
- The site has been unlawfully used for a puppy farm over the 8 years without breeding licence.
- The grant of previous planning permission allowed the applicant to have up to 25 dogs on site and the proposed kennels would represent an increase of 20 dogs.
- The approved barn was intended for sheep shelter and food storage but no sheep are currently present on site.
- The land where the development would be located was classified Grade I Arable Land in 2011.
- The intention of the applicant is to use the approved barn which is half-built for hosting the kennels.
- The existing barn is located 65.81m from the road although permission was granted to be sited 40.3m from the road.

### Sir John Hayes MP

A letter has been sent raising the following issues:

- The proposal would exacerbate the noise and disturbance originated by the dogs.
- A barn was erected without permission and a retrospective application has been submitted which is undesirable.
- The site is too small to accommodate the development.
- A puppy breeding business is running on the site without licence.

### Lincolnshire County Council as Local Highway and Lead Local Flood Authority

No objection. Suggests that the applicant submits a flood risk statement in light of the risk from surface water flooding.

### SHDC Environmental Health Officer

No objection.

The consultation response states the following: "I note that the application is to build a new kennel block and that there will be no increase in the number of adult dogs".

### Holbeach Parish Council

Support.

### SHDC Licensing Officer

No objection.

It is reminded that an application for a licence should be submitted if this premises intends to run as a dog breeding establishment under The Animal Welfare Regulations 2018.

## **Planning Considerations**

### Principle of development

The site is located in the countryside as set out in the South East Lincolnshire Local Plan (SELLP), 2019.

Policy 1 of the SELLP states that "in the countryside development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits".

Notwithstanding the above, it should be noted that the site benefits from an extant permission to keep up to 25 adults dogs (planning ref. H09-0959-18) and no increase in this number is proposed as part of this application. Rather, it would involve the relocation of the dogs from the existing open air kennels at the north of the site to the proposed kennels at the south of the site.

The consideration whether the kennel use has been benefiting or not from a dog breeding licence is not specifically related to the planning principle of developing the intended outbuilding to host existing kennels. Should there be no licence for any dog breeding activity, the statutory licence authority does not object so far the principle of the proposal.

Overall, the principle of such development in this location is considered acceptable.

### Design and layout

Policy 2 of the SELLP requires development proposals to take into account sustainable development considerations such as size, scale, layout, density, impact on character and appearance of the area and the relationship to existing development. Policy 3 states 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.

The proposed kennels would be 20 metres in depth and 13 metres in width. The ridge height would be 2.4 metres and the eaves would be 1.9 metres, hence the roof pitch would be low. The structure would be erected on top of a hardstanding base which would raise marginally the entire outbuilding from the ground level. Having regard to the scale of the site and the screening provided by the existing boundary treatment, it is not considered that the kennels would be inappropriate in terms of scale or its impact on the wider landscape.

White Trapezoidal roof panels (KS1000 RW by Kingspan) are proposed for the walls and roof of the proposed kennels. The form and appearance of the development would be characteristic of agricultural buildings for storage which are widely present across the countryside of the district.

In terms of the existing building granted permission for agricultural purposes under H09-0548-16, which has been built further from the road than approved (65.81 metres away rather than 40.3 metres), this is arguably an improvement as the building is now located further in the site. Thus it is further away from the access point and views into the site than it would otherwise have been.

With regard to the land for which retrospective permission is sought for domestic use, this is indicated on the block plan. It is not considered that the change of use of this area of land from agricultural to residential has resulted in a material adverse impact on the character and appearance of the area.

Given the considerations above, the development would comply with Policies 2 and 3 of the SELLP concerning on the design and layout of proposals and their suitability with the character of the area.

### Residential amenity

The proposed kennels would be located approximately 164 metres from the property known as 'North View' to the north-east, 175 metres from Star Cross Farm Cottage to the north and 184

metres from the property known as 'The Star' to the north-west. At such distances, the scale and mass of the development would not have a harmful effect on the visual amenity of the residents living in the nearest properties or be detrimental in terms of loss of privacy or overshadowing.

Residential amenity is one of the key principles of design and development management as set out in Policies 2 and 3 of the SELLP (2019). In accordance with Paragraph 180 of NPPF (2019), planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

It is not considered that noise issues associated with dog kennels would be exacerbated by the proposal. The site benefits from an extant permission to keep up to 25 adult dogs (planning ref. H09-0959-18) and this application effectively entails relocating dogs from the existing open air kennels to a fit-for-purpose building which would be enclosed. No increase in the number of dogs would occur due to the proposed development.

As a result, SHDC's Environmental Protection has no objections to the application.

Should planning permission be granted, it is suggested that a condition be imposed to restrict the number of dogs as previously was the case. However, such limitation would need to cover the entire application site and make clear that notwithstanding the previous permission, 25 is the maximum number of dogs permitted on the site, in order to prevent any duplication.

Given the above, the proposal is considered to comply with Policies 2, 3 and 30 of the Local Plan in respect of their provisions for residential amenity.

#### Flood risk and drainage

The County Local Lead Flood Authority suggested the submission of a Flood Risk Statement (FRA) to the Local Planning Authority to assess the risk from surface water flooding and proposed any necessary mitigation.

No FRA has been submitted. However, the proposal includes gravel on the land surrounding the proposed outbuilding, the installation of a rainwater storage tank and a 2800 litre capacity Klargestar cesspool for foul water. The water management strategy for the proposed development would incorporate the use of Sustainable Drainage Systems (SuDS). The suitability of both storage tank and cesspool would be demonstrated and tested at a later stage with SHDC Building Control. In principle, the drainage strategy is considered acceptable for the proposal.

Given the above, it is considered that the proposed drainage scheme accords with Policies 2, 3 and 4 of the Local Plan which require proposals to provide appropriate means of drainage and to be acceptable in flood risk terms.

#### **Conclusion**

Regardless of the initial unlawfulness of some previous development on the site, it is sought to regularise that retrospectively in the current application.

The key material considerations of the previous development as well as proposed works have been made. In doing so, the representations objecting the development have been accordingly taken into account for the planning balance. In summary, the proposal is considered to comply with Policies 1, 2, 3, 4 and 30 of the South East Lincolnshire Local Plan (SELLP), 2019 and Sections 12, 14 and 15 of the National Planning Policy Framework (NPPF), 2019.

It is therefore 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.