

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-0839-22 **Applicant:** Mrs M Goodwin
Proposal: Use of site for the breeding of dogs (retrospective)
Location: Woodville House 40 Surfleet Road Surfleet
Terminal Date: 31st October 2022

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 2021**

Section 12 - Achieving well-designed places

Representations:

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

CASE OFFICER ASSESSMENT**PROPOSAL**

This is a planning application that seeks retrospective permission for the part change of use from residential to residential/dog breeding.

A maximum of 15 dogs are proposed, with approximately 10 litters per year.

SITE DESCRIPTION

The site is situated within the defined settlement of Surfleet, as defined in the South East Lincolnshire Local Plan, 2019. This part of Surfleet Road is characterised mostly by frontage development to the east with the exception of the small Sunnydale Close cul-de-sac and agricultural buildings further north on the west.

The dwellings along this road are mostly detached and set back from the road and come in a variety of ages and designs. The site in question is situated on the junction of Surfleet Road and Wood's Lane and is set further forward than the other dwellings along Surfleet Road. The site has a large, gravelled driveway, which upon my site visit had 5 cars and one large van parked on. The rear garden can be accessed to the north of the dwelling. There is a long and narrow outbuilding situated to the north of the site. The site is well secured with provision of 1.8m high close board fencing to the south boundary and a bricked boundary to the east. Both the outbuilding and detached dwelling are of a cream render and is clearly well maintained.

There appears to be a substantial amount of amenity space for both the residents of the dwelling and the dogs on the premises.

RELEVANT PLANNING HISTORY

H17-0034-10- FULL- Refused on 06-08-10- Erection of 1.8 metre high wall and railings including entrance gates (retrospective).

H17-1535-07- FULL- Approved on 11-01-08- Proposed first floor extension.

REPRESENTATIONS

Cllr Jane King

Requested to go to Chairman's Panel.

Surfleet Parish Council

Objection.

This address has been used for breeding/trading dogs for a considerable period of time. We have had considerable feedback about the noise of dogs barking throughout the day and night from residents of Main Road and Woods Lane. Potential residents of the new development in Sunnydale Close will also be impacted in the future. This type of venture should not be undertaken in a residential area.

Local Highway and Lead Local Flood Authority

Does not wish to restrict the grant of permission. Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

SHDC Environmental Protection Officer

As much as we would not generally support the principle of a breeding kennel in close proximity to residential properties, as it stands currently, there is insufficient evidence to show that noise from dog barking is creating a noise nuisance at this time. As a result of this we aren't in a position to object outright to the application, however we do still have concerns that a nuisance could be caused in the future.

If permission is granted we would request that it be made personal to the applicant and that the maximum number of adult dogs be restricted to 15.

Public Comments

9 Support-

- Dogs never been considered to be a problem.
- Dogs are in a happy and healthy condition.
- Occasionally hear dogs barking, but not for prolonged periods.
- Dogs are well groomed and well behaved.
- Does not cause an issue for residents to enjoy time in their gardens.
- Spend several hours in the garden without disruption from barking.

4 Objections-

- Not suitable for a residential area.
- If number of dogs increase, then there will be more noise disruption.
- Already dogs barking currently, without the number of dogs increasing.
- General concerns over the welfare of the dogs.
- Close to neighbouring residential dwellings.
- Dogs can be heard barking at any time of the day or night and at times people can be heard shouting at them.

PLANNING CONSIDERATIONS

Principle

The site lies within the Minor Service Centre of the settlement of Surfleet, as defined in Policy 1 of the South East Lincolnshire Local Plan, 2019.

Within the settlement boundaries of the Minor Service Centres (as shown on the Inset Maps) development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. Development will normally be limited to Allocated and Committed sites and infill.

The principle of keeping dogs as an incidental use to the enjoyment of a dwelling house is acceptable. However, material planning considerations will contribute to ascertain whether or not the keeping of up to 15 dogs is sympathetic with the predominant use at such a location.

Impact upon 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 130 of the National Planning Policy Framework (NPPF), 2021 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).

Public objections raise concerns over barking during the day and night and one resident made an official noise complaint. After the Local Authority received the official noise complaint, an Environmental Protection Officer undertook some attended noise monitoring during the day and evening. The monitoring found barking during the feeding and playing hours in the mid-morning and mid-afternoon, with late afternoon and evening showing minimal barking. Since the monitoring has been undertaken, the original complainant informed Environmental Protection that the noise situation had improved and therefore they advised that there is no longer an outstanding noise complaint.

The outbuilding where the dogs are kept consists of a sheltered block building with large doors facing out to the south where there are no neighbouring dwellings. The closest dwellings to the application site have not raised any objection or concerns regarding current noise levels from the barking.

To ensure noise levels will not increase, a condition will be added to this application to restrict the number of adult dogs allowed on site.

To conclude, as much as dog breeding and kennels would be more favourable within more isolated rural locations due to the potential for noise, it is considered that the use can be justified as acceptable in this location given that there are no official outstanding noise complaints nor objection from SHDC's Environmental Protection Officer. As such the proposal is on balance considered to comply with Paragraph 130 of the National Planning Policy Framework (2021) and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

PLANNING BALANCE

Overall, the principle of the use of the site for the breeding of dogs is acceptable. An SHDC Environmental Protection Officer has undertaken noise monitoring at the site, which ultimately found barking during the feeding and playing hours in the mid-morning and mid-afternoon, with late afternoon and evening showing minimal barking. Since the monitoring has been undertaken, the original complainant informed Environmental Protection that the noise situation had improved and therefore they advised that there is no longer an outstanding noise complaint. Environmental Protection therefore raise no objection to the application.

On balance, no adverse impacts of granting permission to the scheme would significantly and demonstrably outweigh the benefits of doing so, when assessed against the planning policies taken as a whole.

Conclusion

The application is considered to be in accordance with Policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

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.

RECOMMENDATION

Based on the reasons outlined above, the recommendation is for a delegated approval.

N.B. The application was presented to Chairman's Panel on 22nd December 2022 and members were content for the application to be dealt with under delegated powers.