

DECISION DELEGATED TO HEAD OF PLANNING
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Application No:	H19-0425-23	Applicant:	Mr & Mrs C Winch
Proposal:	Use of site for breeding a maximum of 14 dogs with a maximum of 6 litters per year and extension to garage to form unit for housing dogs and for storage of feed.		
Location:	319 Broadgate Sutton St Edmund Spalding		
Terminal Date:	10th August 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

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	0	0	0	0
WARD MEMBER	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	1	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application seeking permission for use of the site for breeding a maximum of 14 dogs with a maximum of 6 litters per year. An extension to garage to form a unit for housing dogs and for the storage of feed is also proposed. It is important to note that the figure of 14 is considered an unlikely, "worst case" scenario. Typically, 12 dogs are kept on site at once.

The extension to the garage building would measure 6200mm by 5685mm and stand at 5200mm in height (2310mm to the eaves). The external materials would match the existing garage.

This application has been made retrospectively, with the change of use occurring approximately 5 years ago.

Site Description

The application site is located off Broadgate in Sutton St Edmund. The site forms backland development and comprises a detached newly constructed dwelling and a detached garage building. The site is accessed via a private drive between no's 132 and 317 Broadgate. The majority of the site is within the settlement boundary with a small section of the existing garage and the garden being outside the settlement boundary.

History

H19-0900-18 - Erection of detached dwelling - Approved 24/10/18.

Consultation Responses

Local Highway and Lead Local Flood Authority

No objections as the access and parking arrangements remain unchanged. Adequate provision for car parking and turning space has been provided within the limits of the site to enable vehicles to enter and leave in a forward gear.

Cllr Laura Eldridge

No objections following discussions with the applicant and neighbour.

North Level Internal Drainage Board

No observations.

Environmental Protection

Based on the proximity of this application to neighbouring properties, I request that the applicant provides an assessment by a professional acoustician to support the application, prior to determination. This is to mitigate and reduce potential adverse impacts resulting from noise pollution on the health and quality of life to neighbouring residents.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 4 letters of representation have been received. One objection was received; however, it was later withdrawn.

These can be summarised as:

- Currently no significant noise from the dogs
- The dogs are quiet
- Encourage the granting of a permission restricted to the applicant
- Previously unaware that there are currently 12 dogs on the site

One objection, since withdrawn

- Confusion over measurements of extension and submitted plans
- Out of keeping with the character of the area
- Potential noise pollution
- Potential access issues

Key Planning Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2021 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The site is not visible from the public realm, due to its backland location and the presence of high-level trees/hedging surrounding the site. The impact of the extension is therefore limited. The proposed extension would be constructed of materials to match the host, ensuring it appears well blended. The scale of development is proportionate to the existing outbuilding. As such, it is considered that the extension would appear in keeping with the existing built form.

The proposed dog breeding use, while not common in the area, would not be out of keeping. While the locale has a primarily domestic character, the rural nature would somewhat naturalise the proposed use. Within rural areas, mixed use sites, particularly involving the keeping of animals is

common. The lack of visibility of the site would further reduce the character impact of the development.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 130 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions. 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).

The change of use occurred approximately five years ago. In this time, there has been no complaints of noise. The occupier maintains a decent standard for their animals and is registered as a dog breeder. It is considered that this demonstrates the proposal would not represent a significant noise pollution concern. Over this period, the applicant has clearly demonstrated an ability to mitigate the potential for noise pollution and prevent the use causing an unacceptable amenity impact.

Initially, objections were received from a neighbour and the Councillor for the area; however, both of these were withdrawn when learning the application was retrospective. Since that time, the Council has been contacted by three neighbouring residents, all of which have stated that they have no objections to the proposal and that they have never had any noise issues.

It was noted by this officer, while conducting a site visit, how quiet the site was. There was more ambient noise created by the nearby main road than the dogs. The dogs did not bark once in the time on site, despite all of them observing the officer. The dogs were friendly and well behaved.

The site is within a low-density residential area in a fairly remote location. The dogs are currently kept in a stable block, located to the rear of the property. While this stable block is relatively close to the border of the adjacent property to the east (approximately 20 metres at its closest), it is an adequate distance of over 50 metres to any neighbouring dwellinghouse. The field where the dogs are exercised is further away from any neighbouring property, standing at over 75 metres from the nearest dwelling. It is considered that this distance is sufficient as to reduce the potential impacts of noise pollution. There is a significant level of screening between the property and any neighbours, which should further muffle any noise that may arise.

An acoustic assessment has been requested by the Environmental Protection Officer; however, it has been judged to be inappropriate in this instance.

The use has been conducted on site for 5 years, and within this period no official noise complaints have been received by the Council. No resident has objected on noise pollution grounds. This demonstrates that local residents have not been subjected to unacceptable levels of noise pollution due to the dogs.

On balance, it is considered that the proposal conforms to Policies 2, 3 and 30 of the SELLP with regards to residential amenity and noise pollution.

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal would not cause material harm to the character of the area.

It is considered, on balance, that the works would not have an unacceptable amenity impact. While ordinarily the keeping of such a large quantity of dogs in a residential area would be unacceptable, the semi-rural character, coupled with the mitigating factors present here would allow an exception to be made. The use has been present for 5 years. Within that time, no complaints have been received. Several neighbours have written in, all stating that the use does not have a negative impact upon them, and noise pollution levels are low. It was noted by the officer on site how quiet the dogs were.

It is considered that this case is unique. The mitigating circumstances described above warrant an exceptional decision. As such, it is considered appropriate to restrict the granting of permission to the applicant and for permission to be granted, initially, on a temporary basis. It is considered that these conditions are appropriate in order for the Council to control the development and ensure it is not a permanent feature. If, during the temporary period that permission is granted for, complaints of noise are registered with the Council or the applicant ceases to occupy the property, permission should not be renewed.

Taking into the above, it is considered that the proposal conforms to Policies 1, 2, 3, and 30 of the SELLP, subject to the necessary conditions being imposed. The planning balance is in favour of the proposal.

Conclusion

The recommendation is for delegated approval, subject to conditions.

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

The application is approved under delegated powers.