DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H19-1157-18**	**Applicant:**	**Mrs C Mackenzie**
Proposal:	The use of site for the keeping of over six domestic dogs and the use of the site as Hobbyist Breeder		
Location:	The Bays 33 Broadgate Road Sutton St Edmund		
Terminal Date:	6th March 2019		

Planning Policies

Local Plan July 2006:

National Guidance

National Planning Policy Framework 2019

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

This is a legal determination and Planning Policy is not relevant to the determination as to whether the claimed proposed use is lawful.

The decision is based upon the case officer's judgment as the case being proven.

This application seeks the granting of a Lawful Development Certificate (LDC) for the continued use of the dwelling for over 10 years for the keeping of more than 6 dogs for domestic purposes and small scale dog breeding, on the land outlines in red on the submitted plan. The applicant has confirmed that she is a hobby breeder and the keeping of dogs and occasional breeding is not a commercial venture and equates to approximately 2-4 litters per year. The applicant has submitted the following evidence in support:

1.Sworn affidavit of Mrs Carol McKenzie with exhibits

2.Application form
3.Site Plan

The application seeks confirmation from the Council that the keeping of 16 permanent adult dogs in existing kennels with small scale breeding, in the area highlighted on the application plan at 33 Broadgate, Sutton St Edmund would be lawful under s.191 of the Town and Country Planning Act 1990.
The legal test the applicant must satisfy is that the evidence submitted on the balance of probabilities proves that the change of use has been on-going for a continuous period of 10 years. The use must be a continuous use through the 10 years with no significant breaks in use.

The Site and Location
The application site is located at Sutton St James and consists of a large bungalow set in good sized gardens. To the rear of the dwelling is open fields. There is one nearby neighbour and to the other side is a farm yard with a dwelling located quite a distance from this application site. There are neighbours on the other side of the road but on balance the area can be described as being rural and quite sparsely populated.

The Evidence
The applicant has submitted a sworn affidavit to confirm that when she moved into the property known as 33 Broadgate, Sutton St Edmund, 15 years ago it was their intention to continue her hobby of breeding Great Danes and Cavalier King Charles Spaniels on a small scale and has a hobby rather than a commercial enterprise.

The statement confirms that on average they breed 2-4 litters per year and apply the standards of the Assured Breeders Scheme which registers the litters under a certification scheme. The certificates proving the number of litters have been attached to the Statutory Declaration as Exhibits. The revenue and expenses form the puppy sales in 2018 are also attached as exhibits.

The evidence submitted confirms the minimum of 11 dogs being kept at any one time, further correspondence with the applicant has established that the maximum number of adult dogs kept over the 10 year period is 16 adult dogs. The Statutory declaration attached an exhibit detailing each of the dogs kept at the property during the relevant period of 10 years. The evidence confirms that the larger dogs are kept in the rear garden in purpose built kennels and the smaller dogs are housed inside.
The evidence also shows the breeds of dogs kept and the location of the kennels. The nearest neighbour has also confirmed the use and also in addition confirmed the lack of and noise nuisance from this dwelling, which although isn't material for a certificate is useful to know the views of the nearest neighbour as well as confirming the use.

On the balance of probabilities the evidence must demonstrate 10 years of a specific use. In this case the start date for the keeping of over 6 dogs is at least 15 years from when the applicant purchased the dwelling. What is notable with the application is that the number of dogs must fluctuate, depending on the number of puppies born at any one time. In these cases, due to the fact that the puppies reside at the property for a short period of time for whelping before being sold on, it is not productive to include these dogs in the numbers due to the relatively short period of time that the dogs reside here before moving to the new home. The maximum number of dogs kept through the 10 year period is based on the adult dogs that permanently reside there through the relevant period. The certificate has been considered in terms of adult dogs which are dogs over 15 months old.

One objection has been raised by a Local Councillor but this is based on concerns of permitting such a use in this area rather than on the evidence submitted therefore it cannot be taken into account as it is not specific to this application or the evidence provided. No other representations have been received which questions the evidence submitted and the Council holds no other evidence to the contrary. On balance the applicant's evidence in the form of a sworn statutory declaration and attachments evidencing dogs, breeding records and a letter from a neighbour is clear and unambiguous enough to prove the case on the balance of probabilities.

To conclude and based upon the evidence provided in the application the certificate should succeed as on the balance of probabilities the following has been demonstrated:
·The required 10 year period.
·That the use of the land edged red on the application plan has been used for the keeping of up to 16 permanent adult dogs at any one time and also small scale dog breeding of 2-4 litters per year.

It has therefore been proved, on the balance of probabilities, that the land has been used for the keeping of up to 16 permanent adult dogs at any one time, with small scale breeding, for a period in excess of 10 years, the use therefore is now immune from planning enforcement.