

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 22 July 2020

(Author: David Grant - Planning Officer)

Purpose: To consider Planning Application H20-0312-20

Application Number: H20-0312-20

Date Received: 08 April 2020

Application Type: S73A CONTINUATION

Description: Proposed 18 kennels with 4 metre run to front - approved under H20-1081-18. Modification of Condition 1 to extend time period

Location: ALMA HOUSE 67 BROADGATE ROAD SUTTON ST JAMES

Applicant: Mrs B Street

Agent: Mrs B Street

Ward: The Saints

Ward Councillors: Cllr M D Seymour

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H20-0312-20>

1.0 REASON FOR COMMITTEE CONSIDERATION

- 1.1 The application raises issues that warrant consideration by the Planning Committee, including a number of objections.

2.0 PROPOSAL

- 2.1 This is an application for a proposed 18 kennels with 4 metre run to front - approved under H20-1081-18 and is a modification of Condition 1 to extend the time period. Initially a one year temporary approval was given for commercial use and to increase the number of adult dogs to 30 and now the application seeks to make the approved use and number of dogs permanent.

3.0 SITE DESCRIPTION

- 3.1 The site is in the open countryside with the nearest property over 300 metres from the kennels. A large gravelled area to the side and rear of the existing house is where the kennels are sited. A two metre high fence has been provided around the side and rear of the proposal site to help minimise noise disruption.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless

material considerations indicate otherwise.

Policy 1 - Spatial Strategy;
Policy 2 - Development Management;
Policy 3 - Design of New Development;

National Guidance

National Planning Policy Framework (NPPF), 2019

Paragraph 11 - The presumption in favour of sustainable development
Paragraphs 16 & 17 - Plan Making
Section 12 - Achieving well-designed places

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H20-0483-15

Proposed 18 kennels with 4 metre run to front for non commercial use - Approved - 12 August 2015.

H20-1081-18

Proposed 18 kennels with 4 metre run to front for non-commercial use - approved under H20-0483-15 - Modification of Condition 3 to remove reference to number of dogs and wording non-commercial use.

6.0 REPRESENTATIONS

6.1 Sutton St James Parish Council

Many residents have serious problems with the noise and were very surprised that the Planners did not pass on the complaints to the relevant department. The residents understood if they complained to the Planning Department they would talk to the relevant department and look into the noise issue.

These kennels are in open countryside with no buffer to prevent the noise from the dogs disturbing many properties, this causes distress particularly in the summer time.
(Officer comment - No noise concerns were received.)

If the Planners are minded to pass this application then an acoustic 8 foot high fence should be erected to prevent the sound of dogs disturbing both the close by properties and protect the quiet countryside.

6.2 Ward Councillor

Councillor M D Seymour - Objection - Noise concerns. Requests that the application goes to full Planning Committee.

6.3 SHDC - Councillor A Casson

Requests that the application goes to full Planning Committee.

6.4 SHDC - Environmental Protection

No objection. Did receive a noise complaint back in March 2020 but this was closed in May as had no evidence of a noise nuisance. Although aware that the parish council have raised concerns about excessive noise from dog barking, to date have no evidence of this and are unable to justify an objection to the application.

6.5 SHDC - Licensing

"The applicant still holds a licence to breed dogs and we are satisfied that all the requirements of the licence are being met."

6.6 LCC - County Highways & SUDS Officer

No objections.

6.7 North Level Internal Drainage Board

No objections

6.8 Public

One objection received on the following grounds:

We live some distance from these kennels but the noise from barking dogs at certain times of the day can be very noticeable. It must therefore be very intrusive to many more households that live closer to this location. Judging by the intensity of noise nowadays then this kennels have substantially increased the number of dogs on site since the original planning application (which should never have been passed by SHDC). We consider that this has always been a commercial operation involving breeding when considering the number of people that have been seen to visit the site. We object to the application for commercial use and for any extension relating to number of kennels or number of dogs permitted and would urge SHDC to make more unannounced inspections to ensure future compliance.

(Officer comment - Approval for commercial breeding formed part of the previous application under H20-1081-18.)

7.0 CONSIDERATIONS

7.1 Planning Considerations

The key issues for consideration in this application are:

- Policy and Principle of Development;
- Noise

7.2 Policy and Principle of Development

7.3 The site already has permission for 18 kennels under reference H20-0483-15. Condition 3 on the decision notice states:

"The development hereby permitted shall be used solely for non-commercial purposes in association with the existing dwelling known as Alma House (67 Broad Gate). No boarding of dogs shall be undertaken on the premises and the maximum number of dogs on site, at any one time, shall not exceed 18.

Reason: To protect residential amenity.

This Condition is imposed in accordance with Policy SG17 of the South Holland Local Plan."

7.4 Conditions 1 and 3 of the subsequent submitted planning permission H20-1081-18 stated:

"The increased number of dogs on site and commercial use hereby permitted shall be discontinued at or before one year from the date of this permission.

Reason: To enable the Local Planning Authority to review the impact of the development on the amenities of the locality.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019."

"The maximum number of adult dogs on site, at any one time, shall not exceed 30.

Reason: To protect residential amenity.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local

Plan, 2019."

7.5 The Environmental Health Officer calculated for their response to H20-1081-18 that a limit of 30 adult dogs on site does not surpass excessive noise calculations. A limit on the number of total dogs on site has not been given as it is impossible to predict the number of puppies in a given litter, which will then be sold under a breeding licence. The applicant applied for a breeding licence in October 2018 which was subsequently granted.

7.6 The Local Planning Authority has no concerns about a commercial operation of this scale operating in the open countryside.

7.7 Noise

7.8 Despite the volume and vociferous nature of the noise complaints, not one of the objectors has gone through the process of having noise monitoring equipment installed at their property. As of 06 July 2020 Environmental Protection had yet to receive a complaint with documented evidence to back up the noise concerns of some residents of Sutton St James. Should the Planning Committee seek to refuse this application, the existing permission for 18 dogs will remain. The comments from Environmental Protection are critical in this regard. The site has now been in operation for five years without a single incidence of noise recording equipment being requested. No noise complaints have been made to either the Planning Department or Environmental Protection since the previous application was granted.

7.9 Conclusion

7.10 Regardless of the objections submitted, there is no documented evidence to support any noise complaints. Therefore, the Local Planning Authority is of the view that given the Environmental Health Officer comments and imposition of a condition limiting the proposed use on site to 30 adult dogs, that a refusal would be difficult to justify. The recommendation for this application is therefore one of approval.

7.11 **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.

8.0 RECOMMENDATIONS

8.1 Grant permission subject to the conditions set out in Section 9.0 of this report.

9.0 CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
Application Form
Block Plan (1:500)
Site Location Plan (1:2500)

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The maximum number of adult dogs on site, at any one time, shall not exceed 30.

Reason: To protect residential amenity.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019.

3. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A Plan A

