

**DECISION DELEGATED TO HEAD OF PLANNING**

**Application No:** H23-1090-23      **Applicant:** Mundicao Kennels

**Proposal:** Seven additional kennels for business use and use of store as domestic residential garage in association with The Melrose

**Location:** The Melrose Dowsdale Bank Shepeau Stow

**Terminal Date:** 12th March 2024

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**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 2023**

Section 2 - Achieving sustainable development  
Section 4 - Decision-making  
Section 6 - Building a strong, competitive economy  
Section 9 - Promoting sustainable transport  
Section 12 - Achieving well-designed and beautiful places

**Representations:**

|                                             | Object | Support | No Obj. | Comments |
|---------------------------------------------|--------|---------|---------|----------|
| PARISH COUNCIL                              | 0      | 1       | 0       | 0        |
| WARD MEMBER                                 | 0      | 0       | 0       | 0        |
| HIGHWAYS & SUDS<br>SUPPORT                  | 0      | 0       | 0       | 1        |
| SOUTH HOLLAND<br>INTERNAL DRAINAGE<br>BOARD | 0      | 0       | 0       | 1        |
| SHDC INTERNAL                               | 0      | 0       | 0       | 1        |

## **CASE OFFICER ASSESSMENT**

### **Proposal**

This is a full planning application seeking permission for seven additional kennels for business use and for the change of use of the store as a domestic residential garage in association with The Melrose. The proposal also seeks to increase the amount of dogs on site to 27.

### **Site Description**

The site lies outside of the settlement boundary for Shepeau Stow and the surrounding area is predominantly rural. There are no immediate neighbours to this particular dwelling or application site, as the built form is well spaced out in this rural locality; however, the landscape is very open and dwellings can be seen along Dowsdale Bank.

The site benefits from a mature and high hedgerow to the side on which the nearest neighbour resides, which provides a good level of screening from the dwelling and its extensive rear garden/land. The remainder of the boundary is a mixture of hedgerow and newly installed close boarded fencing. The site can be described, on balance, as being very well screened.

### **History**

H23-0757-11 - Change of use of land and creation of hardstanding for the open storage of vehicles associated with family catering business (retrospective) - Refused

H23-0801-12 - Change of use of land and creation of hard standing for the open storage of vehicles associated with family catering business (retrospective) (re-submission of H23-0757-11) - Approved

H23-1272-16 - Change of use of land and creation of hardstanding for the open space storage of vehicles associated with family catering business (retrospective) (renewal of previously approved application reference H23-0801-12) - Approved

H23-1253-18 - Change of use from agricultural, business and residential to kennels and dog training including new kennels, conversion of container into reception and conversion of garage into food preparation and storage, part retrospective - Approved

H23-0313-20 - Change of use from agricultural, business and residential to kennels and dog training including new kennels, conversion of container into reception and conversion of garage into food preparation and storage (part retrospective) - approved under H23-1253-18. Modification of Condition 1 to allow an extension of time of the planning permission - Approved

H23-0755-21 - Change of use from agricultural, business and residential to kennels and dog training including new kennels, conversion of container into reception and conversion of garage into food preparation & storage - approved under H23-0313-20. Variation of Condition 1 to allow a further extension of time - Approved

H23-0036-23 - Change of use from agricultural, business and residential use to kennels and dog training including new kennels, conversion of container into reception and conversion of garage into food preparation and storage. Previously approved under H23-0755-21. Modification of Condition 1 to allow permanent planning permission - Approved

### **Consultation Responses**

#### **Whaplode Parish Council**

No comment.

#### **South Holland Internal Drainage Board**

No objections, consent may be required under Byelaw 3, not currently required under Section 23 and is not applicable under Byelaw 10.

## Lincolnshire County Council Highways & SUDS

### No Objections

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 would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

### Comments:

The proposal is for Seven additional kennels and use of store as domestic residential garage in association with The Melrose. The site accommodates an Established Dog Kennels and Dog Hotel Business. The new Kennel space is to support the rehabilitation of Dogs. The additional 7 more kennels will not have an adverse impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

### South Holland District Council Environmental Health

The premises have had a history of all complaints of alleged nuisance from dog barking. However we have not at any time substantiated a Statutory noise nuisance. Increase of dogs may raise potential for noise issues but this is likely to be of a sporadic nature only.

### Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

### **Key Planning Considerations**

The main issues and considerations in this case are (but not limited to):

- Principle of Development
- Layout, design and impact on the character of the area
- Impact on neighbouring residents/ land users/ land use
- Pollution
- Highway safety

### **Evaluation**

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

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

### Principle of Development

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to

satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location in terms of sustainability.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) indicates that within Other Service Centres, 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. This policy goes on to detail that development within Minor Service Centres will normally be limited to Allocated and Committed sites and infill.

The application site in this instance is located outside Shepeau Stow, an 'Other Service Centre' as detailed by Policy 1. However, in context of this, the principle of the development within this location is considered to be established in any event, due to the previous applications on site being approved for this purpose which has been confirmed to be acceptable in the following applications - H23-1253-18, H23-0313-20, H23-0755-21, H23-0036-23.

As such, while the proposal is not considered to be strictly in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan (2019), the site has an established and extant use and as such, is considered acceptable when viewed in principle. This is subject to the assessment against site specific criteria.

## **Planning Considerations**

### Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that "The 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 135, contained within Section 12 of the National Planning Policy Framework (December 2023), 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.

Development proposals should also ensure that 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 South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework (December 2023), in that it 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 (December 2023) 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 kennels shall be made from corrugated metal for the roof and metal fencing/ rails and caging for the walls. These will be of a similar appearance to the existing dog kennels on site and therefore ensure they do not introduce a new, or unacceptable addition in visual terms.

The proposed additional dog kennels would be 14000mm in length and 6000mm in width, the total height will be around 2000mm. These will be of a similar height and width to those on site; however, the length would be shorter as it shall only house seven dogs whereas the previous planning applications for this site have been for a higher quantum of dogs. The size is considered to be acceptable as a result.

When viewed as a whole, including the additional kennels, the development is not considered to cause an unacceptable impact to the character or appearance of the area.

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 South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2023).

#### Impact on Residential Amenity/ Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) 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 South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

There have been four previous applications on this site in relation to dog kennels for business use, below is a summary of the key points from the applications which were all approved -

#### H23-1253-18 -

- The site is considered to be well screened and ideally located in a rural area with no immediate neighbours
- The case officer did not experience any excessive barking when on site

#### H23-0313-20 -

- SHDC Environmental Health confirmed one complaint was received regarding dog barking which was investigated but there was insufficient evidence at that time to warrant any further action. No further complaints were received and therefore SHDC EH raised no objection to this application.
- The application was given a temporary permission for one year with a limit of 16 dogs at any one time on site

#### H23-0755-21 -

- This application went to committee due to its history and the objections received
- Once again, EH confirmed that there were complaints but there was insufficient evidence to warrant further action
- At this stage the business had been operating for two years, albeit one of those years had been impacted by covid and therefore the business could not operate as standard - despite this there had been no significant noise impacts during that time
- The condition attached to the decision limited the amount of dogs to 16 again with the same opening hours and a further one year temporary permission was applied

#### H23-0036-23 -

- EH monitored the site and noted that there were dogs barking but this is to be expected due to the

nature of the development. However, the volume and frequency of the barking captured was not considered to constitute a statutory noise nuisance

- Consideration was given to the fact that the situation may change depending on the dogs that are on site but the view at the time was that there was insufficient evidence of excessive barking or barking that would constitute an actionable nuisance.
- The EH officer did not witness excessive noise from dog barking from the kennels when they were on site
- They have now been operating for four years with no evidence of significant noise impacts during this time
- The limited number of classes/ operating hours ensures that any noise generated from the site is within acceptable tolerances

The current application proposes to include seven additional kennels and increase the amount of dogs to 27. In a similar light to the previous applications, Environmental Health have raised no objections to the scheme stating that whilst there has been a history of alleged nuisance from barking there have been no statutory noise nuisance, following on from an increase in dogs it could raise potential for noise issues but this is considered to be of a sporadic nature only.

It is therefore considered that with the amount of dogs being increased, there could be potential for an increase in noise. However, in light of the comments received and the extent of additional kennels and dogs proposed, in addition to the opening hours being limited for training, this ensures it would be sporadic and would be within acceptable tolerances. The noise is not considered to be significant and is not considered to cause harm to the residential amenities of neighbouring occupier's, to an unacceptable degree that would warrant refusal in this case.

Furthermore, when the officer conducted a site visit on two occasions there was no barking at any times. During the visit site photos were taken as well as being shown around the area by the owner/ occupier and walking in close proximity to the kennels, the dogs did not bark once. This can be reiterated from the first report for the proposed dog kennels under H23-1253-18; where the officer for that application went on to say that they completed two site visits (one unannounced) and did not experience any excessive dog barking from the site and only from the family dog which was to be expected when knocking at the door - this gives the impression that the dogs are well trained and well behaved especially in close proximity with strangers. It is important to note that this may not be an accurate representation of how the dogs act at all times including during the training sessions; however, this coupled with Environmental Health not raising formal objection, it is considered that the increase in dogs is acceptable and should not harm the residents.

In addition to this, in the same officer report it was outlined that 'The site is well screened and ideally located in a rural area with no immediate neighbours'. Of course, this is still the case, there is a property to the north east around 120m away, 130m to the south west and 200m to the east with large fields between each property. As previously mentioned the area is predominately rural and remote with the main built up area being around 220m to the north east. These are considered to be adequate distances to neighbouring plots so not to cause an unacceptable increase in noise pollution and cause harm to the amenity. There is also a significant level of screening between the properties through a plethora of mature trees on the boundary which should further muffle and reduce any noise that may arise; this is a benefit to the scheme and will allow the increase in dogs to be acceptable.

The use of keeping kennels and dog training facilities on this site was first approved in 2018, since then there has been no statutory noise nuisance as mentioned; albeit some complaints have been made. This demonstrates that local residents have not been subjected to unacceptable levels of noise pollution due to the dogs on site. Additionally, there have been objections raised by neighbours during the previous applications on this site, since its first development; however, Environmental Health state that there is insufficient evidence to warrant further action. Please note that there has been no resident objections on this current application.

In reference to all previous applications, they listed that during the first year of business the noise impact of the dog barking and disturbances associated to the dog training and kennels could not be accurately assessed due to the pandemic; the business has since been operating after Covid restrictions were lifted and no evidence has been received of significant noise impact - since then the business has been operating for a further year with no statutory noise nuisance on site. Due to the amount of time the site has featured dog kennels it is considered that the owners/occupiers can clearly mitigate the potential for noise pollution and prevent the use causing an unacceptable harm. Furthermore, the limited number of classes/operating hours ensures that any noise generated from

the site is within acceptable tolerances.

The proposed new kennels will not cause any harm in respect of overlooking, overshadowing and will not appear overbearing due to the nature of the development and the aforementioned separation distances at this site. This is therefore considered to be acceptable. Finally, the change of use for the store to act as a domestic residential garage in association with The Melrose will be acceptable and will also mean there could be a reduction in noise following on from this due to it now acting as domestic rather than for the business.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

### Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Lincolnshire County Council Highways Authority were consulted on this application and their comments raised no objections, they outline that *'The additional 7 more kennels will not have an adverse impact on the public highway'*.

This development is therefore considered to be acceptable in regard to Policy 36 and Appendix 6 of the South East Lincolnshire Local Plan (2019) and Section 9 of the National Planning Policy framework (December 2023).

### **Planning Balance**

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

The proposal represents appropriate development; albeit being sited outside of the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, as clear justification has been given whilst providing adequate space for vehicle parking. For the most part, the proposal conforms with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework when viewed as a whole.

In this instance, there are no material considerations that weigh significantly against the proposal and as such, the planning balance is in favour of the development.

### **Conclusion**

Taking into consideration these factors, the proposal is considered to comply with Policies 2, 3, 30, 36 and Appendix 6 of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2023). Notwithstanding the aforementioned minor conflicts regarding the potential increase in noise, there are no significant factors in this case that would outweigh the benefits of the proposal; therefore, in considering all the matters raised above the planning balance is in favour of the proposal and the policies referred to above.

## **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 assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.