DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H23-1253-18**	**Applicant:**	**Mundicao Kennels**
Proposal:	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		
Location:	The Melrose Dowsdale Bank Shepeau Stow		
Terminal Date:	4th June 2019		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
28	The Natural Environment

National Guidance

National Planning Policy Framework 2019

NPPF 2019

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	1	0
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	8	1	0	5

CASE OFFICER ASSESSMENT

Proposal
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.

Site Description
The proposal is outside the defined settlement limits for Shepeau Stow and the surrounding area is predominantly rural, characterised by dwellings of varying ages and design. There are no immediate neighbours to this particular dwelling 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. On balance the site can be described as being very well screened.

History
H23-1272-16 - permission for the use of a hard-standing on the land for the storage of commercial vehicles used in conjunction with the families catering business. (previous temporary permission (H23-0801-12)

Consultation Responses
There are no objections from any statutory bodies and the Parish Council have no comments on this application, however the Parish Council has forwarded a letter from a resident objecting to the application; it has been forwarded for the attention of the case officer therefore does not appear to change the response from the Parish Council

Environmental Health has been involved and investigated complaints from a resident. EH officers had scheduled the installation of noise recording equipment over a weekend in order to record a weekend with dog training, however the complainant instructed the officer when on site that day, that the noise wasn't as bad at the moment. The result of this is that the EH officer concluded that the nuisance was not severe enough to warrant further investigation and the noise recording and site visits were cancelled, therefore any complaint now remains unsubstantiated and cannot be evidenced through a statutory noise investigation. On this basis, and following a meeting with the case officer to discuss the case in-depth, the Environmental Health team have recommended conditions regarding hours of use for the dog training and a restriction on the overall number of dogs. A temporary 2 year permission was discussed and may be an option for further consideration if deemed necessary.

There have been 7 local objections, two of which has made repeated objections raising various points. A further objection has been received but this is anonymous and at the time of writing I cannot confirm whether this is additional or a repeated objection therefore little weight can be given but its content is included in the following summary of all objections:

* already an issue with persistent barking of dogs in the area which is causing noise nuisance for neighbours.
* affects neighbours quality of life.
* moved to the countryside for peace and quiet.
* dogs barking during training class as well as people shouting.
* gun shots heard, think it may be a 'starter gun'.
* noise will get worse as business grows.
* barking so bad at times that have to go in and leave the garden.
* barking from the early hours of the morning.
* noise even on Boxing Day and Christmas Day.
* think it comes from 2-3 dogs barking and sound travels from the site.
* dog training, and 20 kennel business less than approximately 175 m from our home
* The continual barking etc from kennelled dogs will have a huge impact on our lives- we spend a lot

of it outside and there is no way that myself, and all my family can see, that this would not be an excessive noise nuisance
* kennels should not be so close to our home where we have no control over the dogs barking
* property is situated behind this application and there are dogs there now- Barking is loud during what we suspect is feeding time and expansion for 20 kennels AND a training ground the noise of the dogs could easily escalate to 24/7.
* lanes through Shepeau Stow are narrow, and are therefore not suitable for the much higher volume of cars that would be using the lanes if the business gets permission.
* More traffic would significantly increase the dangers, to both road users and walkers, as vehicles go to and from The Melrose to attend group dog training sessions and the boarding kennel facilities.
* . If a dog training and boarding kennels business is established in Shepeau Stow, it will result in a significant increase in traffic, which has been previously deemed unacceptable by the Local Planning Authority.
* Tiny village cannot sustain a large training facility. Young families and elderly people in village - increase and traffic is a grave concern.
* Issues with surface water flooding at this property, made worse by the permitted hard standing on site.
* Road busy at school time - concerns for safety of children with increased traffic

A resident has completed a noise nuisance diary for Environmental Health.

A letter has also been received in support of the application from what can be considered the nearest neighbour to the site which states the following:
"We are aware a complaint has been made regarding noise, we have no concerns regarding noise and have found both Vitor and Carla pleasant and approachable neighbours. We are quite happy with the business they run from their property."

Planning Considerations
Impact on the amenity of neighbours.
Noise nuisance.
Highways

Assessment/discussion
The applicant has had the opportunity to respond to the objections and has confirmed the following:
* they can hear dogs barking in the area but not all down to their dogs and they are very conscientious in how they run their business - they are very experienced and proven dog trainers and apply the highest standards of animal care.
* no gunshots are fired during training; this is the countryside and heard gun shots themselves and assumed local farmer with pest control shooting pigeons.
* the boarding kennel has not even started yet so noise not emanating from them.
* the dog training is very specialised and infrequent with the boarding kennels being the main business supporting the family. Applicant is a proven police dog and sniffer dog trainer and has provided a service to a number of police forces and security firms - police and security service dog handlers attend training on site.
* the applicant feels that they are being blamed for all the dogs barking in the area and not even been given the chance to run their business.

The case officer is mindful of the objections by neighbours but due to the EH investigation being cancelled due to the nuisance being confirmed by the complainant as not being that bad at the moment, the noise complaints are currently unsubstantiated. However at least 4 residents appear to have real and on-going concerns with dogs barking in the area which they feel is exacerbated by the onsite training sessions.

The case officer is also mindful that the site is well screened and ideally located in a rural area with no immediate neighbours for such a business and that Local and National policy is generally supportive of rural business and enterprise. One of the nearest neighbours has also confirmed that they have had no issues with noise nuisance from this property. What also should be highlighted is that the case officer on 2 site visits (one unannounced) did not experience any excessive dog barking from the site and only from the family dog in the dwelling which is to be expected when knocking at the door. However, this is only a snapshot in time and not when a training session was underway and it is accepted that a neighbour may have a different experience over a long period of time. Environmental Health also do have additional powers to deal with any noise nuisance over

and above the restrictions that can be applied in a planning permission. Currently we do not have any evidence from Environmental Health with regards to any noise nuisance from this property.

The Highways Authority has raised no concerns with the increase of traffic for this proposal.

In conclusion it is considered that although the neighbours concerns have not been monitored by Environmental Health, the number of objections and consistency in noise issues raised means that on balance a temporary permission with restrictions on hours of use for dog training along with a restriction on the numbers of dogs involved is appropriate.

It is considered that a temporary and also personal permission to this applicant will allow the business to operate for a 12 month period whilst allowing any negative impacts on the amenity of neighbours to be monitored for a reasonable period. It is noted that the applicant may feel disadvantaged by a temporary permission however the decision by the Council must take into account any harm to amenity and it is considered that the 12 month permission will strike a balance between the positives of the development and mitigate and assess any possible harm to the amenity of neighbours through noise nuisance.

A delegated temporary permission with conditions is considered appropriate in the circumstances.

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 to grant permission 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 to grant permission 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 to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.