

AGENDA ITEM NO: 8/2(e)

Parish:	Marshland St James	
Proposal:	Variation of condition 4 of planning permission 08/02596/CU: To allow use of kennels for rescue dogs and emergency boarding of rescue dogs	
Location:	Willowdale Farm Moyses Bank Marshland St James Wisbech	
Applicant:	Ms Louise Timbrell	
Case No:	17/00515/F (Full Application)	
Case Officer:	Clare Harpham	Date for Determination: 16 May 2017 Extension of Time Expiry Date: 12 June 2017

Reasons for Referral to Planning Committee – The views of Marshland St James Parish Council are contrary to the Officer recommendation.

Case Summary

The application site is within the countryside and in a relatively isolated location in relation to other residential dwellings. On site there are existing kennels and a dog exercise area which were granted planning permission in January 2009 (08/02596/CU) with a condition that it should be used for the applicant's own dogs only and not for commercial purposes. The applicant recently bought the property and this application seeks to vary this condition to include the keeping of rescue dogs and the emergency boarding of rescue dogs.

Key Issues

Planning History
Amenity Issues
Highways Issues
Other material considerations
Crime and Disorder

Recommendation

APPROVE

THE APPLICATION

The application site is situated on the western side of Moyses Bank, Marshland St James, approximately 350m south of School Road, in an area of countryside.

The site comprises a bungalow and associated curtilage, with outbuildings, 2 dog kennel buildings in an open fronted yard and an area of fenced land west of the kennels and outbuildings.

Planning permission was granted January 2009 (08/02596/CU) for the change of use of land to residential and the keeping of dogs, including the retention of the two existing dog kennel buildings to house the applicant's own dogs and use of the adjoining land to the west for a dog exercise area.

This application seeks to vary condition 4 of the original planning permission which stated:-

'The kennels hereby approved shall be used to accommodate the applicant's own dogs and shall not be used for any commercial boarding, breeding or training purposes.'

The applicant seeks to vary this condition to enable the use of the kennels for the accommodation of rescue dogs and to provide emergency boarding of rescue dogs.

SUPPORTING CASE

I have been working in animal rescue for the last 10 years in 2013 I started my own rescue which is now a registered charity with the Charities Commission, number 1163839. We are a predominantly foster based rescue so our animals stay within family homes but there are occasions when we need to use kennels for short periods. Our aim is to get animals rehomed in family environments as soon as possible.

I would also like to offer the kennel facilities to other rescues for emergency boarding on the same principal.

I have also been asked if I could help the council with emergency boarding for the local Fenland strays.

I am not looking to become a rescue site that is open to the public all visitors will be by appointment and at reasonable hours where possible (some strays may need to come in in the evening but this would not be a regular occurrence).

I am not looking to have commercial holiday boarding kennels and I would be happy for any stipulation to be put within the planning to keep the kennels tied to the residential property.

We will be having extra fencing put in at the end of May which we will then plant around with some screening/hedging plants to try and help with any travelling sound. We do not have any immediate neighbours the closest is approximately quarter of a mile away.

PLANNING HISTORY

08/02596/CU: Application Permitted: 23/01/09 - Change of Use of land from residential to residential and the keeping of dogs - Willowdale Farm Moyses Bank

08/02596/DISC_A: Discharge of Condition final letter: 20/05/10 - Discharge of Condition 2 and 3: Change of Use of land from residential to residential and the keeping of dogs - Willowdale Farm Moyses Bank

RESPONSE TO CONSULTATION

Parish Council: OBJECT The Parish felt there was insufficient information regarding the number of dogs to be taken in and that they could cause a dis-amenity to the surrounding neighbourhood area. There was also insufficient information regarding whether the taking in of emergency boarding dogs would mean it was a commercial enterprise.

Highways Authority: NO OBJECTION having visited the site and examined the information submitted with the application.

Internal Drainage Board: NO OBJECTION The watercourse to the east of the property is part of a Board-maintained watercourse known as Moyses Drain. Byelaw 10 applies to / alongside Moyses Drain and this prohibits any works being undertaken within 9 metres of the edge of a Board-maintained watercourse unless prior written consent is obtained from the Board.

There are no objections to the change of use of the existing kennels however if the current or succeeding owners wish to carry out any works within 9 metres or which may otherwise have an effect on any watercourse the Board's prior written consent will be required.

Environmental Health & Housing - CSNN: NO OBJECTION having studied the conditions attached to the 2008 planning consent I note we would be interested in condition 2 which was a noise protection scheme. I also note that this condition was met through the design and layout of the site acting as buffers and attenuation and that Environmental Health staff monitored dog barking on site and were able to conclude that this was not an issue, although we have received complaints. Information provided by the original planner to 08/02596/CU from a site visit indicated that there were 25 pet dogs on site.

I note that the applicant intends to kennel a maximum of 24 dogs, one less than the previous application, however the original dogs were all owned and bred by the occupier and the dogs would have been housed with their siblings and parents and be familiar with their environment. In this case the dogs will be rescue dogs which, it could be argued, will be away from familiar surroundings and their owners, possibly scared or stressed. Our experience indicates this will result in higher levels of barking in terms of frequency, duration and volume and additionally this may be more difficult to control with unfamiliar animals.

I can see that there are no residential properties in close proximity (distances in the previous officer report for 08/02596/CU are noted) however this is a rural area with lower background noise levels and the sound from barking could carry and obviously has done so in the past (due to the complaints generated).

Whilst I'm not objecting and cannot find any record of recent complaints I would like an informative attached to any permission regarding the Environmental Health Act 1990 and a condition tying the kennels to the adjacent residential premises to prevent them being in separate ownership in the future.

Environmental Health & Housing – Licensing: Informal comment. The premises would not require licensing as funding is provided through charitable organisations rather than as a commercial enterprise.

REPRESENTATIONS

No letters of representation received

NATIONAL GUIDANCE

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

LDF CORE STRATEGY POLICIES

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

OTHER GUIDANCE

Marshland St James Parish Plan

PLANNING CONSIDERATIONS

The main issues to consider when determining this application are as follows:

- Planning History
- Amenity Issues
- Highways Issues
- Other material considerations
- Crime and Disorder

Planning History:

Planning permission was granted January 2009 (08/02596/CU) for the change of use of land to residential to residential and the keeping of dogs. Within that application the impact of the proposal on the form and character of the locality, the impact on the countryside as well as the impact on the neighbourhood with regard to noise and disturbance and potential pollution and drainage issues was considered and found to be acceptable subject to conditions.

It was considered that kenneling the large number of dogs in question (25 dogs) would not be acceptable in an urban location, however it was a suitable use for the application site taking into account it was not commercial. It was concluded that the subject of noise was likely to remain an issue but that on balance the level was likely to be acceptable if suitable noise attenuation measures were operative. A condition was placed on the decision notice relating to noise attenuation measures to protect local residents from noise and the attenuation was later agreed (20th May 2010) as the existing buildings provided a ‘buffer’ which was considered acceptable.

There is no change with regard to the structures and uses on site and therefore there will be no material change with regard to the impact upon the surrounding countryside.

Amenity Issues:

The main impact of kennels of this size, as was originally considered is the potential for noise and disturbance, particularly in rural areas with lower background noise and where the sound could carry.

The applicant has confirmed that the maximum amount of kennelled dogs at any one time would be 24 (one less than within the previous application) and that the emergency boarding of dogs would be to include strays being held on behalf of Fenland Council until owners come forward or a rescue space is found and for the short term kenneling of rescue dogs until a foster home or adoption is found.

There are no objections to the proposal from CSNN although it is acknowledged that when the previous dogs were kennelled with their siblings and parents in familiar surroundings there may be fewer disturbances than with dogs that are in unfamiliar surroundings and possibly more stressed due to their circumstances. However, given the distances to other residential properties, the attenuation provided by other buildings on site and the fact that there have not been any recent complaints, on balance the impact upon residential amenity is considered acceptable.

Highways Issues:

There would be no material impact upon the highway and there are no objections from the Highways Officer.

The applicant confirmed that there will not be many visits by members of the public and it will be by appointment only. However, notwithstanding this the access has good visibility and there is plenty of parking on site to the north of the bungalow.

Other Material Considerations:

Conditions were applied on planning permission 08/02586/CU and have been reapplied where relevant to this decision notice. Some of the conditions have been partially or fully discharged and therefore conditions have been altered as necessary.

Crime and Disorder:

There are no issues with regard to Crime and Disorder which arise due to this application.

CONCLUSION

The proposed variation of condition 4 to allow the keeping of rescue dogs and for the emergency boarding of rescue dogs is considered acceptable and complies with the principles of the NPPF, Policy CS06, CS08 and CS11 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016. Members are asked to consider whether the proposal should be approved.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition The attenuation provided by the layout of the existing kennels and other buildings on site, as partially discharged by letter dated 10th May 2010 (08/02596/Disc_A) shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- 1 Reason In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 2 Condition The kennels hereby approved shall be used to accommodate the applicant's own dogs, for the kenneling of rescue dogs and the emergency boarding of rescue dogs and shall not be used for any commercial boarding, breeding or training purposes.
- 2 Reason In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 3 Condition The kennels hereby approved shall have no more than 24 dogs kenneled within them at any one time.
- 3 Reason For the avoidance of doubt and to safeguard the amenities of the locality in accordance with the NPPF.