

Parish:	Congham	
Proposal:	Change of use from residential dwelling to residential dwelling and the keeping/breeding of dogs (retrospective).	
Location:	Simla 42 Low Road Congham King's Lynn	
Applicant:	Mrs Shelley Tomsett	
Case No:	20/01054/F (Full Application)	
Case Officer:	Mr M Broughton	Date for Determination: 14 September 2020

Reason for Referral to Planning Committee – Referred to the Planning Committee at the request of Borough Councillor De Whalley

Neighbourhood Plan: No

Case Summary

The land is situated on the northern side of Low Road, Congham, approximately 290m east of Lynn Road junction, in a residential area.

The application is retrospective and seeks a change of use from a residential dwelling to a residential dwelling and the keeping / breeding of dogs at 'Simla' 42 Low Road Congham.

The number of dogs on site is between 15-18 adult dachshunds, with 4-5 litters per year, averaging 4 pups per litter. There is also one working Labrador.

The National Planning Policy Framework 2019, the King's Lynn and West Norfolk Borough Council Core Strategy 2011 and the Site Allocations and Development Management Policies Plan (SADMP) 2016 are relevant to this application.

Key Issues

- Principle of development
- Impact on residential amenity
- Other material considerations

Recommendation

REFUSE

THE APPLICATION

The application seeks planning permission for the change of use from residential to residential and keeping/breeding of dogs. The supporting statement of July 2020 identifies 13 adult dachshunds, 1 x labrador working dog and 12 puppies at the premises (Dajean Kennels).

This application is a revision of that submitted in 2019 (withdrawn) when it was declared that 17 adult dachshunds were kept on site and that the KLWNBC license allowed for housing up to 20 dogs over 6 months old, without reference to numbers of puppies.

An Enforcement Officer on an initial 2019 enquiry into site activity was advised the number of adult dogs varied in number between 15-18.

The Agent / Applicant via E mail has since offered to amend the application:

- The number of adult dogs could be reduced from 18 to 10 over a 6 month period
- All dogs could be kept indoors
- The kennelling could be altered to a covered 'run-around' exercise area for the dogs

The application site is situated on the northern side of Low Road, Congham, approximately 290m east of Lynn Road junction.

The site at SIMLA 42 Low Road comprises a single-storey bungalow with frontage parking, set within a residential area comprising mainly bungalows east and west of the site forming the street scene and mixed scaled dwellings on the south side of Low Road. Land north of Simla comprises open countryside.

Aside the dwelling, set-back into the site, against the 1.8m high timber fenced east boundary, commencing at a point in line with the rear elevation of the dwelling, is an elongated storage shed. Thereafter on that boundary line is an approximate 2m high row of portable, adjoined, metal cage kennels, each with an access door, small run and enclosure. The kennels, all empty on inspection, are serviced by an enclosed corridor (door either end) with a lightweight roof over the whole structure, all of which is free standing on a concrete base. There is a 1.8m high timber 'privacy' screen lining the kennels on the western elevation – such that kennelled dogs cannot see other dogs who may be in the garden or in the smaller runs.

The various structures are all identified by the Agent as of a temporary nature and it is claimed do not require planning permission. However, given the scale of the kennel range with covered walkway on a concrete base, none of which is moved around the site, it is considered they are operational development, ordinarily requiring planning permission. It is apparent, however, the structure was built more than 4 years ago, thus is immune from enforcement action.

Beyond the kennels, on the same line, is a small fenced area of patio and astro-turf with a small kennel, used as a dog-run - containing two dachshunds on the site visit.

The garden has a chicken run and is wire fenced on its northern boundary, with a 3-4m high rugged and dense hedge-line on the western side.

The bungalow has been previously extended. Leading off from the rear elevation and rear access door is a low metal fenced area – providing direct access for the applicant from the dwelling. This area is capable of division for dog separation, with small kennels and various dog-play items therein. This area has a lean-to cover extending from above door height on

the rear elevation of the dwelling. Attached to the run described, but without roof cover, is a similar run area on astro-turf with an array of dog-play items available. Other larger play items were available on the garden. I saw no indication of the presence of vermin at the site, which overall was neat and tidy.

On the site visit 14/10/2020 the applicant advised the case officer:

- Kennel Club registered – producing average 4 litters of pups per year – under kennel name: 'Dajean'
- Local Authority licensed for 20 dogs. Previously did not require to be licensed as producing less than 5 pup litters per year.
- Retain one Labrador working / gun dog. In the past had bred labrador, spaniel, terrier and poodle pups also
- This is not a business venture but a hobby. No profit from sale of puppies or hire of dog or bitch for breeding purposes - sales provide income for dog feed and showing of dogs
- A specific foul waste collection bin was always available and is collected bi-monthly by Pet-Waste Solutions and sent for incineration.
- No other persons employed by her during her 27 years of keeping and breeding dogs in Gayton and since 2011 in Congham.
- No boarding.
- A soakaway system is installed, for the run-off and drainage wash-down from the kennels, underneath the artificial grass pen used by the dogs.

It is not known exactly how many dogs were on site at the time of the site visit in October 2020. That was a pre-arranged visit under strict covid rules. The officer was advised the 'house' Labrador is a working dog, lives in the kennels but is away from site every day. All dachshund dogs were inside the dwelling, bar two bitches, which were seen in an outdoor run attached to the end of the kennels. No barking was recorded on the site visit.

SUPPORTING CASE

A comprehensive statement (July 2020), with Policy reference was submitted. In brief:

The keeping of dogs at this residential property in this location is considered to be an acceptable use in principle and in accordance with National and Local Policies.

The Applicant has lived at the site for 9 years and has a keen hobby for showing/breeding miniature wirehaired dachshunds which are a small breed of dog, generally quiet in nature. There is no commercial boarding.

At the site are 13 adult miniature Dachshunds, 12 puppies and 1 working Labrador. This is not a large-scale commercial enterprise and due to the high expense of attending regular dog shows, profit is rarely made. Not every puppy from a litter is sold – some are retained to show in the future.

Visitors specifically associated with dog breeding amount to 60 per year on appointment based on the following:

- 10 mating visits a year
- 25 (approximately) puppies a year and
- 2 visits per puppy sale.

The kennels, runs and fencing create no adverse neighbour impact given boundary screening. The outdoor kennels have 3-inch-thick insulation providing acoustic mitigation of a type often found in commercial kennels

Female and male dogs are let out at alternate times to minimise the risk of barking and additionally, female dogs are usually kept in the outside kennels from 7am to 9pm, with puppies and male dogs kept inside. The Labrador is at work between 7am and 4:30pm and is kennelled until 9pm.

All of the dogs are kept indoors from 10pm until 7am and are housed in kennels or indoors.

No specific details of any previous complaint has been revealed. Older complaints are not considered to be reasonable in assessing the current application.

In order to formally safeguard the amenity of adjoining occupiers the applicant is willing to abide by a noise management plan and accept conditions to tie the dwelling and use to her name and:

- Restrict the total number of adult dogs (over 6 months old) to be permanently kept at the site at any one time. Such a condition for 18 dogs was attached to a very similar planning application approved in January 2020 at: 'Nightingale House, Smeeth Road Marshland St James (19/01795/CU)
- Confine dogs to their bed areas between 10pm and 7am.

The unauthorised use has been carried out for 9 years without any meaningful or persistent complaints from neighbours by an Applicant who proactively takes measures to minimise any potential negative impacts arising from the keeping of dogs at the property.

The Applicant has been keeping and breeding dogs at these premises for many years, more recently under the terms of a local authority licence with no enforcement problems. She is clearly an experienced expert in such matters. Her activities have no opposition from her immediate neighbours or the wider community in general as she generates no community nuisance.

Noise Management Plan:

A Noise Management Plan (see Planning Considerations for detail) was submitted by the Agent to set out the various measures that are 'in place' in order to manage and minimise the risk of dog noise at the site

Dog expert: supporting statement:

Mr Peachey opens with details of his curriculum vitae and a lengthy report follows. In brief:

Congham is a small village made up mostly of ancient small winding lanes and the more substantial road known as Low Road. The general area is almost wholly agricultural in nature and accordingly is the home of very many animal keepers of all kinds ranging from farm livestock to horses and dogs. It is an ideal area in which to keep and breed dogs as there are almost unlimited dog walking facilities on the many footpaths and rights of way.

In the ordinary course of events small hobby breeders and dog keepers attract no attention or interest from local authorities unless their activities become the source of serious nuisance complaints arising from smell or noise. It was notable that when I inspected the property I heard no sound of dogs at all.

The Applicant is one of thousands of small-scale (non-profit making) hobby dog breeders and exhibitors all over the country, well respected and is considered an authority by the Miniature Wire-haired Dachshund community and has been canvassed both by DEFRA and BBC Radio 4 for expert advice on the breed and breeding plans.

Breeders such as the Applicant who are registered with the Kennel Club are the best available source of safe and reliable puppies, and should be encouraged.

There can be no rational basis for reducing the dogs to number 6.

We have numerous clients who keep many more dogs than that in much more heavily populated residential areas with no problems at all. All cases need to be judged on their individual merits, and what we see here is a proposal for up to 20 small dogs which are most unlikely to cause problems.

There are no complaint problems from neighbours regarding smells or noise. Given the clean state of the premises there will be no smell problems. Given the nature of the dogs involved there is unlikely to be a noise problem, especially as the dogs are never left unattended and are all brought into the house during the hours of darkness. Certainly like all dogs they will bark at odd times, such as feeding time and when they are let out into the runs from the kennel buildings, but there is no likelihood of continuous barking nuisance. The fact that this Applicant has been keeping dogs there with no objections from neighbours for many years speaks for itself.

The object of the Planning Consent process is the protection of the environment and of the public, and I would submit that in this case it is plain that neither is at risk. My inevitable conclusion from weighing up the evidence before me is that this application should be granted, and indeed granted without further conditions.

PLANNING HISTORY

19/01312/F: Withdrawn: 13/09/19 - Retrospective change of use from residential to residential and keeping/breeding of dogs – Simla 42 Low Road Congham

07/00534/F: Permitted: 09/05/07 - Single storey extension to dwelling - 42 Low Road Congham

RESPONSE TO CONSULTATION

Parish Council (Congham): **OBJECT** on the following grounds:

- The Parish Council sympathises with the application but recognises that Low Rd is a quiet residential area.
- There is no change to the planning application since the previous application in 2019.
- Granting permission to this application would set a precedent in a residential area which would be difficult to reverse.
- The Parish Council must consider the long term and future implications of granting such an application on the surrounding area, the amenity and peace and quiet for neighbouring residents.

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- Such a change in residency would not prevent another breeding kennels at this location.

Further response:

Raising further concern to the suggested amendment: If Planning was approved, how could any such restrictions of only 10 dogs, kept indoors, be monitored. The Parish Council are predominantly concerned that the nature of this residential area protects the residents of the whole of Low Road, Congham, and in particular adjacent neighbours.

NCC Highways: NO OBJECTION

Comments: On the basis that the use of the site is 'non-commercial'.

Natural England: NO OBJECTION

Environmental Quality: NO OBJECTION

No observations in relation to contaminated land or air quality

Community Safety & Neighbourhood Nuisance CSNN: OBJECT on the following grounds:

August 2019: CSNN advised the applicant of an investigation of past complaints from the premises when barking was recorded by residents on Council installed noise equipment. Monitoring by actual attendance at a site is not usual practice for CSNN. However, an officer did monitor the site on 24 August 2019 and, in a small timeframe, four separate incidents of dog barking were heard. Information since submitted by the applicant indicates the dog mainly responsible was no longer on the site.

Irrespective of any complaints, the team were of the opinion that this location is not appropriate for this operation and the number of dogs. Whilst there are fields behind the site, there are residential dwellings on either side of the site, and as the plot sizes are around 17.5 in width, there is little separation distance. The kennels back onto the eastern boundary of the site, which is immediately adjacent to the rear private amenity area of number 40 Low Road. It was considered that the sheer number of dogs at the premises was inappropriate for this residential location.

September 2019: CSNN advised the applicant that lack of complaints does not necessarily mean that neighbours are not affected, as many people do not wish to cause neighbour disputes and therefore tend to put up with issues. As a team, investigating a large number of dog noise complaints over the years has provided experience at assessing sites for the potential for the impact on residential amenity, based on what has affected people at other locations due to the layout of the sites, proximity to non-related receptors, site practices, design and build, number of dogs/puppies to name but a few. Despite some taking considerable steps to control noise, some locations are simply not suited i.e. in close residential areas.

Dogs are, however, still unpredictable at times and whilst attenuation measures can be included to kennels, when dogs are outside there is little that can be done (as with people noise) to fully control their actions and any associated noise.

Again, the large number of dogs was of concern. The applicant was advised the number of dogs was too great for the locality, as, in the main, the maximum number of dogs found in

the average domestic setting is 4. Concern was raised that this location will experience low background noise levels being at the edge of a rural village and thus 'barking will travel'.

With the 19/01312/F planning application, CSNN remained concerned that in spite of a Noise Management Plan, including measures to insulate the buildings, the number of dogs on the site was too high for a domestic setting, which is essentially what this site is.

Current application:

It is noted a noise management plan is submitted with the current application.

A Planning Statement indicates there were a total of 25 Dachshunds and 1 working Labrador kept at the site and suggests a condition to limit the number of dogs on site to 18 adult dogs with an unspecified number of puppies under 6 months of age.

The response to the current application raises similar concern and CSNN remain of the opinion that the number of dogs at the premises is not suitable for the setting given the proximity of neighbours.

It is of note that the planning application referred to in the agents planning statement (section 5.20), in support of this application, states:

* 'It is also worth noting that Smeeth Road (Marshland St James) is of a similar residential location to the this application site and as such, we suggest it is an acceptable approach to include the following condition to this application: No more than 18 adult dogs (dogs over 6 months of age) shall be kept at the site known as Simla 42 Low Road, at any one time'.

It is relevant to this application, as albeit it was a site for a similar use, all the dogs at that site are housed in the dwelling and did not have any outside runs or kennels. It should not therefore be used as a direct comparison to this site.

Despite CSNN noise concerns, and objections from local residents, if the Planning Committee are minded to approve the application, CSNN strongly request a significant reduction in the number of adult dogs and recommend conditions be applied in order to provide some protection to residential amenity e.g.

- Detail named applicant
- The business and premises shall operate in accordance/compliance with the Noise Management Plan dated July 2020
- Detail the maximum number of adult dogs on site
- Viewing by potential purchasers: individual, pre-booked appointments between the hours of 1000 – 1600 Monday to Saturday.
- Puppies shall be sold within 12 weeks.
- An approval could include Environmental Protection Act 1990 informative:

'Under the Environmental Protection Act 1990, the Local Authority has a duty to investigate complaints of nuisance and should a complaint be received, irrespective of planning consent, the Local Authority may (on determination of a Statutory Nuisance) serve a legal notice requiring any said nuisance to be abated and failure to comply may result in prosecution. Further advice may be sought from the Community Safety and Neighbourhood Nuisance Team on this matter where necessary'.

Notwithstanding CSNN comments of objection, if approval is considered appropriate however, any conditions need to be enforceable as, otherwise, there will be no formal means

for CSNN controlling noise or other site operations, which could further detrimentally impact on the amenity of surrounding residents

Licensing: NO OBJECTION

Shelley Thomsett was first licensed as a dog breeder in July 2016, for 20 adult dogs (excluding puppies). On a licensing visit in 2019 she told us she had been breeding at the above address for 8 years.

Prior to the new animal welfare licensing regulations coming into force in Oct 2018, a breeder could have 5 litters in a year without the need to have a licence to breed. Or they could breed for the purposes of showing dogs without the requirement to hold a licence.

Licensing Officers state there was no consistent noise from the dogs to raise any concerns during a 2 hour visit.

There are no concerns with her carrying on the activity she has done so in such a professional manner for a number of years without issue.

REPRESENTATIONS:

THREE letters of **OBJECTION** have been received from nearby residents raising issues regarding noise / residential amenity:

- A quiet residential area. The dogs bark loudly and at each other. This is annoying when they are outside. This makes sitting in the garden unpleasant and is also disturbing for young children. The owner shouts really loudly to try and get them to be quiet.
- SEVENTY-ONE letters of SUPPORT (the majority of which are not from local residents but are from people living in different parts of the country). The comments received can be summarised as follows:
- The Applicant has been licensed for several years and goes above and beyond to ensure her dogs do not encroach on the neighbours, they are mentally satisfied and of good health.
- No noise when visiting site – puppies barking when visiting
- There will be no increase in dogs or noise - if her licence is granted
- Responsible breeder over 30 years - excellent premises and facilities - dogs kept in the highest of health and welfare standards.
- Responsible breeders who breed within the Kennel Club scheme should be encouraged and supported to negate unscrupulous breeders with indiscriminate breeding, producing unhealthy pups
- Conscientious dedicated breeder - health testing all dogs.
- Does not affect anyone outside her house and she never gets any negative comments from neighbours. She is 5* licenced and complies with everything within her licence. She is a home/hobby breeder, so does not class as commercial breeder.

- The owner gives advice and guidance on showing and breeding the Dachshunds. I am not local and cannot comment on the specifics of the house and locality.

LDF CORE STRATEGY POLICIES

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

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

National Design Guide 2019

PLANNING CONSIDERATIONS:

The key issues identified in the consideration of this application are as follows:

Principle of development
Impact on residential amenity
Other material considerations

Principle of development:

The land is situated on the northern side of Low Road, Congham, approximately 290m east of Lynn Road junction.

The National Planning Policy Framework 2019, the King's Lynn and West Norfolk Borough Council Core Strategy 2011 and the Site Allocations and Development Management Policies Plan (SADMP) 2016 are relevant to this application.

Core Strategy 2011:

- Policy CS02 sets out the settlement hierarchy for the Borough. The application site lies within the Parish of Congham, with the south side of Low Road in the Parish of Grimston. However, all of Low Road is within the settlement area of Grimston /Gayton combined, a key service centre as detailed within the SADMP 2016.
- Policies CS06 and CS08 seek to maintain and enhance the quality of the environment

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- SADMP 2016:
- Policy DM2: 'Development Boundaries' sets out how development will be permitted within the development boundaries of settlements shown on the Policies Map provided it is in accordance with the other policies in the Local Plan.
- Policy DM15:

Developments likely to have a significant impact on residential amenity should ideally be sited away from residential areas.

Development proposals should aim to create a high quality environment without detrimental impact on the amenity of new and existing residents.

Proposals will be assessed against a number of factors including Noise, Odour, Contamination, Water quality and Visual impact.

Development that has a significant adverse impact on the amenity of others or which is of a poor design will be refused.

The National Planning Policy Framework (NPPF) (2019):

The NPPF provides a national tier of policy and decision-making guidance for the planning system and forms a material consideration for planning decisions. At the heart of the NPPF is a presumption in favour of sustainable development.

In principle, the keeping/breeding of dogs at a residential property is considered to be an acceptable use, provided it complies with all relevant policies of the Development Plan.

Impact on residential amenity:

The whole of Low Road, and likewise in parallel to the south, Lynn Road, Grimston comprises residential dwellings. The application site dwelling is a detached bungalow with minimal separation to neighbouring bungalows east and west. Overall this is a quiet, rural location.

Miniature Wire Haired Dachshund under 'Dajeon Kennels' are kept and bred at the site. The kennels, runs and the overall care of dogs is confined to the rear garden and dwelling itself. These are temporary and movable kennels, screened from the public domain and as stand-alone structures do not impact on the street scene and form and character of the area.

The outdoor kennels, however, take up a significant amount of the garden, which indicates how intensively the site is used for the keeping and breeding of dogs.

This is a compact residential area, with minimal separation between sites and the average fence or hedged boundaries are unlikely to provide an adequate specific acoustic barrier from noise.

Reports of dog barking area are varied. The case and licensing officers reporting no noise, but other officers who have attended these premises from 2019 report dog barking. There are current objections from residents due to the noise and the impact of such a large amount of dogs in a quiet residential area.

This location will experience low background noise levels being at the edge of a rural village and noise will travel. There are no other known uses of land in the vicinity that create significant ongoing levels of noise.

The private amenity areas of adjacent neighbours are only about 10 metres from the kennels / exercise area and the windows of adjacent dwellings are only about 10 to 15 metres from the kennels and exercise area. There are many other properties within approximately 50 metres of the site.

CSNN comment that, in the main, the maximum number of dogs found in the average domestic setting is 4 (four). The applicant has now offered to reduce the number of adult dogs on site to 10 (ten), keep the dogs permanently in the dwelling, but to utilise and alter the existing kennel run as an open exercise run for the dogs. There are unknown factors with that: the dogs cannot permanently stay inside and how long would an outdoor exercise session last?

Dogs will bark, unpredictably at times, and given the locality barking will travel. Whilst attenuation measures can be built into kennels (or converted dog run), when dogs are outside there is little that can be done to fully control actions and the noise levels associated with barking.

The construction of the kennels and the boundaries of the site will slightly limit the impact on neighbouring dwellings, but not significantly given the lack of separation distance and low levels of background noise. It is acknowledged that whilst dogs are in the dwelling most barking would be attenuated by being 'indoors'. However, when outdoors one would expect there will be general interaction and levels of excitement and associated noise building up at times of feeding, cleaning and social play.

Many of the letters of support indicate that there is a commercial aspect to the breeding activities as puppies are sold from the site and the applicant clearly advertises their operation online.

The agent in her report estimates 60 visits per year on appointment in connection with dog breeding based on:

- 10 mating visits per year
- 25 puppies per year – with 2 visits per puppy sale

The number of visitors is not corroborated as written records do not feature in the submission. However, 60 visits by potential purchasers could exacerbate the issue of noise and disturbance.

Due to the nature of the use, the size of the site and its proximity to neighbouring dwellings, the development has potential to result in a significant impact on neighbour amenity.

When considering the impact of development on neighbour amenity, it is necessary to consider the impact on both existing and future users. Potentially, mitigation measures can be considered and conditioned as a way of reducing the impact on neighbour amenity where possible.

Notwithstanding the inclusion of a Noise Management Plan, including measures to insulate the buildings, the number of dogs on the site is considered too high for a domestic scene, which is essentially what this site is. The barking and disturbance from the adult dogs and any puppies that are bred will undoubtedly result in significant levels of dis-amenity to surrounding residential occupiers.

The number of dogs currently at the premises (estimated 15-18), and the number of dogs now proposed (10) is considered unsuitable for the residential setting, creating adverse impact on the amenity of neighbours and the locality. Even if the number of dogs were to be reduced to 10, this doesn't include the 4-5 litters per year with approximately 6 puppies per litter. As a result there could easily be 17 dogs / puppies on site at any one time which is considered wholly inappropriate in this quiet residential area given the close proximity to neighbouring properties.

Noise Management

The following Noise Management Plan was submitted by the Agent to set out the various measures that are 'in place' in order to manage and minimise the risk of dog noise at the site:

- a) For security purposes and for the safety of the dogs, the property is never left unattended. This also allows for any noise to be dealt with in a timely manner.
- b) All dogs are exercised under supervision, this allows them to socialise with the owner and the other dogs which helps to reduce stress that could lead to barking.
- c) Female dogs and male dogs are let out at alternate times into separate exercise areas.
- d) The dogs are actively supervised when outside and are given toys and bones for enrichment during the day, when not being actively occupied by games or grooming.
- e) A daily routine is in place and all dogs are confined to their respective indoor areas (this is the kennels and associated runs for the female dogs and the main house for male dogs and puppies) between 7pm and 7am. All dogs are brought indoors by 9pm / 10pm and are confined to their respective bed areas for the night.
- f) All puppies are reared indoors until they are at least 7 weeks old and then only go outside for toileting breaks of ½ hour at a time between the age of 7 weeks and them being sold at 8-10 weeks.
- g) Any dog that displays excessive barking will be referred for dog behavioural therapy for advice. Any resulting recommendations will be taken into consideration and should the dog continue to behave unacceptably, they will be sold.
- h) The kennels will remain insulated by 3-inch thick 'Kingspan' and a fence will continue to separate the kennels from the rest of the garden to ensure the male dogs and female dogs cannot see each other.

This noise management plan would require amendment if the application were to be approved as, since submission, the agent has proposed the applicant would additionally agree to the following conditions:

- Reduce the number of adult dachshunds (dogs over 6 months old) proposed on site from 18 no. dogs to 10 no. dogs, within 6 months of approval (such that dachshunds on site shall not exceed 10 thereafter)
- All dogs to reside in the dwelling at all times
- Retention of the covered kennel area, amended to create an open exercise run area.

- Breeding to continue with 4/5 pup litters per year.
- CSNN advise the average maximum number of dogs to a household is 4. Despite CSNN noise concerns and the objections from local residents, if approved, CSNN recommend a significant reduction in the number of adult dogs and the provision of conditions to provide some protection to residential amenity:
- Detail named applicant
- The business and premises shall operate in accordance/compliance with a Noise Management Plan based on that submitted in July 2020
- Detail the maximum number of adult dogs on site
- Viewing by potential purchasers: individual, pre-booked appointments between the hours of 1000 – 1600 Monday to Saturday.
- Puppies shall be sold within 12 weeks.

It is of note that conditioning the use as personal to the applicant is an unlikely route as such permissions generally run with the land and as confirmed by national planning guidance, it is rarely appropriate to provide otherwise.

The mitigation measures outlined in the noise management plan and conditions which could be applied have the potential to reduce the adverse impact of the proposal on neighbours and the locality. However, it is necessary to consider whether such measures can be effectively conditioned.

It is the view of Officers that, in the main, the suggested conditions could not be reasonably enforced as they would be impractical to monitor and it would be difficult to prove if the applicant contravened the measures.

The amendment to the application offers to 'keep all dogs in the dwelling at all times', but to the contrary refers to the 'retention of the covered kennel area, amended to create an open exercise run area' which means the dogs will be outside at various times.

Conditioning that the dogs are never left unattended is considered unreasonable as there are often circumstances where the owner will need to leave the property.

Therefore, planning conditions to control the use of the site in line with the submitted noise management plan would fail to meet the tests set out in Paragraph 55 of the NPPF 2019 which states:

'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification'.

Overall, the site due to its location within a quiet residential area is considered inappropriate for the use and the suggested mitigation measures are considered insufficient to mitigate the harm to neighbour amenity. The use cannot realistically be controlled by condition given the tight constraints of the site, its proximity to neighbouring dwellings and the difficulty in enforcing such conditions.

Other material considerations:

As raised in the comment of the Highway Officer, there is a business element to the use of the site in terms of breeding activity, albeit it has been declared the keeping of dogs is a hobby and any 'income' assists the showing of dogs, food and vet bills etc. The applicant has access to web site and face-book facilities as well as Kennel Club registration and other regulated organisations, such as 'Champdogs', for instance advertising the applicants 'Dajeau' stud dogs 'for hire' at approx. £400.00 a session. The latter site identifies information on 'Dajeau' showing, breeding, naming stud dogs and bitches, health Vet testing and details of at least 13 'Dajeau' pup litters between 2006–2018.

Puppies are also sold from the site and the applicant clearly advertises their operation online. There is little doubt the applicant takes pride in the care and future welfare of her dogs and puppy sales and is well known at dog shows and for giving advice on the breed to others.

The personal actions of the applicant, however, to help support a particular breed of dog are not planning considerations of the application.

Matters relating to dog licensing such as the applicants' personal conduct or the suitability of the site for dog breeding from a licensing perspective are not planning considerations of this application.

The applicant would have been required to apply for planning permission for the current levels of dogs irrespective of the new licensing regime.

Anglian Water are currently investigating water run off / discharge complaints in the Grimston area, but there is no evidence the current use of this site affects that issue.

There are no known Crime and Disorder issues affecting this site

CONCLUSION

Policy DM15 of the SADMP 2016 advises:

Developments likely to have a significant impact on residential amenity should ideally be sited away from residential areas.

Development proposals should aim to create a high quality environment without detrimental impact on the amenity of new and existing residents.

Development that has a significant adverse impact on the amenity of others will be refused.

Section 127 of the NPPF 2019 states:

Planning policies and decisions should ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development
- 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

This change of use application recognises the keeping and breeding of dogs on the site is not 'incidental'.

It has been suggested adult dogs on site could be reduced to 10 which is a reduction on what was initially proposed. However, there would be approximately 4-5 litters per year with on average 6 pups per litter therefore including the applicant's Labrador there could easily be 17 dogs / puppies on the site at any one time.

There is also no clarification on the number of breeding visits to the site per year. The quoted number of 60 per year would itself increase noise and disturbance levels to the detriment of residents.

Each application is viewed on its own merits and it is the opinion of Officers that this is clearly an inappropriate location for keeping / breeding dogs in such quantity. The application site lies on a quiet residential street, with neighbours in very close proximity, in an area with low noise levels and the sound of a dog barking will carry beyond the site. The mitigation measures proposed are considered insufficient in this case and it would be extremely difficult to enforce planning conditions.

The development is therefore considered to be contrary to Policies CS06 and CS08 of the Core Strategy (2011), Policy DM15 of the Site Allocation and Development Management Plan (2016) and the National Planning Policy Framework (2019), particularly paragraph 127(f).

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 Due to the scale of the use and the number of dogs, the proximity of the use to adjoining and nearby residential properties and the noise and disturbance generated by the use, the development results in an unacceptable impact on the amenities of nearby dwellings and their occupants.

The development is considered to be contrary to Policies CS06 and CS08 of the Core Strategy (2011), Policy DM15 of the Site Allocation and Development Management Plan (2016) and the National Planning Policy Framework (2019), particularly paragraph 127(f).