

Parish:	Walpole	
Proposal:	Change of use of land for the keeping of working dogs and proposed private kennels for working dogs	
Location:	Britina Folgate Lane Walpole St Andrew Wisbech PE14 7JA	
Applicant:	Ms Claire Granger	
Case No:	22/00832/F (Full Application)	
Case Officer:	Clare Harpham	Date for Determination: 13 July 2022 Extension of Time Expiry Date: 10 July 2023

Reason for Referral to Planning Committee – The officer recommendation is contrary to the Parish Council who object to the proposal.

Neighbourhood Plan: No

Case Summary

The application site is located outside the development boundary of Walpole St Andrew and within the countryside as defined by the Site Allocations and Development Management Policies Plan 2016.

The site is located at the western end of Folgate Lane, within a small group of dwellings located in close proximity to its junction with Walpole Bank and Mill Road. On site is an existing single storey dwelling and stable building.

The proposal seeks the change of use of some agricultural land for the keeping of working dogs and the erection of proposed private kennels for the working dogs.

Key Issues

- Principle of development
- Impact upon the Countryside
- Amenity Issues
- Highways Issues
- Flood Risk
- Any other matters requiring consideration prior to determination of the application
- Crime and Disorder Act

Recommendation

APPROVE

THE APPLICATION

The application site comprises a bungalow (agriculturally tied) and its associated garden, along with agricultural land in the ownership of the applicant to the rear of the dwelling and garden. On site currently stands a single storey dwelling with attached garage. On the eastern side, to the rear of the garage is a stable building. The site is bounded to the side (east and west) boundaries by a mix of close board fencing and hedging (conifers), to the rear, at the time of the site visit, the site fairly was open, to the agricultural fields, with a few sporadic trees along the boundary.

The site is sat within a small group of dwellings located at the western end of Folgate Lane, close to its junction with Walpole Bank and Mill Road.

The application is for full planning permission for the change of use of the land for the keeping of working dogs and the erection of private kennels for the working dogs.

SUPPORTING CASE

Supporting case to follow.

PLANNING HISTORY

21/00990/LDE: Not Lawful: 07/10/21 - Application for a Lawful Development Certificate for the existing use of property in breach of occupancy condition in excess of 10 years – Britina Folgate Lane Walpole St Andrew

2/95/0140/F: Application Permitted: 08/03/95 - Construction of pitched roof to existing flat roofed extension – Britina Folgate Lane Walpole St Peter

2/85/0561: Application Permitted: 1/4/85 – Erection of snooker room, utility room, toilet and shower extension.

2/77/0385: Application Permitted: 7/4/77 – Erection of stable to house two horses for applicant's own private use

M2473: Application Permitted: 19/10/64 – Erection of Bungalow (restricted occupancy)

CONSULTATIONS

Town/Parish Council: OBJECT

There is an agricultural tie on the property which does not cover dog kennels and the additional noise generated. The early morning exercising of dogs could also cause noise issues.

Local Highway Authority (NCC): NO OBJECTION

I observe that the kennels are to be for private use and on such a basis I believe it would be difficult to substantiate an objection.

Environment Agency: NO OBJECTION

It is recommended the mitigation measures within the submitted FRA are conditioned.

Internal Drainage Board: Comments

The IDB notes that the applicant has indicated that they intend to dispose of water via infiltration. If it is determined that this is not feasible and surface water is discharged via a watercourse, consent will be required in line with Byelaw 3. The IDB also notes that a riparian watercourse is adjacent to the site boundary which it is not proposed to alter, any alteration would require consent under the Land Drainage Act 1991 and Byelaw 4.

The consenting process is separate from planning but the ability to implement a permission may be dependent upon the granting of Board consent.

Emergency Planning: Comments

Due to the location in an area at risk of flooding it's advised that the occupants' sign up to the EA FWD service and prepare a flood evacuation plan.

Environmental Health & Housing - CSNN: NO OBJECTION

Following submission of further information and the movement of the proposed building further away from the western boundary; amendments to the proposed building; foul and surface water drainage details; a site Management Plan and Waste disposal information, the CSNN officer withdrew her holding objection and final comments are as follows:

Twelve kennels are a significant number and a 5:30am start is a very early hour to be letting dogs out in a rural location, where background noise levels would be otherwise low. There is still a concern that there could be noise impacts, particularly given the number of dogs.

While noise can be addressed under Statutory Nuisance legislation it is necessary to secure relevant control measures at this planning stage, to avoid taking action on the applicant in future. The Management Plan shows how the applicant intends to operate and control / limit dog noise, and if adhered to robustly, whilst there may still be some noise issues, the occurrence of a Statutory Nuisance is unlikely.

The orientation of the kennel block, and the relationship of the main dwelling with the dog exercise areas, will create physical barriers to help attenuate noise, however, I would welcome this being taken to the Planning Committee or otherwise further considered, as there are large open areas of land which will be used by dogs year round, and I consider there could be noise impacts on neighbours which could affect residential amenity below the statutory nuisance threshold.

It is requested that conditions are included that include the following; adherence to the submitted Management Plan; an external lighting condition; foul and surface water be carried out as per the plan; the maximum number of dogs on site; and waste storage and collection as per the details shown on the Site Plan and Management Plan. The Environmental Protection Act informative is also requested.

National Grid: NO OBJECTION

Site is within a High-Risk zone from National Grid Gas Transmission apparatus. A Map is enclosed to show the location of high-pressure gas pipeline(s) within the vicinity of the proposal and additional information provided.

Cadent Gas plant protection: NO OBJECTION, informative requested on any decision notice.

UK Power Networks: Plan provided relating to UK Power Networks cables and overhead lines. Advice given to applicant.

REPRESENTATIONS

FIVE letters of **OBJECTION** from two neighbours which cover the following:-

- Excessive noise in a quiet rural hamlet (Studies quoted that refer to impact on health due to noise and disturbance which can impact sleep which may have a knock-on impact on health risks such as stroke and heart attack).
- Application states working dogs which implies owners running a business.
- Proximity to neighbouring dwellings/bedrooms and gardens.
- A new access has been created which is not on the plans, and which will allow access to the kennels.
- Could have issues with cleanliness and odour.
- Possible increased vehicle movements.
- The number of dogs is 'significant' as noted by the CSNN officer who expresses concern over high number of dogs in a domestic setting and noise escape.
- Management Plan says dogs will be exercised several times per day in groups starting at 0500hours (amended to 0530hrs). This will cause noise whether from barking dogs or shouting handlers, they may bark even when supervised. Being woken so early defeats purpose of purchasing a property in secluded location.
- Dogs have propensity to bark, with or without supervision, particularly when in large numbers (research articles written on subject).
- The property has an agricultural tie, the applicant states that it only forms a part of their income and is not their main income and that they work for Spenser Farms on the shoot days. This shows that she earns income from the dogs which she said in her letter of 6th July are a hobby.

TWO letters of **support** from one neighbour which cover the following:-

- I live next door and have no objections.
- The dogs are currently kennelled up the road and I have never heard them.
- Support good quality housing for the dogs.

LDF CORE STRATEGY POLICIES

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

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide 2021

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.
National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

PLANNING CONSIDERATIONS

The main considerations are:

- Principle of development
- Impact upon the Countryside
- Amenity Issues
- Highways Issues
- Flood Risk
- Any other matters requiring consideration prior to determination of the application
- Crime and Disorder Act

Principle of Development:

The application site is within the countryside as defined by the Site Allocations and Development Management Policies Plan (SADMPP) 2016 and as such should comply with countryside protection policies.

The application site incorporates the dwelling known as Britina and its curtilage, however the site extends further to the rear of the curtilage out into the open countryside. During the course of the application amended plans were received which moved the proposed private kennel block immediately to the rear of the existing bungalow and proposed a change of use of the agricultural land to the rear for the exercising of the dogs.

Policy DM2 of the SADMPP and Policy CS06 of the Core Strategy define what is acceptable development within the countryside and is limited to that identified as suitable in rural areas. Kennels for private working dogs, whilst acceptable in principle within the curtilage of a dwelling are not acceptable within the open countryside. The relocation of the proposed dog kennels, immediately to the rear of the dwelling is therefore acceptable in principle and the use of the land to exercise the dogs is not considered to conflict with countryside protection policies and would be similar to the keeping of horses with regard to the impact on the agricultural land. The proposal is considered to comply with the principles of the NPPF, in particular para 174 which recognises the intrinsic character of the countryside; Policy CS06 of the Core Strategy 2011 which reiterates this, and Policy DM2 of the SADMPP 2016 which identifies suitable development within the countryside.

Impact upon the Countryside:

The proposed kennels would be situated within a single storey outbuilding which would measure 22.9m in length and 5.1m in width, with a height of 4.3m. The proposed building would be constructed of Hardie Plank fibre cement boards which emulate wooden cladding,

over blockwork walls (for noise attenuation) and a decra roof which also emulates a roof tile finish. The design incorporates an outside area for the dogs in front of each kennel, and this is covered by the roof, which will aid with noise attenuation. Within the kennels would be 12 kennels and one feed store/ washroom and the agent has confirmed that the applicant has 12 working dogs which are used on shoots. The applicant also has two additional dogs which are pets and would live in the dwelling.

Overall, whilst the building is long, it would be sited in close proximity to the rear of the existing dwelling and would be screened to the east by the existing stable building and to the west by existing hedging. It is also proposed to plant an additional hedgerow to the outer perimeter of the site (shown as area C on plan HAL22-CG-100 RevH), which over time would also help screen the building from the wider countryside.

Given its relatively low height and location in proximity to other buildings (dwelling and stables) the proposed kennels are not considered to have a detrimental visual impact upon the character and appearance of the surrounding countryside.

The proposed change of use to land for the keeping of working dogs would not have any material visual impact upon the surrounding countryside as there are no structures other than the erection of a 1.5m post and rail fencing with sheep wire incorporated, which would not be out of character in a rural location, and the planting of a native hedgerow to the perimeter.

Overall, the erection of the proposed kennels and the change of use of the land would not have a detrimental visual impact upon the surrounding countryside and would comply with para 174 of the NPPF, Policy CS06 of the Core Strategy 2011 and Policy DM15 of the SADMPP 2016 with regard to visual impact.

Amenity Issues:

The location of the proposed kennels to the rear of the existing bungalow would not have any material impact upon the neighbouring dwellings with regard to overshadowing, overlooking or being overbearing.

The dwelling to the west of the application site (Lowbeach) is located approximately 60m west of the proposed kennels and therefore the orientation and distance would mean there was no material impact with regard to the above. The proposed kennels would be to the rear of the existing bungalow and therefore the structure would have no material impact with regard to the above on the dwellings on the opposite side of the road (north).

The main impact with regard to the proposal is the potential for noise and disturbance resulting from the keeping of dogs at the site, especially given the number (12 working dogs and 2 additional dogs) and the potential odour associated with any waste at the site.

During the course of the application, the design of the proposed kennels building was altered to improve the potential noise attenuation of the building; with blockwork walls (clad to improve visual impact) and a roof which has additional insulation and boarding. There are no openings on the western side of the building (which faces the neighbour at Lowbeach) and the openings and outside space (dog runs) face towards the east where there are no immediate neighbours. The northern side of the building is open to the dog runs to enable surveillance of the kennels from the dwelling, however the fact that the dwelling is sited between the kennels and the dwellings to the north, helps to attenuate any potential noise from the kennels.

In addition to the design of the building, the Management Plan states that 'dogs will not be left to bark and will be interacted with and monitored using a ring camera system. This is a two-way system that enables managers to speak to the dogs remotely via a wireless system which also operates from mobile phones.' The Management Plan also states that the applicant and her partner work on different days of the week to allow for the dogs to be supervised by an on-site presence and so generally the dogs will always be supervised. The plan does also state that should there be occasions when both the applicant and her partner are away from the site at the same time, the dogs will be supervised by experienced family or friends who are familiar with the dogs and their management.

With regard to the exercising of the dogs, the Management Plan states that the land would be separated into three exercise areas; with exercise area A being immediately adjacent to the kennels and dwelling; exercise area B would be just beyond area A, with exercise area C being the furthest from the dwelling at the rear of the site.

The Management Plan states that between 5:30am and 7:30am dogs will be let out into Area A in groups of 3 or 4 for approximately 10mins to go to the toilet (if in season bitches will be let out individually). Following this the groups are taken to Area B or Area C subject to use times given and supervised while they exercise. All dog waste will be cleared up straight away. Once all dogs are exercised each group will be let out of their kennels into Area A while the kennels are cleaned.

The use times for exercise areas B and C are as follows (Area A being immediately adjacent to the kennels and used year-round including in the dark), Area B is used year-round, including in the dark during winter months. Area C will only be used during daylight hours.

The process of exercising will be repeated at 12-1pm, 3-4pm, 6-7pm and in the summer months when light permits, at 9pm before bedding down in kennels.

Within the Management Plan the disposal of waste is also dealt with relating to both the disposal of solid dog waste, dog bedding and also foul drainage. There is a neighbour objection relating to this, however the details provided are considered acceptable by CSNN and will be conditioned.

The keeping of dogs would always have the potential to cause noise and disturbance, especially in a rural area where background noise is minimal. On the other hand, it would not necessarily be advisable to have a large number of dogs in a more built-up area where there are more neighbours. The management of the site is therefore integral to keeping noise to a minimum, as well as the physical structure of the kennels providing noise attenuation. The submitted Management Plan sets out the management of the dogs clearly, and the case is put by the applicants that as the dogs are working dogs that are used on shoots, they are well trained, and noise is kept to a minimum. There are no objections from the CSNN officer, although management of the site is considered integral to the proposal.

The application is finely balanced, given the nature of the application and the proximity of the neighbouring dwellings. There are objections to the proposal from the Parish Council and neighbours, predominantly based upon the potential for noise, especially early in the morning, although there is also a letter of support from the immediate neighbour to the west. Members are requested to consider whether on balance, the proposal is acceptable with regard to noise, disturbance and odour. The number of dogs would be conditioned along with the site Management Plan and consequently it is your officer's opinion that with conditions in place, the application would comply with the principles of the NPPF, Policy CS08 of the Core Strategy and Policy DM15 of the SADMPP 2016.

Highways Issues:

The proposed use is for the keeping of the applicant's own dogs and would not result in additional vehicular movements by third parties, other than the provision of some additional supplies for the dogs. There are no objections to the proposal from the Local Highway Authority.

The proposal complies with paragraph 110 of the NPPF, Policy CS11 of the Core Strategy 2011 and Policy DM15 of the SADMP 2016.

Flood Risk:

The application site is located within Flood Zone 3 and climate change where the edges of the site by the watercourses are surface water 1% AEP with climate change. There are no objections from the Environment Agency who recommend that the Emergency Planning is consulted. There are no objections from the Emergency Planning Officer who recommend the applicant sign up to the Environment Agency Flood Warnings Direct service. The proposal passes the Sequential Test as given the nature of the application which is required to be in proximity to the existing dwelling could not be re-sited to another location at a lower risk of flooding. The type of development proposed would be classed as Less Vulnerable within Annex 3: Flood Risk vulnerability classification and is therefore considered an acceptable form of development where the exception test is not required.

Therefore, the proposal is considered to comply with para 159 of the NPPF and Policy CS08 of the Core Strategy 2011.

Other matters requiring consideration prior to the determination of this application:

Drainage – Surface water is proposed to be to soakaway and foul water to a new package treatment plant, both of which are acceptable and will be conditioned. The IDB has noted that should any water be discharged to a watercourse this will require consent under Byelaw 3 and an informative can be placed on the decision.

Agricultural Occupancy Restriction – The existing dwelling has an agricultural occupancy restriction and the Parish Council have objected on the basis that the keeping of dogs does not meet the definition of agriculture. The applicant has provided a letter from her employer and from which she earns her main income and is considered to meet the definition (she works as a greenhouse supervisor and seed propagation specialist at a Nursery in Leverington). The fact that she earns her main income in agriculture does not exclude her from being able to keep dogs from which she may earn a subsidiary income from shoots.

The application site is within a high-risk zone with regard to National Grid Gas transmission. An informative relating to this and other advice given by Cadent Gas and UK Power Networks will be placed on any decision.

Crime and Disorder Act:

The application does not give rise to issues with regard to crime and disorder.

CONCLUSION:

The proposed kennel building would not have a detrimental impact upon the character and appearance of the surrounding countryside, nor would the erection of the post and rail fencing which would separate the dog exercise areas.

The keeping of dogs does have the potential to cause amenity issues if not managed correctly. The location and orientation of openings within the proposed kennel building, along with its construction, would help mitigate against noise and disturbance. In addition, the submitted Management Plan demonstrates that the kennels could be managed so as not to cause a detrimental impact upon neighbour amenity, however it is a finely balanced application and Members are asked to consider this when making their decision.

Overall, the application is considered to comply with the principles of the NPPF, Policies CS06, CS08 and CS11 of the Core Strategy 2011 and Policies DM2, DM15 and DM17 of the Site Allocations and Development Management Policies Plan 2016.

RECOMMENDATION:

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

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans HAL22-CG-10 'Site Location Plan'; HAL22-CG-100RevH 'Proposed Site Plan'; and HAL22-CG-200RevG 'Proposed Floor Plan and Elevations'.
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: There shall be no more than 12 adult dogs (dogs over 6 months of age) housed in the kennels on site and shown on the approved plan HAL22-CG-100RevH, at any one time; and no more than 14 adult dogs in total at the application site shown on drawing HAL22-CG-10 unless a further planning application is made to the LPA.
- 3 Reason: In order that the Local Planning Authority may retain control over the development in the interests of the amenities of the locality in accordance with the NPPF.
- 4 Condition: The development hereby approved shall be for the keeping of the occupiers own dogs (occupiers of the on-site dwelling known as Britina), and at no time shall the site be used for commercial boarding (including doggy daycare), or commercial training purposes.
- 4 Reason: In order that the Local Planning Authority may retain control over the development in the interests of the amenities of the locality and highway safety in accordance with the NPPF.
- 5 Condition: The use of the kennels and associated exercise areas hereby approved shall remain within the control of the occupants of the main dwelling known as Britina, Folgate Lane, Walpole St Andrew, and at no time shall be separated or sold as a separate and unassociated site.
- 5 Reason: For the avoidance of doubt and to safeguard the amenities of the locality in accordance with the NPPF.

- 6 Condition: The development hereby approved shall be carried out in accordance with the 'Management Plan B' dated May 2023 and received by the Local Planning Authority on 17th May 2023.
- 6 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 7 Condition: All dog waste and soiled bedding shall be disposed of as stated within the approved Management Plan B and stored in the dog waste bin (shown on approved drawing HAL22-cg-100RevH) which shall be kept covered and which shall be emptied when full.
- 7 Reason: In order that the Local Planning Authority may retain control over the development in the interests of the residential amenities of the locality in accordance with the NPPF.
- 8 Condition: Prior to the occupation of the kennels hereby approved, the foul and surface water drainage details as shown on approved drawing HAL22-CG-100RevH shall be constructed as agreed, and maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- 8 Reason: To ensure that there is a satisfactory means of drainage in accordance with the NPPF.
- 9 Condition: All hard and soft landscape works shall be carried out in accordance with drawing HAL22-CG-500 'Boundary treatment and Landscaping Plan'. The works shall be carried out prior to the occupation or use of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.
- 9 Reason: To ensure that the work is carried out within a reasonable period in accordance with the NPPF.
- 10 Condition: Prior to the installation of any external lighting, a detailed outdoor lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type of lights, the orientation/angle of the luminaries, the spacing and height of the lights, the extent/levels of illumination over the site and on adjacent land and the measures to contain light within the curtilage of the site. The scheme shall be implemented in accordance with approved scheme and thereafter maintained and retained as agreed.
- 10 Reason: In the interests of minimising light pollution and to safeguard the amenities of the locality in accordance with the NPPF.
- 11 Condition: The development hereby approved shall be carried out in accordance with the Flood Statement dated May 2022 and received by the Local Planning Authority on 18th May 2022.
- 11 Reason: In order to comply with the principles of the NPPF, in particular para 159.