



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**



Planning Committee

16 May 2024

S24/0092

Proposal: Section 73 application to vary condition 4 (Noise Management Plan/No of dogs) of S20/0479 (use of land for doggy day care centre, erection of building, driveway and hardstanding) variation is to increase number of dogs allowed on site at any one time from 20 to 40

Location: Poplars Farm, High Street, Carlby, PE9 4LX

Applicant: Mr Andrew Woolley

Agent: J J and J Hartley

Application Type: Full Planning Permission (Major)

Reason for Referral to Committee: Member Call-In Request

Key Issues: Neighbours Residential Amenities (Noise and Disturbance)

Report Author

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Corporate Priority:

Growth

Decision type:

Regulatory

Wards:

Glen

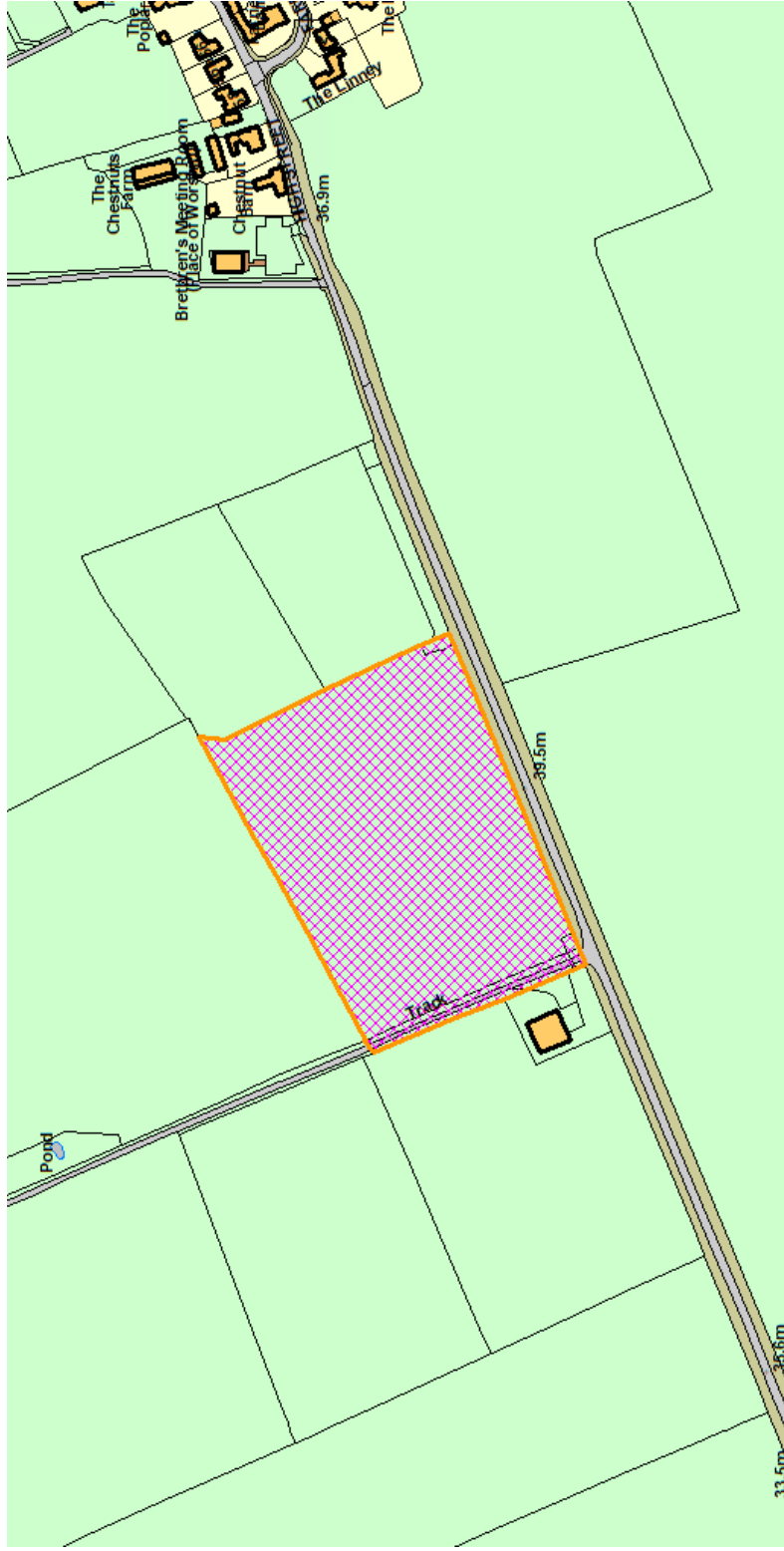
Reviewed by:

Kevin Cartwright, Senior Planning Officer

8 May 2024

Recommendation (s) to the decision maker (s)

To authorise the Assistant Director – Planning to GRANT planning permission, subject to conditions.



Key



**Application
Boundary**



1 Description of Site

- 1.1.1 The application site is located on north side of High Street approximately 230m to the west of the limits of Carlyby village. The site was formerly agricultural land and is currently in use as a day care centre for dogs, the site entrance is from High Street. The site contains one purpose built 'doggy day care' detached building, centrally located within the field, and set back from the main road, measuring approximately 24.4m long and 9.15m wide with a ridge height of 4.6m. The site is separated into two halves (fields), either side of the access road, to provide areas for controlled exercise and entertainment of the dogs whilst on the premises. 1.8m high mesh fencing on wooden posts provide security around the site for the safety of dogs. The business is open from 6:30am to 7pm (at the latest). Dogs are not exercised off site. The site is surrounded by agricultural fields.

2 Description of the Proposal

- 2.1 This application is a section 73 application to vary conditions 4 (Noise Management Plan) of application S20/0479 which granted approval on 11 August 2020 for the proposed change of use land from an agricultural field to a 'doggy daycare' land use (Sui Generis) with associated building, driveway and hardstanding areas.
- 2.2 Condition No.4 states that the development hereby permitted shall be carried out in accordance with the Noise Management Plan (NMP) received on 8 May 2020. The Condition and details contained within the Noise Management Plan effectively controls the number of dogs that are permitted to be cared for at any one time at the premises. The purpose of this application is to amend the wording contained within Section 2.0: Operational Overview of the NMP:
- Existing wording: The facility has been designed in two separate sections, each catering for up to ten dogs.
 - Proposed wording: The facility has been designed in two separate sections, each catering for up to twenty dogs.
- 2.3 The change in the wording would result in the number of dogs being permitted at any one time to increase from twenty to forty in total.

3 Relevant History

- 3.1 S20/0479 - Proposed change of use land from an agricultural field to a 'doggy daycare'. Land use (SU Generis) with associated buildings, driveway and hardstanding areas) – Approved 11 August 2020
- 3.2 S23/0922 - Change of use of agricultural land to use as extended provision (dog walking only) of the doggy day care centre as approved under S20/0479
Approved 13 October 2022

4 Policy Considerations

- 4.1 **South Kesteven Local Plan 2011-2036 (Adopted January 2020)**

Policy SD1: The Principles of Sustainable Development in South Kesteven
Policy DE1 Promoting Good Quality Design
Policy EN4 Pollution Control
Policy E5 Expansion of an Existing Business

4.2 **National Planning Policy Framework (NPPF) (Published December 2023)**

Section 2 – Achieving sustainable development.

Section 4 – Decision-making

Section 12 – Achieving well-designed places.

5 Representations Received

5.1 **Carlby Parish Council**

5.1.1 While the Parish Council recognises the importance of supporting local businesses, there is a concern about the potential noise disruption for the prevailing western side of the village, especially considering the recent expansion of the centre. With the current increase in dog numbers occurring post summer season 2023, there is a natural hesitancy of support at this moment.

5.1.2 Following the experience of more than 20 dogs on site, the current condition. The Parish Council would like to express its reservation about the application in its current form and object to the application at this time, and there has been an opportunity to assess the impact of the recent increase in dog numbers on the village. We believe that a post-summer evaluation would provide a more accurate understanding of the centre's ability to manage the expanded operations without causing undue disruption to the community. This approach aligns with our commitment to fair consideration and balanced decision-making.

5.2 **Lincolnshire County Councils (Highways and SuDS)**

5.2.1 The proposals are for an expansion to the existing facility, and a suitable access from the public highway was installed as part of the previous application, the majority of dogs visiting the site are collected by the company, it is unlikely that the proposals will increase the need for additional parking. It is therefore concluded that the proposals will not result in an unacceptable impact on the highway.

5.3 **SKDC Environmental Protection Officer**

5.3.1 We have reviewed the noise management plan and accept that this is appropriate for the increased number of dogs from 20 to 40. The noise management plan should be adhered to and updated as necessary to ensure that noise does not impact amenity of nearby residents.

6 Representations as a Result of Publicity

6.1 This application has been advertised in accordance with the Council's Statement of Community Involvement and 51 letters of representation have been received, comprising.

1no. Letter of objection and the points raised can be summarised as follows:

- Concern about progressive increase in noise as a result of nuisance barking (experienced summer 2022 and 2023), although this has lessened since noise mitigation measures contained with NMP have been enforced.
- Concern about cumulative increase in the number of dogs at Maggie's Mates Doggy Day Care combined with Maggie's Mates Dog Walking facility (field to the rear of Maggie's mates S23/0922, Approved 09.10.2023).

50no. Letters of support and the points raised can be summarised as follows:-

- Support for economic growth of local business in a rural location.
- Existing business provides a valued quality service that is vital to some in the local community and is essential in enabling them to go out to work.
- Existing business is very well run, dogs are well cared for, well-staffed by trained personnel.
- At least 2 x residents that live close to the site have stated that they have not experienced noise from the site or been disturbed by dogs barking.
- Any dog barking noise is no more excessive than what you might expect from a domestic household.
- Business is sufficiently separated from nearby dwellings so as not to result in undue noise and disturbance.

7 Evaluation

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this case, the Development Plan comprises of the following documents:

South Kesteven Local Plan 2011-2036 (Adopted January 2020);

Carlby Parish Neighbourhood Development Plan 2018-2036 (adopted 12 March 2019) and;

The Local Planning Authority have recently adopted a Design Guidelines Supplementary Planning Document (Adopted November 2021) and this document is a material consideration in the determination of planning applications.

The policies and provisions set out in the National Planning Policy Framework (NPPF) ("the Framework") (Published December 2023) are also a relevant material consideration in the determination of planning applications.

8 Principle of Development

8.1 National Planning Policy Guidance states that , 'In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application - it is not a complete re-consideration of the application.'

8.2 The original planning permission will continue to exist whatever the outcome of the application under section 73. The conditions imposed on the original permission still have effect unless they have been discharged. In granting permission under section 73 the local planning authority may also impose new conditions - provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. For the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

8.3 The principle of development in this instance has previously been established through the approval of planning permission S20/0479 which granted permission conditionally on 11 August 2020 for the change of use from agricultural field to a 'doggy daycare' land use (sui generis) with associated building, driveway and hardstanding areas. The time limit

condition imposed required that the change of use must be commenced before the expiration of three years from that date. The use was implemented on site in 2020 and the current application was submitted on 30 January 2024 and as such the original permission is considered extant. Taking this into account, the significant issue to consider is the impact the increased number of dogs allowed on site could have on neighbours' residential amenities (specifically noise).

This application is to vary Conditions 4 of the approval, which requires that the approved development to be carried out in accordance with the details set out in the Noise Management Plan (NMP) received on 8 May 2020. It is proposed to substitute the NMP for an updated version. Details contained within the NMP effectively allows for the planning department to control the number of dogs that are permitted to be cared for at any one time at the premises. The purpose of this application is to amend the wording contained within Section 2.0: Operational Overview of the NMP. The change in the wording would result in the number of dogs permitted on site, at the site at any one time, to be increased from 20no. to 40no in total.

- 8.4 For the proposed amendments to the scheme to be considered acceptable as a minor material amendment, the removal or variation of conditions should not alter the impact of the development.
- 8.5 Taking the above into account, the principle of development is considered acceptable subject to site specific impacts. The conditions attached to S20/0479, should be included should this application be approved, with the exception of the time limit condition, which would be omitted as the use has already been implemented on site.

9 Impact on the neighbours' residential amenities - noise pollution

- 9.1 Policy DE1 (Promoting Good Quality Design) of the adopted Local Plan states (amongst other criteria) that all development proposals will be expected to ensure there is no adverse impact on the amenity of neighbouring users in terms of noise, light pollution, loss of privacy and loss of light and provide sufficient private amenity space, suitable to the type and amount of development proposed. Paragraph 135 of the NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.2 Policy EN4 (Pollution Control) of the adopted Local Plan states that development that, on its own or cumulatively, would result in significant air, light, noise, land, water or other environmental pollution or harm to amenity, health well-being or safety will not be permitted.
- 9.3 Policy E5 (Expansion of Existing Business) of the adopted Local Plan states that the expansion of existing businesses will be supported, provided that: e) the proposal will not have an adverse impact on the character and appearance of the area and/or the amenities of neighbouring occupiers.
- 9.4 The Carlby Parish Neighbourhood Plan Policy PO Pollution Control: P.1. states that subject to the provisions of other development plan policies, development that would conserve the rural character and tranquillity of the neighbourhood area will be supported where they have no unacceptable impact on residential amenity, air and light quality, and traffic movements or where the impacts can be satisfactorily mitigated.

9.5 The amendment to Condition No.4 and the updating of the approved Noise Management plan would effectively allow the existing business to grow in that it would allow for twice as many dogs to be cared for at any one time. The business offers a facility for the day care for dogs and operates in a similar manner to a children's nursery. The facility is set up whereby the building at the centre of the site provides storage and shelter for the dogs to rest and to offer protection during inclement weather conditions. The building is also used for feeding and segregating dogs and calming down an excited dog.

Externally, the site is separated into two sections of the field (either side of the building), where activities for the dogs and exercise can take place. This application proposes to increase the numbers allowed in each of these sections from ten per section to twenty per section. Which would result in an increase from twenty dogs in total to forty. Given that there is also indoor accommodation, it is not anticipated that it is unlikely that all forty dogs would be outside at any one time. The site is fenced off to prevent any dogs from escaping whilst in the care of the facility. Dogs are not walked or exercised off site, with the exception of the dog walking field to the rear, which was granted under a separate planning application.

9.6 Noise mitigation is set out within the revised NMP, in summary the measures include:

- the applicants do not agree to take on dogs that are prone to excessive barking;
- the applicants are experienced in the care of dogs, handling of dogs and have zero tolerance to nuisance barking - persistent noisy behaviours by any dog, will result in exclusion;
- activities will be supervised (by experienced dog handlers) and take place solely within the defined activity areas;
- dogs that do bark outside and do not desist will be taken directly indoors

9.7 The noise mitigation measure set out in the NMP offer solutions to minimising unacceptable levels of noise. An objection has been received from a nearby resident and they have referenced a "progressive increase in nuisance barking during the summer of 2022 and 2023", in relation to the existing operation. However, it was also stated, in the same representation, that the issue was resolved after the applicants agreed that they had a responsibility to adhere to the measures contained within the NMP approved as part of S20/0479. It was reported that following the complaint, the issue with noise (dog barking) is no longer occurring. SKDC's Environment Protection Officer has confirmed that no formal noise complaint had been lodged to them in respect of the site. It is accepted that the Parish Council and 1no. objector are concerned about the possible increase further noise, causing a nuisance to residents, however it is considered that the noise mitigation methods set out within the NMP are robust and effective and have been proven to work. It is accepted that the increase in the number of dogs using the facility from 20no. to 40no. is a substantial increase, however, given the distance that the site is separated from the main built-up part of the settlement (approximately 230m), combined with the fact that there is indoor accommodation available (where noisy dogs can be taken) it is not anticipated that a substantial increase in noise pollution (as a result of persistent dog barking) would occur, to the extent that it would disturb the amenities of nearby neighbouring occupiers and warrant the refusal of planning permission, as proposed.

- 9.8 The cumulative impact of the current application combined with the existing permission for the provision of a dog walking facility (operated by the same applicants) located to the rear of the day care facility (upper field) have been taken into consideration. The dog walking facility is controlled by conditions under a separate planning approval (S23/0922) and limits the number of dogs to a maximum of 20no. at any one time. The dog walking field is located some considerable distance from the closest neighbouring property and the impacts of the proposal were considered as part of that application. The operation of the dog walking facility would have no great impact upon the running of the day care facility and noise mitigation measures are in place for both operations.
- 9.9 Further to this, SKDC's Environmental Protection Team have been consulted and they have commented that "We have reviewed the noise management plan and accept that this is appropriate for the increased number of dogs from twenty to forty. The noise management plan should be adhered to and updated as necessary to ensure that noise does not impact amenity of nearby residents." Environmental Protection also have separate powers to investigate any future complaints of statutory noise nuisance under the Environmental Protection Act 1990.
- 9.10 Taking into account the nature of the proposal it is considered that there would be no unacceptable adverse impact on the residential amenities of the occupiers of adjacent properties in accordance with the adopted Carlby Neighbourhood Plan, NPPF Section 12, and Policies DE1, EN4 and E5 of the Local Plan.

10 Highway Issues

- 10.1 Paragraph 115 of the NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 10.2 Policy PO: Pollution Control P.1 of the Carlby Neighbourhood Plan states that subject to the provisions of other development plan policies, development that would conserve the rural character and tranquillity of the neighbourhood area will be supported where they have no unacceptable impact on residential amenity, air and light quality, and traffic movements or where the impacts can be satisfactorily mitigated.
- 10.3 The Local Highway Authority have commented that the proposals are for an expansion to the existing facility, and a suitable access from the public highway was installed as part of the previous application, the majority of dogs visiting the site are collected by the company, it is unlikely that the proposals will increase the need for additional parking. It is therefore concluded that the proposals will not result in an unacceptable impact on the highway.
- 10.4 The proposal would retain adequate access, parking and turning facilities and would not have an unacceptable adverse impact on highway safety in accordance with the NPPF Section 9.
- 10.5 Taking the above into account, it is considered that the proposal is appropriate for its context and is in accordance with the adopted Carlby Neighbourhood Plan, NPPF (Sections 9 and 12) and Policies DE1 and E5, EN4 of the South Kesteven Local Plan.

11 Crime and Disorder

- 11.1 It is considered that the proposal would not result in any significant crime and disorder implications.

12 Human Rights Implications

- 12.1 Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

13 Conclusion

- 13.1 The principle of development has been established through the grant of planning permission S20/0479. The variation of condition 4 to amend the noise management plan to allow up to 40 dogs on the site has been demonstrated not to result in any unacceptable adverse impacts on the residential amenities of the occupiers of adjacent properties in accordance with the adopted Carlby Neighbourhood Plan, NPPF Section 12, and Policies DE1, EN4 and E5 of the Local Plan.

14 Recommendation

- 14.1 To authorise the Assistant Director – Planning to GRANT planning permission, subject to the proposed schedule of conditions detailed below.

Schedule of Conditions

List of Approved Plans:

- 1) The development hereby permitted shall be carried out in accordance with the following list of approved plans:

- i. JDA/2020/385/BLOCK/001B received 8 May 2020
- ii. JDA/2020/385/OS/001A received 8 May 2020
- iii. JDA/2020/385/PROP/001B received 3 August 2020
- iv. JDA/2020/385/LIGHTING/001B received 3 August 2020

Unless otherwise required by another condition of this permission.

Reason: To define the permission and for the avoidance of doubt.

Ongoing Conditions:

- 2) The premises shall not be used for the purposes authorised by this permission other than between the following hours:

- i. 06:30hrs - 19:00hrs on Mondays to Fridays
- ii. 12:00hrs Saturdays - 01:00hrs Sunday mornings
- iii. 17:00hrs - 23:00hrs Sundays and Bank Holidays

unless otherwise agreed in writing by the Local Planning Authority.

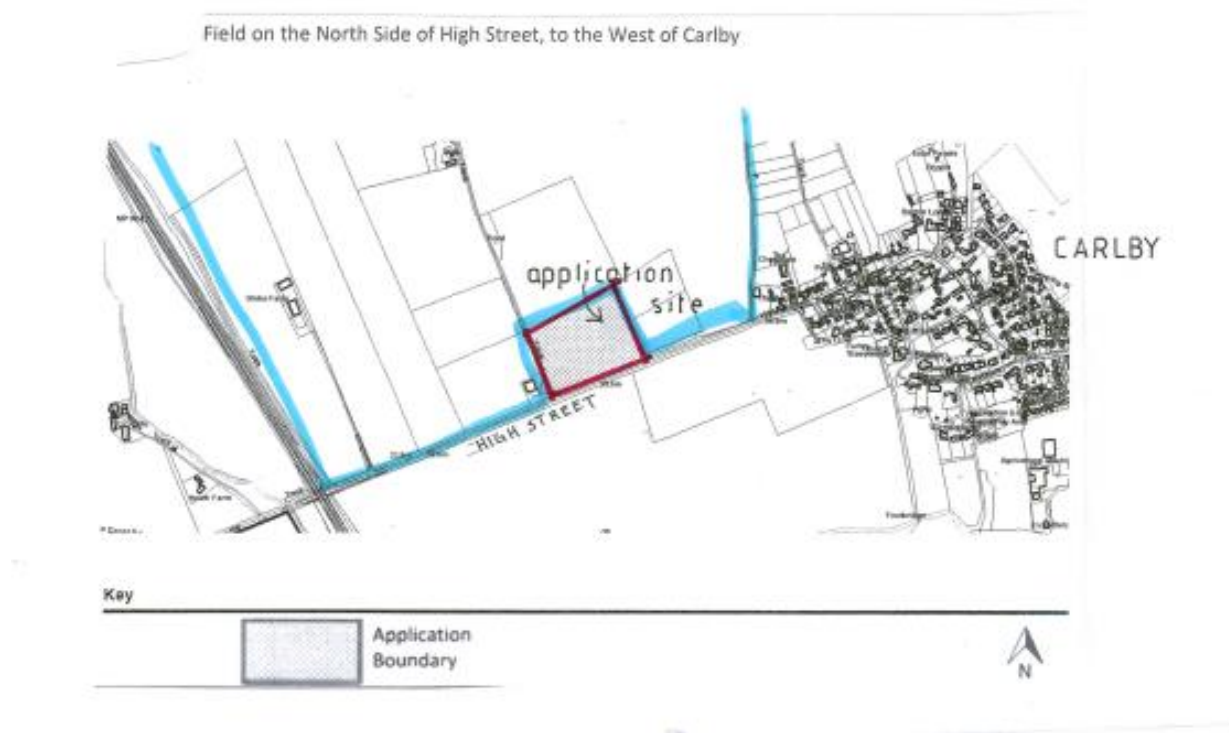
Reason: Operation of the use outside these hours would result in unacceptable levels of noise nuisance to local residents, contrary to Policies EN4 and DE1 of the South Kesteven Local Plan

- 3) The development hereby permitted shall be carried out in accordance with the Noise Management plan dated 17 January 2024.

Reason: To prevent disturbance to the amenities of the occupants of the site and in accordance with Policies EN4 and DE1 of the adopted South Kesteven Local Plan.

Legal Implications reviewed by:

Site Location Plan



Site Plan

