

27/13/0017

MR T HOLLEY

CHANGE OF USE OF AGRICULTURAL LAND WITH ERECTION OF BUILDINGS TO FORM BOARDING KENNELS AND ISOLATION UNIT, WITH REPLACEMENT ACCESS AND DRIVEWAY AT FIVEOAK BOARDING, HILLFARRANCE, OAKE

Location: HIGHER KNAPP FARM, HILLFARRANCE ROAD, HILLFARRANCE, TAUNTON, TA4 1AN

Grid Reference: 317396.124704

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A4) Location Plan

(A3) Site Plan

(A3) DrNo 01 Floor Plan and Elevations received 22 November 2013

(A4) Proposed Elevations

(A3) Existing and Proposed Access

(A3) Existing Entrance, Proposed Planting & Stopping Up

(A4) Visibility Splay

Reason: For the avoidance of doubt and in the interests of proper planning.

3. (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
- (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local

Planning Authority.

- (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

4. Prior to the commencement of the erection of any part of the buildings hereby permitted, details of the specifications of the accoustic materials to be used in the construction of the buildings hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not result in significant harm to the residential amenities of the occupiers of nearby premises, in accordance with Policy DM1 of the Taunton Deane Core Strategy.

5. The buildings hereby permitted shall not be occupied until works for the disposal of sewage and surface water have been provided on the site to serve the development hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent discharge into nearby water courses in accordance with Policy CP1(C) of the Taunton Deane Core Strategy.

6. There shall be no obstruction to visibility greater than 900 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43metres either side of the access. Such visibility shall be fully provided before the development hereby permitted is commenced into use and shall thereafter be maintained at all times.

Reason: In the interests of highway safety.

7. The existing access shall be stopped up and its use permanently abandoned within one month of the new access hereby permitted being first brought into use.

Reason: In the interests of highway safety.

8. Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 5.0metres from the carriageway edge and shall thereafter be maintained in that condition at all times.

Reason: To allow a vehicle to wait off the highway while the gates are opened or closed and thus prevent an obstruction to other vehicles using the highway, in the interests of highway safety.

9. Prior to commencement of the development hereby permitted, the proposed access over at least the first 10 metres of its length, as measured from the edge of the adjoining carriageway, shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Once constructed the access shall thereafter be maintained in that condition at all times.

Reason: In the interests of highway safety.

10. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

11. The area allocated for parking and turning on the submitted block plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety.

Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. Note at request of Wessex Water
 - New water supply and waste water connections will be required from Wessex Water to serve this development. Application forms and guidance information is available from www.wessexwater.co.uk/developerservices
3. Note at the request of County Highways Authority:
 - Having regard to the powers of the Highway Authority under the Highways

Act 1980 the applicant is advised that the creation of the new access will require a Section 184 Permit. This must be obtained from the Highway Service Manager for the Taunton Deane Area at The Highways Depot, Burton Place, Taunton, Tel No 0845 345 9155. Application for such a permit should be made at least four weeks before access works are intended to commence.

PROPOSAL

Higher Knapp Farm is located in a rural location, approximately 0.75 km to the east of Hillfarrance and approximately the same distance from Allerford. The site is largely surrounded by agricultural fields, with a residential property opposite and a scattering of further dwellings to the north-east. The site comprises agricultural buildings, along with a traditional barn, which has been converted to a dwelling. Planning permission was granted in 2011 for the change of use of an element of land to a boarding cattery with the erection of further linear buildings to provide the cattery pens and associated facilities to the south-west of the main buildings. This planning permission has since been implemented and the cattery is in operation from the site.

A planning application was submitted last year for the change of use of agricultural land and erection of buildings to form a boarding kennels and isolation unit, along with the temporary permission for a mobile home to provide manager's accommodation for the boarding cattery, which was withdrawn following the request for a noise assessment. A similar application was subsequently submitted earlier this year with the mobile home removed from the scheme, but without a noise assessment and this was again withdrawn.

This application now again seeks planning permission for the change of use of agricultural land with the erection of buildings to form a boarding kennels and isolation unit. This would be proposed to the north-west of the existing buildings. The main building would be 26 metres in length and 4.5 metres in width, with a 3.5 metre run along the full length of the rear. This would provide a single run of kennels, rather than kennels either side of a central corridor where dogs can see each other. It is also proposed to erect a separate building to act as an isolation pen 2 metres by 4.5 metres, again with a 3.5 metre run, to the rear of the kennels building. It was initially proposed that the buildings would be constructed of rendered walls with a green roof, but this has since been amended to timber cladding with an anthracite roof. The run element would be constructed of galvanised mesh.

It is also proposed to block off the existing access with a wooden fence with planting to the front and form a new access to the south-west of the buildings, which would involve the removal of a small section of hedgerow. The application was accompanied by a noise assessment, a design and access statement and a day to day management strategy. During the processing of the application, the applicant has confirmed that the beech shown in the planting scheme would be substituted for oak.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

OAKE PARISH COUNCIL - Object on the following grounds:

- Although building specification thought to be professional, significant concerns regarding the potential increase in noise from dogs barking at different times of day, intrusive to neighbours in village.
- Increase in traffic through the village due to dogs being dropped off/collected, which could be a maximum of 30 dogs as stated on application.

New access would create more hard surface, adding to flooding problems in area and destroying length of established hedge.

SCC - TRANSPORT DEVELOPMENT GROUP - I refer to the above-mentioned planning application received on 20th November 2013 and, after carrying out a site visit on 25th November 2013 have the following observations on the highway and transportation aspects of this proposal:-

Site Location - The development site is located along Hillfarrance Road a designated classified unnumbered highway to which the National Speed Limit applies past the site frontage. Hillfarrance Road is predominantly single width, to which either side of the carriageway there are grassed highway verges and no street lighting in proximity to the site.

Access Arrangements – The proposal seeks the formation of a new vehicular access onto Hillfarrance Road a designated classified unnumbered highway to which the National Speed Limit applies.

Access to the adopted highway is currently obtained via the existing access onto Hillfarrance Road. The access is considered acceptable in terms of width and geometry. However, vehicular visibility in a south easterly direction is considered substandard as high hedge row impedes visibility.

This is a location where in principle Design Manual for Road and Bridges (DMRB) applies given the rural location of the development and therefore the creation of a new access would warrant the maximum levels of visibility ('Y' coordinates) of 215m in either direction, given that 60mph speed limit which applies along Hillfarrance Road (past the site frontage).

The proposal seeks the formation of a new access and the stopping up of the existing. From onsite observation it is considered that vehicle speeds in this location are likely to be lower than the National Speed Limit.

It is the view of the Highway Authority that vehicle speeds are estimated to be approximately 30mph. It is evident that the proposed new access will result in an improvement in vehicular visibility compared to the existing access and therefore unreasonable for the Highway Authority to object on the basis that the proposed access is unlikely to obtain the required splays for the creation of a new access.

However, the proposed access should incorporate visibility splays of 2.4metres x 43metres, which is achievable from the proposed access. The reason for applying visibility splays based on guidance from Manual for Streets (MfS) as

opposed to Design Manual for Roads and Bridges (DMRB) is that vehicle speeds are likely to be considerably less than the allocated limit given the constraints of Hillfarrance Road.

A suitably worded condition can be attached in connection to the access to incorporate the provision of appropriate visibility splays in perpetuity.

With regards to the formation of the access Drawing No. 'PROPOSED NEW DOMESTIC, AGRICULTURAL & BOARDING ENTRANCE', it detailed that the access is to be provided with a 10metre concrete apron, which is considered acceptable.

If any access gates are to be erected as part of the proposal, they would need to be erected a minimum of 5.0metres back from the carriageway edge to enable a vehicle to pull clear from the existing highway when in operation without becoming an obstruction to vehicles using Hillfarrance Road. Also provision should be provided at the point of access to prevent and discharge of surface water on top the publicly adopted highway.

Finally, under the Highways Act 1980 the applicant is advised that the creation of the new access will require a Section 184 Permit. This must be obtained from the Highway Service Manager, Taunton Deane Area Office, Burton Place, Taunton, Tel Number 0845 3459155. Application for such a permit should be made at least four weeks before access works are intended to commence, subject to planning approval.

Vehicle Movements - I do not consider the inclusion of ten kennels at an existing boarding facility a significant increase in vehicle movements. The reason for this is that it's likely that the site will be subject to shared trip patterns associated with the existing cattery and would be unreasonable for the Highway Authority to recommend refusal based on an intensification of the site.

Parking/Internal Layout - The site plan Drawing No. 'BLOCK PLAN (14/09/13)', details that eight vehicle parking spaces will be provided as part of the development, which is considered acceptable.

Furthermore, the site provides suitable area to allow for a motor vehicle to turn and access with highway within a forward gear which is essential when accessing onto a classified road. The Highway Authority is therefore satisfied with the parking and internal layout of the development. Suggest conditions regarding the above.

LANDSCAPE - Subject to closing up of the existing access; no highway requirements to remove existing hedgerow; and full details of landscape planting, the proposals are acceptable.

ENVIRONMENTAL HEALTH - NOISE & POLLUTION - Soundguard Acoustics Ltd has been commissioned by the applicant (Tom Holley) to conduct a noise impact assessment for the proposed kennel development in accordance with the Code of Practice BS8233:1999 and BS4142:1997. The purpose of the report is to determine the impact of any noise upon the nearby residents as a result of the proposals and

the likelihood of complaint as a result of noise.

The report is very comprehensive. Unlike fixed plant, noise from barking dogs is difficult to assess as it is not possible to take quantitative measures which BS4142:1997 is designed for. It is noted that results from a previous noise assessment carried out at a dog boarding kennel is factored into this report to help the assessment.

Under 'Section 6 Results', there is a 'Table 2: BS4142 Daytime Results (Dogs active and within open sided exercise run)'. This shows that noise complaints are likely at Knapp Farm, Altona Park, Pitlands Farm and Whipprels Farm. This 'worst case scenario' can be mitigated by the proposed kennel management plan as stated in the report.

In conclusion, I would recommend that the applicant implement in full the recommendations within the report to mitigate any potential noise issues and suggest a condition to this effect.

In the interests of the local residents and applicant, any potential noise problems should be addressed through the planning process rather than the local authority pursuing statutory remedies. This can be achieved through the use of an appropriate condition as set out above.

If there are any problems with noise the Environmental Health Section has a duty to investigate complaints under the Environmental Protection Act 1990. If the noise is persistent or severe enough to be causing a statutory nuisance the operator could be required to take further action to resolve the problem.

Subsequent comments – Soundguard Acoustics Ltd was commissioned by the applicant (Tom Holley) to conduct a noise impact assessment for the proposed kennel development. Peter Grubb, Associate of Smiths Gore, submitted a critique of the applicants' noise assessment. This critique was undertaken by Graham Rock Acoustics. Soundguard Acoustics have responded to the report by Graham Rock Acoustics and it is the above documents and associated correspondence from Soundguard that I comment on below.

The initial planning application highlighted concerns regarding noise impact to neighbours. I therefore advised that a noise report be commissioned to get an idea of how loud any dog barking could be and compare this to background noise levels in the area. As there is no British Standard specifically designed for the assessment of dog barking, I advised that the principals of BS4142 could be applied in this instance as this standard has previously been used for noise assessments for dog boarding kennels. Both reports from Soundguard and Graham Rock Acoustics agree that BS4142 has shortcomings and that the standard should not be strictly applied but it does provide an assessment of the 'likelihood of complaint' which is relevant in this application from a noise perspective.

My comment dated 15.11.2013 states 'noise from barking dogs is difficult to assess as it is not possible to take quantitative measures which BS4142:1997 is designed for'. Graham Rock Acoustics report is critical of using BS4142 and the associated methodology, but their report offers no practical useful alternatives or provides alternative methodology for the assessment of noise.

Section 7 of the Soundguard report entitled 'Noise Control & Kennel Management' refers to the intended mitigation measures. Part of these measures includes the design and structure of the kennels. Further details on the specification of kennels needs to be provided by the applicant.

Secondly, there is reliance on the applicant to fully implement the mitigation measures whilst managing the business, especially during daylight operation where there is potential for disturbance as highlighted in Section 6 Results: Table 2: BS4142 Daytime Results (Dogs active and within open sided exercise run). My comment dated 15.11.2013 states 'I would recommend that the applicant implement in full the recommendations within the report to mitigate any potential noise issues and suggest a condition to this effect'. Reassurance in the form of a written undertaking by the applicant that this will actually happen is required including specific details explaining how the predicted noise levels in Table 2 : BS4142 Daytime Results (Dogs active and within open sided exercise run) will be addressed.

The use of the Environmental Protection Act is not an alternative to the protection of amenity but the Council has a statutory duty to investigate noise complaints if they arise.

I have 9 years experience in dealing with complaints relating to dog barking. Each situation is unique with many variables affecting the nature of the complaint. Certainly the management of the kennels is a key factor in mitigating any potential noise from the dogs. No noise assessment will be able to definitively state that there will be a noise nuisance or not and as such neither can I.

Further comments - Wouldn't usually comment on drainage provisions....the treatment plant should comply with building reg's and if discharged into a watercourse, a consent issued by the environment agency.

DRAINAGE ENGINEER - I note that foul sewage is to be disposed to a package treatment works. It is not clear whether this is to treat the foul water from dogs or personnel. More information is required regarding this method of disposal. Environmental Health Division should also be contacted about this for comments. Surface water is to be discharged to watercourse, again no details have been included with this application. Therefore because of above, I have to object at this present stage.

WESSEX WATER - New water supply and waste water connections will be required from Wessex Water to serve this development. Suggest note regarding application forms guidance and further information.

Representations

At the time of writing, the consultation period is still running and as such, any further objections raising new issues will be updated on the update sheet.

15 letters of OBJECTION on the grounds of:

- Changes do not overcome potential level of noise. Few changes in design of kennels from first application. Site on relatively high ground and sound will travel across ground without hindrance. Village of Hillfarrance and dwelling in direct line of kennels. Concerns regarding effectiveness of noise mitigation, can hear dogs at hunting kennels.
- Under standards in noise report where increase in noise levels exceed +10db above background noise levels it is likely that residents will complain, report found impact of noise upon residents exceed this. Not stated in report that Altona Park is mobile homes/caravans and extremely noise sensitive. Stated that noise would not affect Altona Park but 3 small dogs from that property affected applicant's sleep.
- Strange dogs being kennelled together on a short term basis, albeit in separate runs, missing their regular routine, familiar people and surroundings, impossible to stop them barking, disturbing peace. Likely to bark at anytime, intolerable in evening/night time. Dogs out in runs form 7.30am – 10pm when people want to use outdoor space will cause disruption. Noise more intolerable in summer as more dogs on site and people would have windows open/sit in garden, struggle to sleep when windows open. Constant dog barking would make lives of nearby residents a living nightmare and everybody nearby would suffer. Hounds and other local dogs get walked on this lane, causing issue of dogs roaming to proposed kennels as they follow scent, particularly when on heat, worsening neighbourly issues. People boarding dogs may park in lower parking area and walk past cattery causing dogs to bark and distress to cats. Query whether car parking spaces will replace a building. Roofing now has rooflights, which will release noise. Patio doors recommended in sound report not shown. Query point of sound report if mitigation not carried out?
- Concerns that first page of noise report states that is per instructions of client and should not be used by a third party, surely this is invalid if cannot be relied upon, should be unbiased on facts and figures. States that there is likely to be complaints due to the situation and proximity of other residences, so how can application go further in knowledge that will create complaints and foster bad local relations. Sense of pleasantness of surroundings is our entitlement and should not be disturbed by this application. Concerns that EHO stated how problems in due course could be dealt with.
- Noise report full of errors including factual errors and errors in calculations, use of British Standards not appropriate for this sort of noise and misinterpretation of those standards. Also uses source noise measured at another kennels, with small number of dogs and no evidence that results constitute typical case or worse case. Noise report assumes recommendations are in place and still concludes complaints are likely. Report by Graham Rock condemns applicant's sound report by Soundguard. Critique by someone who has experience in dog noise. Applicant's acoustic report so flawed that should not be used by LPA in deciding acceptability of proposal. If noise creates statutory nuisance, operator could be required to take action to resolve problem, but if proposal implements all recommendation in the report and result is a noise problem, nothing else practical that operator could do to address it. Action under Environmental Protection Act (EPA) would fail. LPA should not be relying on EPA, inappropriate and ineffective fallback position. Requests submissions reviewed by Environmental Health Department.
- If Knapp Farm couldn't afford to pay for a true, fair critique of this report, TDBC/Planning Committee would make an uninformed, bad mistake as don't

have expertise within committee and TDBC to make comments and approvals. Query distances stated in noise report and whether these and plans are correct. Query size of cattery. Measurements given in design and access statement for corral different to that shown on site plan. Following request for kennels to be moved closer to buildings, sound report is out by 10 metres, this will make a difference. Measurements in applications, drawings and sound report do not add up. Hedgerow does not extend past house and dwelling is not screened by this or buildings therefore a reduction in db should not have been applied

- Hillfarrance - quiet, peaceful, rural nature and lack of commercialism. Kennels should not be allowed within 1km of residential properties. Noise of up to 30 dogs barking and danger from additional traffic will ruin beautiful, quiet part of county for walkers, horse riders and tourism that would generate local income. Not too much traffic at present, people dropping off/collecting dogs would add to traffic on narrow roads. Dog kennels if passed would change quiet and peaceful area for residents of the village, many of whom are elderly.
- Hillfarrance is becoming base for newcomers to set up and then extend their businesses. Hedgerows ripped out, incongruous entrances constructed. Lanes in rural hamlet built to serve 50 domestic properties, not businesses. In addition to pub, now have builders, garage, caravan/mobile park, B&Bs and cattery, all increase volume of traffic. Lane forms part of recognised cycle route but hazardous for cyclists due to state of repair caused by increased traffic. No street lighting, pavements or verges for locals/hikers to avoid wide or speeding vehicles.
- New developments should be sensitively designed to ensure no harmful impact upon character and appearance of landscape. Design of buildings visually intrusive, not reflective of landscape character. Significant tree planting proposed to mitigate visual and noise impact but inadequate as will take several years to grow. Tree planting will have limited effect on mitigating noise and create alien feature in open, undulating fields. Significant length of access road, in appropriate urban feature within this area of countryside and more concrete will cause more flooding.
- Section of 7.5 metres of hedgerow removed with no assessment on impact of wildlife species, therefore it has not been demonstrated that there would be no harm to European protected species. Two new gateways created in last 6 years, one causes water to run off causing flooding on road. Applicants already removed hedgerows some years ago to the west. Existing access is fully sufficient, traffic not an issue. New access serves no purpose as land accessed internally. Congestion and health and safety problems could be addressed due to low level of machinery movements and given access times for customers. Does not make financial sense to create new access.
- No evidence is provided to illustrate visibility splay suggested in design and access statement. National speed limit applies so 50 metres of visibility inadequate. Design Manual for Roads and Bridges would require 79 metres for a 40mph limit. No evidence to demonstrate speeds motorists travelling so no justification to reduce visibility. Road narrow on that straight stretch, cars often pick up speed. Can be a rat race in mornings and evenings.
- Applicant complained when one dog in neighbouring property barking.
- Water flows from land onto road following water being redirected, road flooded requiring emergency services to help elderly lady home. Concern if freezes in winter.
- Query whether other conditions on previous permission fulfilled, e.g landscaping. Query building regulations. Query number of car parking spaces currently

present and proposed and how much floor space and staff as different applications have different information. Query what staff would do all day.

- Applicant's comment regarding an objectors concern over a dog kennels next to her B&B indicates the damage a kennel can cause to surrounding business and homes.
- Understand need for such businesses but need to be in the correct places. Used to live next to a kennels, where kennels owner promised people would not be hindered or disturbed by dogs barking but not the case and had to move due to constant noise.
- Cattery is used to house stray cats so kennel could be used for stray dogs. Query how possible as stray cats should be kept away from boarding cats. Suggest condition that cannot board stray dogs. Should strive to meet model licencing conditions. Taunton Deane state waste to be collected by a waste collection company and incinerated, but going in 'doggy toilet'.
- Premises ceased to be a farm after cattery approved, therefore not farm diversification.
- Would increase traffic in quiet country location at all times of day and night. Proposed B&B opposite, Taunton Deane need to decide to encourage tourism to a beautiful area as it is a bicycle and walkers route or grant permission for a kennels which, in my experiences, will ruin lives of every home in close proximity.
- Knapp Farm employs 6 people. If can't operate as guest house as tourists may not want to come due to kennels opposite, jobs and additional jobs that could be created as educational based tourism could be destroyed. Occupiers of Knapp Farm have won 6th for Charity Pub of the Year, quality they will bring to local charity alike.
- Plans low quality making it difficult to assess impact of buildings on surroundings. Concerns that plans are inaccurate and not to scale.
- Concerns that no pre-application fee paid but refers to visits/meetings/advice from planning officers. Query whether fee has been paid to TDBC and by whom? Query grounds on which EPO recommended the application (*NB Full comments from EPO set out above*). Query why planning officer wanted kennels moved closer to neighbouring property? Query what is more important, impact on open countryside or peace and quiet for locals? Query why TDBC would have asked for photos as evidence of inconsiderate parking?
- Concerns regarding hygiene/spreading disease, keeping cats separate.
- Occupier of Knapp Farm confirms that there will be no unauthorised events such as music festivals at Knapp Farm. Concerns that google searches referred to by applicant regarding activities at Knapp Farm, are actually Tan Hill Inn. Concerns that dog kennels will have negative effects on potential customers of new B&B enterprise at Knapp Farm, as well as residents. Query why residents should have to put up with it for their lifetime?
- Research of 6 kennels has shown kennel occupancy is decreasing due to dog sitting and dogs staying with a host, maximum of 1 part time staff, kennels are inspected and animal numbers restricted, less than 3% used collection service, average dog stays were 7 days, less than 10% bring both cat and dog, customers travel up to 20 miles for kennels, only full bank holiday weekends, most stays in May-August, a new kennel in Somerset would have a big effect on other local kennels. One kennel quoted 'we put up with noise as it's our business and there are other working noises around, we would not move near to a kennels if moving house, if we were not owning the business.'

1 letter of SUPPORT on the following grounds:

- Local area is lacking such a facility
- TDBC new slogan is 'Taunton means business' so should be supporting such an excellent new business venture
- Existing cattery built to first class standard and widely used by local people.
- Looks as though kennels would be built to a similar high standard of design and provide much needed local service for high quality boarding kennels

Letters received from the applicant providing further information and in response to objections:

- Legislation exists to provide LPA with a means to take action against excessive noise pollution post planning approval.
- Concerns that Parish Council changed view due to noise assessment but some had not read it and others ignored positive conclusion.
- Parish Council Chair raised concern regarding removal of hedging but proposal allows for a net gain of 19 metres.
- Clarifies need for additional staff.
- Regarding flooding, area on road occasionally floods when two roadside drains block. Need for roadside drains would indicate road levels to side of these drains are higher, therefore storm water will gravitate to this area (lowest point). Heights can be seen on Ordnance Survey map. County Highways on inspecting flooded lane have found blockages to drainage pipe in past. There have been many objections regarding infrastructure flooding dating back to 2007.
- Regarding complaints of other people's dogs on land, everyone has right to expect others to keep dogs under control and off of privately owned property.
- Access being relocated to avoid conflict of inconsiderate parking.
- Regarding removal of hedge, this was an opening of an existing gateway.
- Regarding visibility splay, 50 metres was at 2.7 metres back. LPA confirmed should be 2.4m back, therefore visibility will be increased. Current access, to be stopped up, currently has 15 metres visibility to south-west and objectors own driveway significantly less than figures suggested.
- Regarding access track, it is not in view of any public or third party land. Previous objections highlighted existing access unsuitable for proposed business. Objector has installed great deal of hardstanding on his premises.
- Tree planting not claimed to form part of noise mitigation.
- Regarding complaint over dog barking, this was continuously from midnight to 7am in non acoustically insulated building. Individuals can get away with such inconsiderate behaviour as ceased before council can investigate. However businesses can be fined and closed down.
- Reference to business activities of nearest neighbour. Evidence of their own noise and traffic producing commercial activities, taken from google search engine. Comments made by agent, Mr Broom on recent application refer to essential requirement of the building for economic viability of the farm and location close to the core of the farm.
- Application makes it clear that subject to dog size, a maximum of 30 dogs can be housed, however dogs from different households cannot be mixed. Would require 10 owners each with 3 dogs all boarding at same time to achieve 30 dogs housed, scenario highly unlikely. Same potential with cattery, but in 20 months trading, have not exceeded 65% capacity. A similar figure with dogs would be 19. Should be noted that noise assessment shows that 30 dogs only create 11% more dB(A) than 5 dogs. Points explained and accepted by Parish Council in January, but not November.

- Claim made that 50 metres of hedgerow requires cutting back, design and access statement clearly states that only 7.5 metres of hedgerow requires removal and 16 metres of new hedgerow will be created.
- Professional critique of noise assessment, objector stated report was not worth paper it was written on. Parish Council subsequently voted to object.
- Regarding opening times, operate strict closing times, 5pm Monday to Saturday, 10am on Sundays. Dogs not permitted onto premises after this time and not at all times of day and night as suggested by objector.
- Will not be accommodating stray dogs. All dogs vetted prior to acceptance in order to deliver high quality establishment. This cannot be achieved with strays.
- Query whether parties are qualified to pre judge 'the probable failure' of action taken under Environmental Protection Act 1990.
- Site of historical agricultural nature and proposal positioned in redundant cattle corral. Not visible from highway. Villagers with more than 5 years local knowledge regularly point out the appearance of property is vastly superior to it's previous use.
- Regarding removal of hedgerow, hedgerows managed to accommodate birds and promote habitats without claiming stewardship grants available. All hedges could be laid without reference to any authority thus damaging wildlife habitat.
- Objector previously raised concern that current access not suitable, at a loss to understand why new access causes same objector such concern. Hedgerow was removed for the siting of a mobile home two years ago at his property.
- While Graham Rock states application of BS4142, etc are wholly inappropriate, he does not suggest an alternative measurement tool. He also states that acoustic professionals in dog noise should be consulted but does not state that he is such a specialist. Admits neither TDBC Core Strategy or NPPF offers policy/guidance relating to dogs and unable to say which noise recording of different kennels is more typical. Suggests noise assessment fails to prove no harm to environment but applicant queries whether farm diversification is a material consideration. Refusing application based on ability to prove/disprove excessive noise fatally flawed.
- Soundguard will clarify position of third party disclaimer but advised that relates to transfer of ownership/future sale of property, does not mean cannot be relied upon by LPA.
- Reference to Canine Country Club website intended to give visual and practical insight into quality of boarding kennels intended.
- Unruly dogs being collected early not practical in most cases and included in error by Soundguard. Unruly dogs will be blacklisted and not boarded in future.
- Clarification of distances. Noise report based on original location, not an error. Graham Rock fully aware that reduction or increase of 10-20 metres will not affect noise detectable to the human ear. Reference to St Giles Kennels which accommodates 50 dogs or more plus a dedicated re-homing centre has two neighbours within 150 metres.
- Circular domes on roof are dummy vents. Roof windows are double glazed with additional secondary glazing unit forming substantial void. Heat and acoustic insulated hinged door as per loft hatch closed at night, providing required insulation level.
- Drawings provided to LPA are correct and to scale. Not responsibility of applicant to ensure these can be scaled via computer. Misleading to suggest drawings and application is deficient.
- Graham Rock's comments to support previous belief that refusing application based on ours or any noise assessment in isolation would be wrong.

- Patio doors are referred to in more than one section of application.
- Licencing requirements are irrelevant at this stage.
- Top parking area is for dog customers, lower area for cats.
- Actual measurements taken by tape measure and calculations made on these figures. Site plan details this information. Objectors have been offered opportunity to measure these distances but declined. They were given noise assessment in August.
- Entire redundant cattle corral not shown on site plan, not required to be, area can be seen on google earth. Cattery shown on site plan includes garden area.

PLANNING POLICIES

NPPF - National Planning Policy Framework,
 DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
 DM2 - TD CORE STRATEGY - DEV,
 CP8 - CP 8 ENVIRONMENT,

DETERMINING ISSUES AND CONSIDERATIONS

Policy DM2 does not explicitly permit this type of development, although there is provision for extensions to existing Class B Business uses. However, section 3 of the NPPF supports sustainable growth and expansion of all types of business and enterprise in rural areas in order to create jobs and prosperity, as well as promote the development and diversification of agricultural and other land-based rural enterprises. Policy DM1 states that development should avoid harm to the appearance and character of any affected landscape, building, settlement or street scene and that any nuisance, which could arise should not unacceptably harm the amenities of individual dwellings or residential areas. Policy CP8 supports development at sustainable locations to improve green infrastructure, visual amenity and overall quality of the environment but states development on unallocated greenfield land will be strictly controlled in order to conserve the environmental assets and open character of the area.

Impact on the character and appearance of the area

The proposed buildings are to be located to the north-west of the existing buildings and dwelling at Higher Knapp Farm. The previous application sought to locate the kennel buildings some distance away from the buildings but concerns were raised by the case officer and landscape officer regarding the impact this would have on the landscape. It was consequently suggested that the proposed building should be grouped more closely with existing buildings. The scheme now proposed, sites the kennel buildings in reasonably close proximity to the existing agricultural building, being 30 metres at the closest point. As such, the proposed buildings would be adequately related to existing buildings and would not encroach out into the countryside to an unacceptable level.

It was initially suggested that the buildings would be constructed of cream render with green roofs. A cream render building would not however relate well to the existing buildings and would appear somewhat stark in the landscape. The walls have now been amended to timber cladding which is considered much more appropriate. The roofs have been amended to anthracite sheeting, which would not

appear unduly prominent in the landscape and is commonly used for agricultural and other rural buildings. The proposed buildings are designed to be reasonably low in height and would be largely screened from the road by the well established roadside hedge and the existing buildings. A well established hedge lies to the south-west of the proposed buildings, which would largely screen the buildings from that direction. Furthermore, hedge planting is proposed on the remaining three sides, with additional tree planting to the south-east. The landscape officer is satisfied with the proposal subject to full details of landscape planting. Whilst it is acknowledged that there would be some glimpses from public viewpoint, the buildings are not deemed to cause harm to the appearance of the landscape.

The proposal also seeks to provide a replacement access. The lane appears generally rural in nature with a well established hedge bounding the road on both sides. There is a general presumption against alterations that would harm this rural character, such as the removal of areas of hedgerow. However, in this instance, the area of hedgerow to be removed, being only 7.5 metres, is reasonably small, with the visibility splays being provided through trimming back the hedge, rather than its removal. It is acknowledged that this would result in additional hardstanding to create the driveway. This would however run alongside the hedge, rather than directly across a field scarring the landscape and does involve further tree planting to help integrate this into the surrounding landscape. Furthermore, the driveway would be within the applicant's field, screened from public viewpoint by the well established roadside hedge and is not therefore deemed to result in significant harm to the rural character of the area.

The existing access is to be blocked up with a section of timber fence. Whilst the timber fence is not an ideal solution, it is proposed to plant a further hedge to the front of this. It is acknowledged that there would be some landscape impact in the interim, whilst this hedge establishes but once established, the proposal would not result in harm to the rural character of the lane.

Impact upon highway safety

It is proposed to install a new access to the south-west of the existing access. It is important to note that this is a replacement access with the existing access being closed off, rather than an additional access and this has been conditioned accordingly. The existing access lacks visibility to the south-east and is therefore considered substandard.

The proposed access would be positioned on a classified road, which is subject to the national speed limit. However, by virtue of the constraints of the road and on site observations, the County Highway Authority are of the opinion that vehicle speeds are likely to be significantly less than the allocated speed limit and therefore consider guidance from Manual for Streets more appropriate than the Design Manual for Roads and Bridges. A condition is attached to ensure that appropriate visibility splays are achieved. It is therefore considered that the proposal leads to a significant improvement over the visibility available from the current access and it would therefore be unreasonable for the County Highways Authority to object. Furthermore, it would be positioned away from the access to Knapp Farm opposite, reducing traffic conflict between the two accesses. In addition, the County Highways Authority is satisfied with the level of parking and that turning can be achieved within the site. On this basis, in highway safety terms, it is considered that there would be

an overall improvement and therefore betterment to the existing situation.

Concerns have been raised as to the increase in traffic movements to the site. Whilst it is acknowledged that there would be some increase, it is important to note that there are already a certain amount of traffic movements taking place in association with the cattery. It is plausible that a proportion of the people bringing cats to the cattery would also have dogs and therefore combine the trip. It is also important to note that a collection/delivery service is operated from the cattery and it is proposed to extend this to the kennels. As such, the level of increased traffic movements would not be proportionate to the number of dogs that the kennels could accommodate and the County Highways Authority do not have concerns on this matter.

Impact upon the residential amenities of nearby properties

A great deal of objections are raised regarding the noise and disturbance generated by dogs barking at the kennels. Following concerns raised in previous applications, a noise assessment has now been submitted, which has been assessed by the Council's Environmental Health Section, as specialists in that field. In the case of noise and disturbance, it is generally customary to regard these issues as a matter for the managers of the kennels. It follows that, generally, a carefully designed and well managed facility should not cause significant noise and disturbance and consequent detriment to the amenities of nearby residents. The applicant has accompanied the application with a design and access statement explaining the reasons for designing the kennels in this way. A further report stating the day to day management strategy for the proposed business is also included. It would therefore appear that the applicant is fully aware of the potential for there to be some noise generated from the business and has made provision to ensure that this is minimised.

Letters received from local residents identified some shortcomings in the applicant's noise assessment prepared by Soundguard and a critique of this assessment by Graham Rock Acoustics was provided, along with a subsequent rebuttal from the Soundguard engineer, who undertook the original assessment. The points raised have been further considered by the Environmental Health Section. Whilst the Environmental Protection Officer agrees that it is not appropriate to strictly apply BS4142, it is noted that both he and Graham Rock acknowledge that it does provide a method of assessment. Furthermore, it is pertinent to note that no alternative method has been suggested by Graham Rock as a more appropriate method of assessment.

It is acknowledged that there is likely to be some barking at times and that no noise assessment will be able to categorically state that there will or will not be a noise nuisance, although it is important to note that the Environmental Health Section do not object to the application subject to the kennels being operated in accordance with the management strategy and further details of the specification of the kennels in terms of construction, acoustic materials, etc. A condition is recommended requiring further details for the construction accordingly. It should be noted that there is provision to investigate complaints regarding noise under the Environmental Protection Act 1990 and as such, this matter could be dealt with by the Environmental Health Section, if future complaints should arise. This is not suggested as an alternative, but simply highlights that there is a procedure for the

investigation of noise complaints. As such, following further consideration of the matter, the Environmental Protection Officer's overall conclusion remains unchanged. Accordingly, it is considered that the objections on noise grounds cannot be given sufficient weight to justify the refusal of planning permission.

It is also important to note that the closest residential property to the proposed kennels is in fact the dwelling, in which the applicant resides, only 55 metres away. It would therefore follow that the applicant would seek to ensure that any noise associated with the dog kennels is kept to a minimum so as not to impact upon his own residential amenities. Furthermore, it is important to note that this also shows that there is someone residing on site to tend to the animals if any noise was to occur during the night.

Other matters

A concern has been raised that there was no ecological survey carried out in association with the removal of the hedgerow. The need for such a survey depends on the nature of hedgerow and the length to be removed. In this instance, in view of the nature of hedgerow and the small stretch to be removed, an ecological survey was not considered essential.

Further concerns have been raised regarding flooding of the road following drainage alterations within the applicants land. The site does not lie within a Flood Zone and the Council's Drainage Officer has no knowledge of this. It is not considered that the proposed scheme would result in a significantly increased impact on water flows or flooding along this lane and the appropriate consents should be obtained from the Environment Agency regarding drainage.

Concerns have been raised regarding the quality of the plans and that these are not to scale. Whilst it is acknowledged that the plans have not been professionally drawn, this is not essential. An assessment was made at validation stage and it was considered that the plans are adequate for the planning application. An objector has stated that these are not to scale and the example was given of the corral, stated to be 30 metres x 60 metres in the design and access statement, measuring less on the site plan. This is because the site plan shows the proposed scheme and includes the additional hedges to be planted around the buildings, rather than showing the current situation.

A query was also raised as to why there was reference to meetings/visits with the planning officer when no pre-application advice fee had been paid. Whilst the applicant has not undertaken pre-application advice, as set out in the 'Proposal' section of the report above, this is the third planning application submitted for a similar proposal. The planning officer and landscape officer have therefore visited the site and discussed issues with the applicant, in processing these applications, as would be the case in dealing with any planning application.

A concern has been raised regarding hygiene/spreading disease due to insufficient kitchen facilities and that stray cats should be separated from boarding cats. This matter is not a planning matter and would be governed by other regulations outside of the planning system. Where there are other regulations that need to be complied with, it would be necessary for the applicant to address these independently of the planning application. It is also suggested that a condition should be attached stating

that stray dogs should not be boarded. In processing the application, it is necessary to make an assessment on whether or not a dog kennels is acceptable in this location, it is not considered reasonable to condition the nature/type of dog that could be boarded within the kennels.

Conclusion

In conclusion, it is acknowledged that there could be dog barking in association with the use of the kennels that may generate noise. As stated above, the management of the kennels is a key factor in preventing and mitigating any potential noise and a well managed facility could operate without harm to the living conditions of nearby residents, as is evident with other kennels within the Borough. On this basis, it is not considered reasonable to withhold permission when there is no firm evidence that material disturbance would occur.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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