

**E/0106/44/12**

**DOG BREEDING BUSINESS ALLEGEDLY NOT IN ACCORDANCE WITH  
PLANNING PERMISSION AT BEACON LANE FARM, WELLINGTON**

**OCCUPIER:**

**OWNER:** MRS J COATE  
BEACON LANE FARM, FOXMOOR ROAD, WELLINGTON  
TA21 9NX

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**PURPOSE OF REPORT**

To consider whether it is expedient to serve an Enforcement Notice to cease the use of an agricultural field for the keeping of dogs and for the removal of associated kennel structures and dog runs

**RECOMMENDATION**

The Solicitor to the Council be authorised to serve an Enforcement Notice and take Prosecution action subject to sufficient evidence being obtained that the notice has not been complied with.

The Enforcement Notice shall require :

- The cessation of keeping dogs on the agricultural field south of Beacon Lane Farm.
- The removal from the field of all buildings and structures in connection with the above activity.

Time for compliance : 6 months from the date on which the Notice takes effect.

**SITE DESCRIPTION**

Beacon Lane Farm is in an isolated site approximately 2 miles from the centre of Wellington. The site is accessed from junction from an unclassified road by way of a single track access way approximately 560 metres in length. The track has recently been upgraded with stone scalping's. This access track also forms a Public Right of Way (WG13/23) which follows the line of the track from the highway through a small wooded area to the complex of barns. These are in an elevated position within the local landscape. The site is set within a remote rural area within the Blackdown Hills Area of Outstanding Natural Beauty (AONB). The site is surrounded by a collection of mature trees and native species hedgerows to the north, south and west. The agricultural field wher the dogs are being kept is located approximately 200m south of the barn complex again via a stone track. The field is in a hollow surrounded by mature trees and high hedging.

**BACKGROUND**

Planning permission was granted in January 2012 for the change of use of land and conversion of redundant agricultural buildings to form a dog breeding enterprise with ancillary residential space. Work is progressing on the conversion of the living unit and the dog breeding element is partially being used. Due to an increase in the number of breeding bitches being kept at the business premises it has become

necessary to find additional accommodation to house the dogs until the dog breeding element is fully functional.

The site comprises a large area of compacted stone laid to form a parking and access track to the site; on site are a number of timber kennels holding the dogs each fitted with a wire netted run; dogs are not confined to within the kennels and are free to use the spacious runs. The owner has informed the Council that location was chosen as it is away from the Public footpath where passers by could disturb the dogs causing them to bark.

## **DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL**

There are 6 structures currently on the site housing about 40 dogs. The netted runs generally stretch to the East from the structures and the wire netting is supported on timber fence posts. An unspecified amount of stone has been deposited on the site to form the hardstanding area; the number of tonnes of stone is not known.

Only a small portion of the field has been taken up by the development leaving the majority of the field left to be used for agricultural use, however, it comprises an unauthorised change of use and associated erection of buildings/structures

## **RELEVANT PLANNING HISTORY**

44/88/0017 - conversion of agricultural barns to dwelling - refused 01/1989

44/09/0014 - Demolition of barns and provision of new agricultural building - permitted 12/2009

44/11/0011 - Conversion of barns to live /work unit - refused 09/11

44/11/0020 - Conversion of barns to form a dog breeding enterprise and formation of residential space. - permitted 01/12

## **RELEVANT PLANNING POLICES**

### National Planning Policy Framework

Para 115 Conserving and Enhancing the Natural Environment  
Para 207 - Enforcement

### Taunton Deane Core Strategy

DM1 General Requirements  
DM2 Development in the Countryside  
CP2 Economy  
CP8 Environment

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues to consider are the effect of the proposed development on the character and appearance of the area, given the sites location in the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and the perceived impact upon nearby residential amenity, having specific regard to potential noise and disturbance. Prior to coming to a decision on this case, the Council has consulted Environmental Health, the Blackdown Hills AONB Partnership and the Council's Landscape Officer.

Environmental Health have advised that diary sheets have been returned to them from a complainant and monitoring of noise has been undertaken at a nearby

property. The harm so far from barking is not of a level to be considered a statutory nuisance. Notwithstanding, it is accepted that dogs could be audible from nearby properties. Internal kennelling would reduce possible disturbance to neighbours.

Para 115 of the national Planning Policy Framework (NPPF) states that "great weight should be given to conserving landscape and scenic beauty...Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty." Such an approach is also taken within Core Strategy Policies DM1, DM2 and CP8 which aim to protect the appearance and character of landscapes from harmful development and to protect, conserve or enhance the interests of landscape character and natural assets.

The Council's Landscape Officer has advised that the works would be visually detrimental and out of keeping with the landscape character of the AONB that may be seen from the footpath and wider area. Concern was also raised about the impact of the works upon the mature Oak trees within the site.

The Blackdown Hills AONB have advised that the unauthorised development is of great concern on several counts as any development or activity at this site will adversely affect the natural beauty of the area. There are two main aspects to this - the visual and landscape impact and tranquillity. Firstly, the creation of hard standing areas, stone tracks and dog pens that has taken place in a previously undeveloped field in this isolated location is a significant engineering operation and change of use, which is to the detriment of the rural character of this part of the AONB. In addition, if these pens and runs are indeed used for keeping dogs then disturbance from the animals is not compatible with quiet enjoyment of the AONB, particularly those visiting Wellington Monument and using the adjacent public right of way.

The site is in an area of attractive peaceful woodland situated within a wooded corner of the gently sloping hillside, it is close to the ridge line of the hills however due to the surrounding tree and hedgerow cover and topography of the field in question, the site has a low visual profile and is not open to far reaching views. The site cannot be seen clearly from the public right of way to the West despite its proximity to the path; nor can the site be clearly viewed more widely from public vantage points such as the highway to the East. The site is considered to be relatively secluded, and this is a key component of the sites charm and character within the surrounding AONB.

The buildings and hardstanding have been arranged in a relatively formal layout fronting the stone hardstanding, with the kennels facing West and runs projecting generally to the East. The buildings are not of quality and vary in scale design and construction. Their siting is considered to be of a permanent nature, being placed on purpose laid concrete pads, whilst the larger of the buildings would not be easy to move. The scale and mass of the buildings as a group alter the character of this part of the AONB; their siting, together with the laying of the hardstanding dominate and detract from the natural environment, clashing with the scenic beauty of the secluded site; the hardstanding has a harsh appearance when seen against the surrounding agricultural field. In addition, the vision of dogs within the site, particularly at the number concerned in this instance is not a sight that is normally akin to open agricultural fields especially within a protected and designated landscape of an AONB. Even though the site is not prominent within the local area, and being mindful that landscaping could be incorporated to the East, such does not alter the fact that the unauthorised works have a damaging visual effect on the local setting of the area.

The owner informed the Council on site that three visits are made to the site every day to tend to and check on the dogs. There are approximately 40 dogs being kept on site at present; the owner informed the Council verbally that a large proportion of bitches born out of the last set of litters have been kept by the business in order to increase the future scale of the business. The Council is supportive of rural business and whilst dog breeding is not essentially rural in its very nature, it is an activity that would be difficult to undertake and assimilate, particularly at this scale, within an urban and more populated area.

Having walked to the site along public rights of way from Wellington Monument to the South, only two barks were detected when within approximately 200 metres of the site. Similarly when attempting to view the site from a field access to the East with the owner, only one dog bark was audible within the background. No noise was detectable to the human ear from the track access onto Foxmoor Road or from outside properties closest to the access onto Beacon lane. Notwithstanding this matter, upon entering the site holding the dogs, the behaviour of the dogs was thought to be one of excitement upon sensing/seeing a human. Arrival on site was met with approximately 5 minutes of excessively loud barking from the dogs, after which barking began to die back with the dogs calming down to a quiet state. Such noise resulted in a significant disturbance of the peace and tranquility that was otherwise previously observed within the area. Such barking would occur on at least three occasions daily upon visits from the owner/employee. I am in no doubt that this noise would be clearly audible from nearby residential properties and also public areas within the AONB. It is also likely that the dogs may become spooked at times of darkness were a wild animal such as deer or badger may enter the field.

Whilst the Council looks to support economic development within rural areas, the current arrangement being provided on the site are considered to harm the character and appearance of the area by degrading the visual landscape quality of this part of the AONB. Such failing to recognise the intrinsic character and beauty of the countryside cannot be supported. In addition, it is considered that the noise generated by the use of the site, due to its open and uncontrolled nature results in significant audible disturbance to the peace and tranquility of this area of the AONB to its detriment; such perceived noise and disturbance is also considered to result in a disturbance to residential amenity within the area. The planning system aims to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Areas of Outstanding Natural Beauty have the highest status of protection in relation to landscape and scenic beauty.

It is deemed reasonable and justified, given the harm described above, to proceed with Enforcement Action seeking a cessation in the use of the site and the removal of the buildings, runs and hardstanding. The unauthorised development and use of land fails to comply with guidance contained within the NPPF and Core Strategy Policies as described above. The likely benefits to the business are not considered to be sufficient as to outweigh the great weight that the NPPF requires should be given to conserving the landscape and scenic beauty of the AONB.

The previously approved conversion of buildings at Beacon Lane Farm was justified (in part) on the basis that dog breeding would be undertaken indoors thereby reducing the noise and disturbance to the surrounding area. Clearly the main site is still in the middle of conversion and Officers have advised the owner to make the business floor space available as soon as possible. Notwithstanding this matter, it is felt that a purpose designed and carefully positioned building should be provided at the existing site and not detached such is the case here. Therefore in order to allow the owner a reasonable time period to develop a feasible and acceptable plan to

relocate these dogs, so not to undermine the interests of the business, a longer period of compliance with the Enforcement Notice would be reasonable and proportionate having regard to guidance within Para 207 of the NPPF.

**In preparing this report the Enforcement Officer has considered fully the Implications and requirements of the Human Rights Act 1998**

**PLANNING OFFICER: Mr R Williams**

**PLANNING ENFORCEMENT OFFICER: Mr J A W Hardy**

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