

E/0077/44/14

**ERECTION OF ALLEGED UNAUTHORISED STRUCTURES ON LAND AT
BEACON LANE FARM, FOXMOOR ROAD, WELLINGTON**

OCCUPIER:

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

PURPOSE OF REPORT

To consider whether it is expedient to serve an Enforcement Notice to secure the removal of timber structures located on land adjacent to Beacon Lane Farm used for the breeding and keeping of dogs.

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 removal from the land of all buildings and structures in connection with the dog breeding/kennelling activity together with the removal of associated hardcored areas serving said structures.

Time for compliance : 2 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 set within a remote rural area within the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and approximately 525 metres Northeast of Wellington Monument, a Scheduled Ancient Monument.

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 surrounded by a collection of mature trees and native species hedgerows to the north and west.

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 on converting the barn to residential accommodation has been completed but the outbuildings planned to be used in connection with the dog breeding business has yet to be completed. It was claimed by the occupiers of the site that 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 additional land used to house the dogs had no planning permission and therefore Members authorised the serving of an Enforcement Notice to cease the use of land for the stationing of timber structures to house dogs. The notice was not complied with within the time so Prosecution action was taken against the owner of the land. That prosecution action led to the occupiers of the site being fined £820, with £50 costs and £82 Victim Surcharge.

A time was agreed when the structures would be removed however this date passed without compliance so further Prosecution action was instigated. The owner asked for the matter to be adjourned due to her medical condition but this was refused so the structures were removed a day before the matter was to be heard in the Magistrates Court.

The structures were relocated on a small area of land to the north of the converted barn but outside of the area originally granted Planning permission for the Live/work proposal. A site meeting was arranged to inform the owner that an application should be submitted in order to seek regularisation for the structures in their current position. It was agreed that an application would be submitted however this application has not been received to date and therefore the structures remain unauthorised.

DESCRIPTION OF BREACH OF PLANNING CONTROL

The six structures relocated from the land subject to the Enforcement Notice have been grouped together with the largest building to the front of the grouping. The area has been laid with scalping's but there are no runs to the structures for the dogs to exercise as on the previous location. Therefore the structures are not as spread out and are in close proximity to each other. The site is outside the application site of the original proposal and therefore constitutes a change of use of land requiring Planning permission.

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

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 and the Council's Landscape Officer.

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 previous enforcement notice, which related to the erection of these structures and breeding of dogs on land to the South has now been complied with. However, in complying with the Enforcement Notice and in order to avoid impending prosecution, the structures and dogs were relocated to the North of buildings at Beacon Lane Farm, again without first seeking planning permission.

The owner previously 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.

Whilst the Council looks to support economic development within rural areas, the latest arrangement on the site is considered to harm the character and appearance of the Blackdown Hills AONB. There remains floorspace within the adjacent buildings that is not yet converted to dog kennels in accordance with the original planning permission for the live-work unit; such has capacity for over 20 dogs and with it not yet converted and in accordance with the planning permission, the occupation of the dwelling in breach of planning conditions. There appears to be no intent at present to undertake these necessary works; if these permitted kennels were brought into use then the need for additional kennels would be reduced.

The structures are now located within a close vicinity to one another and are largely enclosed by timber fencing. In this location the buildings are no less visible within the wider landscape, however at present they can be more readily seen from the public footpath to the West, as boundary walls to the live-work unit have yet to be constructed. Visually however, the structures and fencing relate better to the existing buildings at Beacon Lane Farm, and they no longer form a stand alone development within the Blackdown Hills AONB. 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 when seen from the public footpath. However the relationship to the existing buildings is more appropriate than the previous site and it has been agreed in principle with the Landscape Officer that a landscaping scheme

would help to minimise the current adverse visual impact.

Environmental Health have advised that no complaint has been received by them since 10 March 2014. Previously, diary sheets were returned to them from a complainant and monitoring of noise has been undertaken at a nearby property. The harm identified from barking was 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. Whilst there has been no recent complaint to Environmental Health, several complaints have been made to Development Management by local residents, both in writing and via the telephone.

The site is located within an area of attractive peaceful woodland setting; it is acknowledged that the area is not as tranquil as it once was due to the building works at Beacon Lane Farm. The site is considered to be relatively secluded within the wider environment and this is a key component of the sites charm and character within the surrounding AONB.

Experience at the previous location indicated that a prolonged period of barking from the majority of dogs occurred upon detection of human contact/visitors. This has not been experienced at the new location to date, largely due to discussions and inspections being undertaken outside of the compound. Notwithstanding, given ongoing complaints to the Council and the fact that dog behaviour is unlikely to have changed since the relocation of the kennels, barking will remain a problem upon human contact/detection on a daily basis. Based upon complaints received, it seems reasonable to accept that noise would remain audible from residential properties within the area 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 site or be detected within close proximity.

The submission of a planning application to retain the unauthorised works, if it were to be supported in principle, would allow measures such as landscaping and screening to be put in place to reduce this adverse impact and such cannot be reasonably dealt with at this time. Further, it is also considered that the noise generated by the use of the site will continue, at times, to result in significant audible disturbance to the peace and tranquility of this area of the AONB, much to its detriment; such perceived noise and disturbance is also likely 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. Works appear to have stalled on the permitted conversion works and Officers have advised the owner to make the business floor space available as soon as possible in order to reduce the

need for additional kennels. Notwithstanding the issues highlighted above, it is still felt that a purpose designed and carefully positioned building could be provided at the site. Therefore in order to allow the owner a reasonable time period to develop a planning application for consideration by the Council, and 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

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