
Appeal Decision

Hearing held on 4 July 2017

Site visit made on 4 July 2017

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th July 2017

Appeal Ref: APP/F1040/W/17/3169303

Long Croft, Staker Lane, Mickleover, Derby DE3 0DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs R Thomas against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/1048, dated 6 October 2016, was refused by notice dated 19 December 2016.
 - The development proposed is erection of new staff accommodation, creation of new car park area and re-opening of existing gated access.
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Decision

1. The appeal is dismissed insofar as it relates to new staff accommodation.
2. The appeal is allowed insofar as it relates to creation of new car park area and re-opening of existing gated access and planning permission is granted for creation of new car park area and re-opening of existing gated access at Longcroft, Staker Lane, Mickleover, Derby DE3 0DJ in accordance with the terms of the application, Ref 9/2016/1048, dated 6 October 2016, subject to the conditions set out in the Schedule to this Decision.

Application for Costs

3. An application for costs made by the appellant against the Council is the subject of a separate Decision.

Procedural Matters

4. The address of the appeal site given on the application form and set out in the banner heading above is 'Long Croft'. However, it was confirmed at the Hearing that the appeal site is in fact called 'Longcroft', and I have therefore used this address in the formal Decision.
5. Following the Council's determination of the application which is the subject of this appeal, the South Derbyshire Local Plan Part 2 (the LPP2) was submitted to the Secretary of State for examination in January 2017. The examination hearing sessions took place in April 2017, and consultation is now ongoing on the main modifications. Since the emerging plan is at an advanced stage of preparation, in accordance with paragraph 216 of the National Planning Policy Framework (the Framework) I have had regard to relevant LPP2 policies and afforded them significant weight in reaching my decision.

Background and Main Issue

6. Longcroft Kennels and Cattery contains a range of buildings which house up to 65 dogs and 30 cats. The site is located outside a defined settlement within the open countryside.
7. The main issue is whether the proposed staff accommodation would amount to a new dwelling and, if so, whether adequate justification exists for a new dwelling in the countryside, having regard to the essential needs of the enterprise.

Reasons

8. The proposed staff accommodation would be provided within a self-contained building which would comprise a bedroom, shower room and open plan kitchen, living and dining room. As such, the development would provide residential accommodation which would afford those who used it all the facilities required for day-to-day private domestic existence. It would thus have the distinctive characteristics of a dwelling house.
9. Whilst the internal floor area of the proposed staff accommodation would be below the minimum set out in the Government's Technical Housing Standards, the modest size of the building would not alter its character. Moreover, internal space standards can only be applied if there is a relevant development plan policy. At the Hearing it was confirmed that there is no such policy in the development plan. Accordingly, I give this matter very little weight.
10. It is the appellant's intention that the proposed staff accommodation would be used by staff members who would stay overnight on a rota basis. In addition, the building would be used as a supplementary mess facility and staff meeting room. However, neither the occupation of the residential accommodation by a series of different persons nor the proposed ancillary uses would change the building's characteristics as a dwelling house.
11. The appellant's kennels and cattery licence requires the enterprise to have staff cover on site 24 hours a day throughout the year. The appellant, who runs the business, lives in the adjacent bungalow. A number of full and part time members of staff, who live off-site, are also employed.
12. At the Hearing the appellant explained that staff members usually leave at 17:00 once the boarding dogs and cats have been closed up. Beyond these hours, occasionally medicine has to be administered or animals are taken ill and need extra care, and a working arrangement with the police and local hospitals can result in animals being brought in at short notice from time to time. However, the appellant stated that there were not many regular animal care demands during the night associated with the dogs and cats boarding.
13. In addition to the boarding kennels and cattery, the enterprise has recently started to offer 'doggy day care' between the hours of 07:00 and 18:15. This has resulted in a greater workload and increased the need for staff to work longer hours to care for the dogs and maintain the buildings and grounds.
14. In the interests of animal welfare, there is an essential need for a member of staff to live at or near the enterprise. That need is met by the appellant's occupation of the existing bungalow. Based on the evidence before me, due to the infrequent nature of out of hours animal care duties, I am not persuaded

that there is an essential need for another member of staff to reside on the site in an additional dwelling.

15. The presence of an extra member of staff on the site outside of existing staff hours would assist with any work required during anti-social hours, address health and safety concerns relating to occasional out of hours dog handling and emergency evacuation of the premises, and enable the appellant to take breaks from the enterprise. However, I have not been provided with any evidence to demonstrate that this could not be achieved through other means, such as changing working patterns or providing night-watchman accommodation in the existing range of buildings.
16. The appeal site benefits from CCTV, security lights and guard dogs, and the appellant confirmed at the Hearing that the enterprise has not experienced any security issues. Moreover, I have no substantive evidence that an additional dwelling would improve security. I therefore give this matter little weight.
17. The appellant makes reference to a planning permission for a 2 bed residential unit at Homefields Kennels and Cattery in Barrow upon Trent. I am not aware of the planning history of that site, the needs of the enterprise or the details of the proposed development. As such, it is not possible to make comparisons with the appeal proposal before me. In any event, I am required to reach conclusions based on the individual circumstances of this appeal and therefore afford little weight to this matter.
18. For the above reasons, I conclude that the proposed staff accommodation would amount to a new dwelling and that adequate justification does not exist for a new dwelling in the countryside, having regard to the essential needs of the enterprise. Although the proposal would be modest in scale and sited in a fairly unobtrusive location, as a result of additional buildings, movement and activity the cumulative impact of such development, if repeated across a number of sites, would harm the character and appearance of the open countryside and result in unsustainable patterns of isolated development. Accordingly, the proposed staff accommodation would be contrary to the countryside protection and sustainable development aims of Policies EV1 and H8 of the South Derbyshire Local Plan (the Local Plan), Policy H1 of the South Derbyshire Local Plan Part 1 (the LPP1), emerging Policies SDT1 and BNE5 of the LLP2 and paragraph 55 of the Framework, and consequently cannot benefit from the presumption in favour of sustainable development.

New car park area and re-opening of existing gated access

19. At the Hearing, the Council confirmed that it does not object to the proposed new car park area and re-opening of the existing gated access. Based upon the evidence before me and my observations on site, I see no reason to take a different view. This element of the proposal would address the appellant's concerns regarding privacy and achieve a degree of separation between the public areas of the enterprise and the bungalow. Subject to conditions relating to landscaping, car parking, visibility sightlines and gates I therefore conclude that the new car park and access would not have a harmful effect upon the character and appearance of the area or highway safety, and would accord with the countryside protection, design, landscape and highway safety aims of Local Plan Policy EV1, Policies SD1, BNE1 and INF2 of the LPP1 and emerging Policies SDT1 and BNE5 of the LLP2.

Conditions

20. I have considered the suggested conditions against the tests set out within paragraph 206 of the Framework and the advice provided by the Planning Practice Guidance, and I have amended them where necessary in order to meet these tests.
21. I have imposed a condition specifying the relevant drawings in the interests of certainty. In order to ensure the suitable appearance of the development, I have imposed a condition relating to landscaping; it is necessary for this matter to be dealt with as a pre-commencement condition in order to ensure the satisfactory protection of existing landscape features. Conditions relating to car parking, visibility sightlines and gates are necessary in the interests of highway safety.

Conclusion

22. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed insofar as it relates to new staff accommodation and allowed insofar as it relates to creation of new car park area and re-opening of existing gated access.

CL Humphrey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jim Malkin
Rosemary Thomas

JMI Planning
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Arbon

Area Planning Officer,
South Derbyshire District Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Supporting Statement, JMI Planning, December 2016

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No. 05.
- 3) Notwithstanding Condition 2, no development shall commence until details of a hard and soft landscaping scheme have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected) and details of any to be retained, together with measures for their protection in the course of development;
 - ii) boundary treatments;
 - iii) hard surfacing materials;
 - iv) lighting;
 - v) an implementation programme; and
 - vi) a scheme of maintenance.

Before any part of the development hereby approved is brought into use the landscaping scheme shall be carried out in accordance with the approved details and implementation programme. Thereafter, the completed scheme shall be maintained in accordance with the approved scheme of maintenance.

- 4) Before any part of the development hereby approved is brought into use space shall be provided within the site curtilage in accordance with the approved plans for the parking and manoeuvring of staff, customer and visitor vehicles and shall thereafter be laid out, surfaced and maintained free of any impediment to its designated use.
- 5) Before any part of the development hereby approved is brought into use a new vehicle access on Staker Lane shall be laid out and constructed in accordance with the approved plan and provided with 2.4m x 155m visibility sightlines in both directions, the area forward of which shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.
- 6) Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.

END OF SCHEDULE OF CONDITIONS