
Appeal Decision

Site visit made on 25 July, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 17th August, 2017

Appeal Ref: APP/C1570/W/17/3174044

Green Arbour, Radleys End, Duton Hill, Dunmow, Essex, CM6 3PT

- 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 Jacqueline Marlins against the decision of Uttlesford District Council.
 - The application Ref: UTT/16/2561/FUL dated 11 October, 2016 was refused by notice dated 7 February, 2017.
 - The development proposed is change of use from arable to dog day care centre.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the heading above has been changed from that given in the original application, which contained explanatory text which covered matters which were not development. In the interests of clarity and conciseness I have therefore used the description given in Part E of the appeal form and the Council's decision notice.

Main Issues

3. The main issues in this case are:-
 - the effect of the proposal on the living conditions of neighbouring occupiers; and
 - the effect on highway safety.

Reasons

Living conditions

4. The development is to change the use of the appeal site, a large parcel of open, grassed land sitting to the north of Green Arbour, to use for day care for a maximum of twenty dogs. No built structure is currently proposed, although the appellant has indicated that permission for a small shed or shelter might be sought in future. The appeal site has a thick hedgerow and trees to its boundary with Green Arbour, and it otherwise bounded by wire fencing and low hedgerow.
 5. Green Arbour is listed Grade II, but nothing is proposed in the current application for a change of use which would affect its setting. The parties are
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- in agreement that any development associated with the change of use might do so, and that due regard would have to be given to this.
6. Apart from Green Arbour itself, most other dwellings are at some distance from the site, with the exception of the dwelling at Orchard Barns, which is very close to the southwest boundary of the appeal site, while its garden directly adjoins it.
 7. The appellant has indicated that dogs would be vetted to avoid poorly socialised animals which might be noisy, and that they would be given exercise and activity to counteract reasons for barking. The appellant has in addition submitted reduced hours of operation, with activity ceasing at 18.00 on weekdays and 13.00 on Saturdays, and confirmed that no dogs would be staying overnight.
 8. Although the appellant has been suggested that there would not be likely to be the full complement of twenty dogs present at the beginning of the use, this is the maximum number sought and might be achieved at some point. It appears to me that twenty dogs would have the capability of producing a substantial amount of noise, and in the absence of any evidence to the contrary, that this would be a large number to be managed by one full time and one part time member of staff. No substantive details have been provided on key issues of the operation of the day care centre, including the kind of activities and facilities to be provided for dogs, where they would be sheltered in inclement weather, how they might be separated if necessary, where they would rest, and any necessary facilities for their carer or carers.
 9. As the control of any noise disturbance arising from the proposed use would be heavily dependent on the number of dogs there and their management, and to some extent on any additional built structures required to support this, I am not convinced by the evidence before me that this could be successfully achieved. Even taking into account the limit on the numbers of dogs and reduced hours of operation, I cannot therefore be certain that there would be no harmful effect on the living conditions of neighbouring occupiers, and particularly those in Orchard Barns. While other dwellings in the area are at a distance from the site, the noise of barking would be likely to carry in their direction over the relatively open land, and their living conditions too might be harmed, albeit to a lesser degree.
 10. I conclude therefore that the development would fail to comply with policy GEN 2 and of the Uttlesford Local Plan 2005 (the LP) which seeks development which minimises the environmental impact on neighbouring properties by appropriate mitigating measures, and with policy GEN 4 of the LP, which seeks to avoid development where noise would cause material disturbance or nuisance to occupiers of surrounding properties.

Highway safety

11. The Council is concerned that the existing site access has inadequate visibility splays, and that the development would intensify use of that access, with potential harm to highway safety. I noted on site that the B184 is a relatively busy road, with fast moving traffic.
12. The boundary hedge to the north east of the access is within the control of the appellant, and could therefore be managed to maximise visibility. However,

although the access is on a relatively long straight stretch of the road, I noted also that the road dips down to the south-west of the site, and that a section of hedgerow, which is outside the appellant's management, was projecting across the verge, both combining to obscure views of oncoming traffic on the same side of the road.

13. The appellant has indicated that she would offer a pick-up and drop-off service in addition to owners visiting the site, in order to minimise traffic movements. Nonetheless, little detail was provided as to the number of likely additional traffic movements to arise from the development, or how these might be reduced by such a service. While information secured from "Crashmap" shows no incidents on the stretch of road to the front of the appeal site within the last 18 years, this does not mean that an intensification of the use would not increase the risk of such an incident, and no technical or detailed information has been supplied to confirm that it would not.
14. On this basis of this information I conclude that it has not been demonstrated that suitable visibility splays can be achieved within land in the appellant's ownership, nor has it been demonstrated that the development would not give rise to a material increase in traffic movements from the site, both of which have the potential to cause harm to highway safety.
15. The development would therefore fail to comply with policy GEN 1 of the LP, which seeks to restrict development which does not provide access to the main road network which is capable of carrying the traffic generated by the development safely.

Conclusion

16. The appellant has reminded me of the aim of paragraph 28 of the National Planning Policy Framework, which is to support economic growth in rural areas, but notwithstanding this, I conclude that any economic benefits arising from the appeal proposal would not outweigh the potential harms I have identified. For the reasons given above therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

S J Buckingham

INSPECTOR