



Appeal Decision

Site visit made on 10 December 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Appeal Ref: APP/E2340/W/19/3238032

Douglas Hall Kennels, Spenbrook Road, Newchurch In Pendle BB12 9JG

- 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 Mr W Lancaster against the decision of Pendle Borough Council.
 - The application Ref 19/0259/FUL, dated 29 March 2019, was refused by notice dated 1 August 2019.
 - The development proposed is the retrospective use of the land edged red on the submitted plan and site plan at Douglas Hall Kennels for a mix of dog breeding and sales.
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Decision

1. The appeal is allowed, and planning permission is granted for the use of the land for a mix of dog breeding and sales at Douglas Hall Kennels, Spenbrook Road, Newchurch In Pendle BB12 9JG in accordance with the terms of the application, Ref 19/0259/FUL, dated 29 March 2019, subject to the following 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 plans: 001G, 005O.
 - 3) Within 3 months of the date of this permission, a revised scheme for animal waste disposal shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the animal waste disposal shall at all times be carried out in accordance with the approved scheme.
 - 4) The total number of puppies accommodated on the site at any time shall not exceed 150, and the number of breeding bitches accommodated on the site at any time shall not exceed 30. The operators of the kennels shall maintain an up-to-date register of the number of all puppies and breeding bitches accommodated on the site and shall make this information available at all reasonable times to the Local Planning Authority.
 - 5) Notwithstanding the provisions of Use Class A1 of the Town & Country Planning (Use Classes) Order 1987 (as amended), or any statutory instrument revoking and re-enacting that Order with or without modification, the retail use hereby approved shall be for the retail sales of puppies only, there shall be no retail sales of any other type from the site.

Procedural Matters

2. Both the appellant's and the Council's submissions refer to the application having been made retrospectively. Whilst this may be the case, given the nature of the proposals outlined in the appeal, for certainty I have considered the appeal on the proposals detailed in the submitted plans and supporting information. I have also removed references to the appeal being retrospective, plans and the site address from my formal decision above as these are not a description of development.
3. The site benefits from planning permission (17/0469/FUL) for a dog breeding facility, and a planning permission (18/0517/FUL) to extend a building and use it for additional exercise, storage and circulation space. The evidence also indicates the appellant previously sought planning permission retrospectively (18/0818/FUL) for puppy petting and exhibition, which was refused by the Council, and no longer takes place onsite.

Application for costs

4. An application for costs was made by Mr W Lancaster against Pendle Borough Council. This application will be the subject of a separate Decision.

Main Issue

5. The main issue is the effect of the proposed change of use on highway safety with regard to the provision of car parking.

Reasons

6. The appeal site consists of a group of buildings used as kennels, an office, and an area of hardstanding to the north, which are associated with the appellant's dog breeding business. The existing access to the site is off Spenbrook Road, a country road with hedgerows either side. The evidence before me, in the form of drawing no. 0050 shows that the area of hardstanding can be used to provide onsite parking for at least 15 cars, and the appellant's submission also indicates that there are additional areas within the site that could provide space for a further 5 vehicles.
7. The Council contend that the retail sale of puppies bred offsite generates a level of demand for car parking that cannot be accommodated by the existing car park, and that this causes cars to park on Spenbrook Road, particularly at the weekend. I have considered the Council's evidence provided, and the photographs and representations from local residents and the Parish Council, and the screenshot from Douglas Hall Kennels website. Whilst the photographs show a significant number of vehicles parked on the road, I understand that the photographs were taken in January 2019, and that this was at a time when the business was licenced for both the sales and exhibition of animals, and that the licence was subsequently withdrawn in March 2019. There is no evidence before me that such a degree of parking has continued after that date, indeed the pictures provided (dated 14 November 2019) shows the absence of any vehicles parked on the road.
8. I have considered the width of the carriageway adjacent to the appeal site and appreciate that parking along one side of the road would restrict its width to a single vehicle which could give rise to potential conflict between vehicles and pedestrians, as there is no footway, a curvature of the road to the south, and a

60 mph speed limit. However, the evidence before me indicates that the parking problems related to a period when the appellant exhibited and provided puppy petting, these activities no longer take place onsite, and do not form part of the appeal proposals before me. Furthermore, the Local Highway Authority were consulted and did not have an objection to the application on highway safety grounds.

9. In order to restrict the likely number of customers visiting the site the Council have suggested a condition to restrict the number of puppies and breeding bitches on site at any time. A condition has also been proposed to restrict retail to the sale of puppies only. Based on the evidence provided and subject to these conditions, I am satisfied that the parking provision onsite is suitable for the proposed use, and that it can accommodate the associated staff and visitor parking, so as to prevent overspill on to the adjacent highway.
10. I therefore find that the parking provision is appropriate for the proposed use, and as such the development would not have an unacceptable effect on highway safety. The development accords with Policy ENV4 of the Local Plan for Pendle Core Strategy 2011-2030 (2015), and Paragraph 109 of the National Planning Policy Framework, which collectively seek to ensure that development provides acceptable levels of parking, and that it can be safely accessed by pedestrians, cyclists and road users, and does not give rise to unacceptable highway conditions.

Conditions

11. The Council have suggested planning conditions in the event of this appeal being allowed. I also have considered the use of planning conditions following the guidance set out in the Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard time limit condition I have included a condition that specifies the approved drawings to provide certainty. I have also included a condition that limits the number of puppies and breeding bitches onsite, and a condition that restricts the type of sales from the site in the interests of highway safety.
12. The Council have suggested a condition for a scheme of animal waste disposal relating to an earlier planning approval. This is a new planning permission for a different proposal, so I have included a condition for the submission and approval of a revised scheme in the interests of environmental protection and the living conditions of nearby occupiers.
13. I have not included the Council's suggested condition in relation to the business only being used in conjunction with Douglas Hall Cottage, as it would be unreasonable and unenforceable, given the cottage falls outside of the application site boundary, and the land identified as being in the control of the appellant on drawing no. 001G.

Other Matters

14. The application site is located within the Forest of Bowland Area of Outstanding Natural Beauty (AONB). I have had regard to the site's location within the AONB. The appeal proposals do not include any new buildings, and the proposed use would be contained within the existing site. Consequently, the proposal would conserve the landscape and scenic beauty of the AONB.

15. I note the concerns raised by local residents and the Parish Council regarding animal welfare, that the use would exacerbate issues of unwanted dogs, and that the use is unsustainable as the third party sale of dogs will become illegal in 2020. However, these matters do not affect my findings with regards to the main issue in this appeal.

Conclusion

16. For the reasons given above, the appeal is allowed.

R Cooper

INSPECTOR