



Appeal Decision

Site visit made on 6 January 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal Ref: APP/G2815/W/20/3257821

Near Manor House Farm, Addington Road, Woodford, Northamptonshire NN14 4ES

- 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 and Mrs Michael Clipstone-Roome against the decision of East Northamptonshire District Council
 - The application Ref 19/01238/FUL dated 15 July 2019, was refused by notice dated 17 July 2020.
 - The development proposed was originally described as: 'The construction of the following building together with associated on site access roads, passing bays and parking bays: 2No Dog Kennels; 1No Exercise/Training Barn; 1No Quarantine Unit; 1No Maintenance Garage/Workshop'.
-

Decision

1. The appeal is allowed, and planning permission is granted for the construction of 2 No Dog Kennels; 1 No Exercise/Training Barn; 1 No Quarantine Unit; 1 No Maintenance Garage/Workshop, together with associated on site access roads, passing bays and parking bays, at Near Manor House Farm, Addington Road, Woodford, Northamptonshire NN14 4ES, in accordance with the terms of application Ref: 19/01238/FUL dated 15 July 2019, and subject to the conditions in the attached schedule.

Procedural Matter

2. In allowing the appeal I have made a minor adjustment to the wording of the description of development. This is to ensure a more precise description, and in making this change, I am satisfied that the interests of any parties have not been compromised.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the living conditions of the occupants of neighbouring properties, having particular regard to noise and odour;
 - ii) the effect of the proposal on the character and appearance of the area;
 - iii) whether the appeal site would be a suitable location for the proposed development, having regard to the requirements of local and national policy; and

- iv) the effect of the proposal on agricultural land, having regard to the requirements of local and national policy.

Reasons

Living conditions

4. The appeal proposal would introduce dog kennels on a currently open site. The buildings would be located beyond the adjacent village and over 200 metres from the nearest residential property. Due to the relationship with neighbouring properties, the appeal has been accompanied by a noise assessment. In addition, in scrutinising the original proposal, the Council identified shortcomings with submission and accordingly, conducted its own assessment based on a higher noise output from the proposed use, and I note objectors to the proposal have also presented a similar approach.
5. Based on the evidence before me, I am satisfied that the approach presented by the Council represents a more realistic output than that provided by the appellant. Their approach is informed by best practice and I am satisfied that it sets out a robust assessment. On this basis, the proposal would result in noise levels approximately 4dBA above existing background noise when experienced by the nearest noise receptor. I note the concerns in relation to the effect of noise. However, such an increase, even when based on a worst-case scenario and despite suggestions in relation to the prevailing wind, would be difficult to perceive. This is before factoring in management of the site, the design and siting of the kennel buildings, land levels, proposed landscaping, and the use of acoustic fencing, all of which would have a mitigating impact on the noise levels generated by the site.
6. Dogs barking is not a matter that can be entirely controlled. Dogs will bark and this may also trigger other dogs barking. However, through agreed measures in relation to site management, and building insulation, as well as those matters identified above, I am satisfied that noise generated by the site would not materially alter the levels of noise experienced by neighbouring residents and businesses. I accept that there is a difference between statutory nuisance and general 'amenity'. However, based on the evidence before me, the proposal could be managed in a manner that would ensure neither would be triggered. In addition, although the site would be unlikely to be staffed at night, at this time the dogs would be inside the kennel buildings which themselves would have noise mitigating properties.
7. Reference has been made to another appeal decision relating to dog kennels. I do not have the full details of that case before me, but I note that in the submission, it is accepted that likely differences would exist in relation to siting and location. Despite this, I note the importance of making a distinction between statutory nuisance and general 'amenity', and based on my findings set out above, I am satisfied that I have undertaken this requirement.
8. In relation to odour, it is apparent that this matter has been fully considered by the appellant and a system proposed that would not be uncommon in rural locations. I have no evidence before me to substantiate the concerns in relation to odour and accordingly, I have no reason to consider that the proposal would give rise to unacceptable levels.

9. Consequently, for the reasons identified above, I conclude that the proposal would not harm the living conditions for the occupants of neighbouring properties. It would therefore comply with Policy 8 of the North Northamptonshire Joint Core Strategy 2011 – 2031 (2016) (JCS) which seeks to ensure safer and healthier communities by not resulting in an unacceptable impact on neighbouring properties by reason of noise and smell.

Character and appearance

10. In refusing planning permission, the Council are of the view that the appeal site is located within a valued landscape. Accordingly, reference is made to Paragraph 170 'a' of the National Planning Policy Framework (the Framework) which confirms that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. However, it also states that this should be achieved in a manner commensurate with their statutory status or identified quality in the development plan.
11. The surrounding countryside, and its rolling nature, is clearly an important characteristic of the locality. However, based on the evidence before me, it does not have a statutory status and it has not been identified within the development plan as having a heightened status. Accordingly, having regard to the effect on the character and appearance of the area, the proposal should simply be assessed on its merits, rather than applying a more substantial test.
12. The proposal would be located within an undeveloped field which slopes down towards the adjacent highway and the surrounding context is one of open countryside, albeit with a defined cluster of buildings to the north of the proposed location. The proposal would see the introduction of a series of large buildings. However, these would be single storey and due to their elongated form, pitched roof, and use of cladding, they would take the appearance of utilitarian, agricultural structures. In addition, due to the topography of the site, the development would be located in a comparatively low-lying area. Accordingly, due to the combination of the design of the buildings and the level at which they would be located, the proposal would be sympathetic to its surrounding context. It would not be a dominant and imposing cluster of buildings and instead, the proposal would be suitably respectful to the surrounding countryside.
13. The proposal has also been accompanied by a landscaping plan which identifies substantial tree planting. Such planting would help reinforce the landscaped buffer to the adjacent highway but also soften the visual impact of the proposal from longer views at higher levels. I note that the Council's Senior Tree and Landscape Officer supported the location of the proposed planting but sought additional information in relation to species mix, planting densities and long-term management and I agree that these matters are necessary. I am also satisfied that the proposal would be suitably removed from the Woodford Conservation Area and other listed buildings so as to not cause harm to their setting and significance.
14. Accordingly, for the reasons identified above, I conclude that the proposal would not harm the character and appearance of the surrounding area. It would therefore accord with Policy 3 of the JCS which requires development to be sensitive to its landscape setting.

Location

15. Policy 11 of the JCS states that development in rural areas will be limited to that required to support a prosperous rural economy. In addition, Policy 25 states that sustainable opportunities to develop and diversify the rural economy that are of an appropriate scale for their location and respect the environmental quality and character of the rural area will be supported. In this respect, I find that these policies are consistent with the requirements of Paragraph 83 of the Framework which states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.
16. The appeal proposal would facilitate charity work, however, the Framework does not distinguish between business models and instead, is supportive of all types of business in rural areas, whether existing or otherwise. Accordingly, I find that the charitable status of the proposal would fit within this broad definition and for the same reason, I am satisfied that the appellant is not required to demonstrate a specific need for the proposal. In addition, there is no need for the proposal to benefit the village in any manner.
17. The site would be removed from the village, however Paragraph 84 of the Framework states that decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements, and in locations that are not well served by public transport. I have also already found that the new buildings would be well-designed and sensitive to the surrounding context. Accordingly, in this regard, the proposal would be fully compliant with the requirements of the Framework.
18. Consequently, although within an open countryside location, having regard to the requirements of local and national policy, I conclude that the appeal site would represent a suitable location for the development. The proposal would therefore comply with Policy 11 of the JCS, which establishes the requirements for development within rural areas. Additionally, because the proposal would comply with the requirements of the JCS, it is not necessary to consider the proposal against Policy 13, because this is an exceptions policy.

Agricultural Land

19. The appeal site is currently used for the grazing of horses. Accordingly, it is the appellant's view that the site is not in agricultural use. I note in the evidence that there is some disagreement regarding the use of the land, however, the Council are of the view that the proposal would result in the loss of agricultural land. Regardless of its status and use, Paragraph 170 of the Framework makes reference to the best and most versatile agricultural land. I note comments from a previous landowner on this matter, however, I have no compelling or substantive evidence before me to confirm that the land meets this requirement. Moreover, no evidence has been presented to establish what harm would arise from the loss of land for agricultural purposes.
20. As identified above, the proposal would accord with the general requirements of the policies for rural development. Accordingly, having regard to local and national policy, I conclude that no harm would arise from the loss of the land for agricultural purposes. It would therefore comply with Policy 11 of the JCS which establishes the requirements for development within rural areas.

Other Matters and Conditions

21. The proposal would introduce a new access point onto the main road and evidence provided by interested parties suggests that suitable visibility cannot be achieved without the relevant splays passing over land in third party ownership. However, I note that the proposal has been scrutinised by the Highway Authority and I accept their justification for a 2 metre setback for the visibility splay due to the private nature of the access. I am also satisfied that due to the location of the speed limit transition, at the point where the splay crosses third party land, vehicle speeds would be such that the provided visibility would ensure a safe and suitable access to the site. Accordingly, in relation to highway safety, I agree with the conclusions presented by the Highway Authority, and I also note that the Council did not refuse planning permission on this basis.
22. I note the comments in relation to the nature of the dogs that might be housed at the site and whether or not they may be dangerous. However, this is an unknown factor and one that cannot be controlled through the planning system. Through good site management and appropriate planning conditions, I am satisfied that the proposed use would not harm the living conditions for the occupants of nearby dwellings. I also note concerns in relation to flooding but am satisfied that subject to suitable drainage conditions, the proposal would not give rise to flood risk. In addition, the planning system exists to protect public interests, and therefore comments in relation to property value, which represent a private interest, are not material to my assessment of the appeal. Finally, I have no evidence before me to suggest that the proposal would attract vermin.
23. In light of my findings set out above, conditions are necessary in the interests of precision and clarity to establish the time limit for the commencement of development, as well as to list the approved drawing numbers, and to specify the capacity of the site. Condition 4 is necessary due to the archaeological sensitivities of the site, and conditions 5 and 6 are necessary to ensure the site is suitably drained. Conditions 7, 8 and 9 are necessary in the interests of highway safety and conditions 10, 11 and 12 are necessary to ensure that the development is sensitive to its surroundings. Condition 13 is necessary to ensure that the operational management of the site is sympathetic to nearby users, and condition 14 is necessary in the interests of sustainable construction. Finally, condition 15 is necessary to control movements to and from the site.
24. Where imposed conditions require work to be carried out prior to the commencement of development, the appellant has agreed to these matters in writing. In addition, although the Council suggested a condition in relation to construction hours, I am satisfied that this matter can be adequately controlled through the Construction Environmental Management Plan.

Conclusion

25. For the reasons identified above, the appeal should be allowed, and planning permission should be granted.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) Except where otherwise stipulated by Condition, the development shall be carried out strictly in accordance with the details outlined in the application form and the following plans:
 - 18675-SITE TOPO – Topographical Survey
 - 01/b – Site Location Plan
 - 03/a – Block Plan
 - 592-P-01 (P3) – General Arrangement Proposed Site Plan
 - 592-P-02 (P2) – General Arrangement Proposed Buildings
 - 592-P-10 (P1) – New Site Entrance Highways Details
 - 592-P-11 (P2) – Long Section On Existing Road Highways Details
- 3) The use hereby permitted shall have a maximum capacity of 20 dogs per kennel building, a maximum of 40 dogs for the site, and no more than 1 dog shall occupy any individual kennel.
- 4) No development shall take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 5) Before any above ground works commence, full details of the surface water drainage scheme for the site, based on the approved Surface Water Drainage Strategy and Flood Risk Assessment ref: 1121A rev A dated February 2020, prepared by Broughton, Beatty and Wearing Ltd shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:
 - i) Details of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation structures;
 - ii) Details of the drainage systems shall be accompanied by full and appropriately cross-reference supporting calculations;
 - iii) Cross sections of the control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves should be submitted for all hydrobrakes and other flow control devices;
 - iv) Detailed scheme for the ownership and schedule maintenance for every element of the surface water drainage system.
- 6) No Occupation shall take place until the Verification Report for the installed surface water drainage system for the site based on the Surface Water Drainage Strategy and Flood Risk Assessment ref 1121A rev A dated February 2020 prepared by Broughton, Beatty and Wearing Ltd has been submitted in writing by a suitably qualified drainage engineer and approved by the Local Planning Authority. The report shall include:

- a) Any departure from the agreed design is keeping with the approved principles
 - b) Any As-Built Drawings and accompanying photos
 - c) Results of any Performance testing undertaken as a part of the application process (if required / necessary)
 - d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
 - e) Confirmation that the system is free from defects, damage and foreign objects
 - f) Confirmation of adoption or maintenance agreement for all SuDS elements as detailed within the drainage strategy is in place.
- 7) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Local Highway Authority. Development shall only take place in accordance with the approved details.
- 8) Prior to the construction of any of the buildings hereby permitted, the new highway access from Addington Road shall be fully constructed and made available for use in accordance with the approved drawings. The access shall thereafter be retained and maintained for this purpose in perpetuity.
- 9) All parking / turning areas within the site shall be fully laid out, surfaced and available before the operation first comes in to use and shall be retained and maintained for these purposes in perpetuity.
- 10) Prior to the operation first coming into use a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas;
 - (b) details of any existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation;
 - (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, any crossing points, bollards, steps; and
 - (d) details of boundary treatments, including elevations of any walls/fences/railings/bollards.

All agreed boundary treatments shall be in situ before the use commences and all planting shall take place no later than the first planting season following the commencement of the use.

Within the first 5 years, following first planting, any species which die, become damaged, diseased or are removed shall be replaced in the current/next planting season with others of similar size and species unless written consent is obtained from the Local Planning Authority to any variation.

- 11) Prior to installation, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved schedule.
- 12) A detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority before the use commences. Development shall only take place in accordance with the approved details, which shall be retained and maintained in perpetuity.
- 13) Prior to the operation first coming into use an Operational Management Plan (OMP) shall be submitted to and approved in writing by the Local Planning Authority. The OMP must include, but not be limited to the following details:
- Operating times (public and non-public), including emergency contingency measures;
 - Site security measures;
 - Emergency contact details; and
 - Noise mitigation measures:
 - o for the buildings; and
 - o general operational
- Development shall only take place in accordance with the approved details.
- 14) All buildings hereby approved shall achieve a Very Good rating under BREEAM UK New Construction 2014 (or such equivalent standard that replaces this) for the Shell stage unless the applicant is able to demonstrate that it is unviable to do so.
- a) Unless otherwise agreed in writing, prior to commencement of works to the relevant building, a BREEAM UK New Construction 2014 (or such equivalent standard that replaces this) Shell pre assessment report should be submitted, by the developer, and approved in writing by the Local Planning Authority to demonstrate how the units will achieve a Very Good rating.
- b) Within 6 months of commencement of works, a BREEAM UK New Construction 2014 (or such equivalent standard that replaces this) Shell Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE), must be submitted with respect to each BREEAM assessment as detailed above, by the developer to the Local Planning Authority to show that a minimum Very Good rating will be achieved.
- c) No more than three months following trading, unless otherwise agreed in writing with the Local Planning Authority, a BREEAM UK New Construction 2014 (or such equivalent standard that replaces this) Shell Final (Post Construction) Certificate, issued by the BRE, must be submitted, by the developer to the Local Planning Authority to demonstrate that a Very Good rating has been achieved by the units on site.

d) All the measures integrated and provisions detailed within the Sustainability Requirements shall be retained for as long as the development is in existence.

- 15) The use hereby permitted shall only be open to members of the visiting public between the hours of 0800 and 1800, and by appointment only. The register of appointments shall be available for inspection as required by the Local Planning Authority.