



Appeal Decision

Site Visit made on 23 February 2021

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 17th March 2021

Appeal Ref: APP/C1760/W/20/3261670

Hampshire Dog Club, Cobra Lodge, Upton Lane, Nursling, Southampton, SO16 0YB

- 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 Sean Knowlson against the decision of Test Valley Borough Council.
 - The application Ref 20/00899/FULLS, dated 27 April 2020, was refused by notice dated 24 July 2020.
 - The development proposed is the Use for Overnight Boarding for Up to Six Dogs.
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Decision

1. The appeal is allowed and planning permission is granted for Use for Overnight Boarding for Up To Six Dogs at Hampshire Dog Club, Cobra Lodge, Upton Lane, Nursling, Southampton, SO16 0YB in accordance with the terms of the application, Ref 20/00899/FULLS, dated 27 April 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) Overnight boarding for up to 6 dogs shall only be undertaken in the approved kennels in the existing building (shown as 'Main Bldg' on plan 001 Rev 1).

Application for costs

2. An application for costs has been made by Mr Sean Knowlson against Test Valley Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The application is for a change of use only and not for any physical works. The structure having been consented by an earlier permission.

Main Issue

4. The main issue is the effect of the development on the living conditions of local residents with regard to noise and disturbance.

Reasons

Background

5. Visually the site is in a semi-rural position located close to Grove Place, a property in substantial grounds within which buildings accommodate residential properties including a care home. It is also located around 100 metres from the M27 and roughly the same distance to the railway line connecting Romsey to Redbridge. This means that there is considerable background noise at the site associated with motorway traffic and from the railway. Motorway noise was particularly noticeable during my site visit.
6. Permission was granted for the change of use from agricultural land to a security dog training facility and associated ancillary rooms on appeal in 2011 (APP/C1760/A/11/2157760). That decision has subsequently been modified to alter the scope of conditions in relation to, amongst other things, the number of dogs permitted on site and the provision of daytime boarding of dogs.

Noise Assessment

7. The appeal information contains a Noise Impact Assessment which has been provided since the Council made their decision. That assessment undertook night-time monitoring on the appeal site and a short distance away at the access to Grove Place. The noise levels were taken over three nights during which period six dogs were housed in the kennels. Attended noise measurements were also taken in the early hours on one of those nights. Measurements were taken when weather conditions were dry and winds were light.
8. The noise report states that *"Measurements show typical night-time maxima from motorway traffic to be around twice as loud at the entrance to the residential receptor as dogs barking. At around 100 metres from the boarding kennels, the barking of dogs is only just audible during lulls in road traffic activity. Given the additional distance propagation to the nearest sensitive receptors barking noise levels would be significantly lower still and effectively inaudible"*.
9. The measurements indicate that when dogs were boarding overnight elevated noise levels were experienced immediately outside the building. However, little corresponding elevation of levels were recorded more than 100 metres from the kennels and only then during lulls in the noise generated by passing traffic on the motorway.
10. The Council questions the noise assessment on the basis that the noise levels at Grove Place and Northcliffe House, which are some 200 and 300 metres further away from the appeal site, are assumed rather than based on actual assessments at the occupied buildings. However, there is little evidence from the Council as to whether they disagree with the actual night-time noise levels taken at the entrance to Grove Place, nor in what way the extrapolated reductions in noise levels at properties further away are flawed.
11. Importantly, it appears clear to me that the noise levels at twice the distance than that between the kennel location and the position of the noise results taken at the entrance to Grove Place, would be significantly less. I have no evidence before me from the Council to substantiate that the conclusion of the noise assessment is incorrect, in fact, there is minimal coverage of this issue in the Councils' statement. I also note that there is no evidence of any noise complaint from activity at the existing Dog Club premises and the consultation

response from the Councils' own Environmental Health Officer (EHO) raised no objection.

12. I note that the original appeal decision-imposed restrictions on overnight boarding of dogs on the site in order to safeguard noise levels. I also note that Council members disregarded their officers recommendation in relation to the appeal proposal when no objection was raised by the EHO. Whilst it is not unusual for the Councils conclusion to differ from the recommendations given by its advisors, however where it does so, it is obliged to substantiate the reasons for refusal and to respond appropriately to the additional information submitted with an appeal. The appellants' Noise assessment includes actual night-time noise information though this appears to have been given only a cursory assessment by the Council and there is no substantive contrary evidence in the Councils appeal statement. As the issue of noise and disturbance was the single reason for refusal the evidence of the Council is not sufficient to undermine the appellants' empirical assessment of night-time noise levels at the site submitted with his appeal.
13. In so far as the potential for dogs escaping from the building is concerned, I saw that the kennels are contained within a building of solid breeze block construction. Doors at one side of the kennels open onto an internal corridor with inward opening doors at either end that are lockable. Doors at the opposite side are also inward opening, when open they allow access into secure runs with solid side walls and floors and steel framed full height external gates beyond which is a further fenced area. In view of these features I consider the likelihood of dogs being able to escape is very low.
14. The Council has expressed concern with regard to how long it would take for dogs to be placed under control in the event that remote monitoring identifies a problem. However, on the basis of the evidence, I consider there is a very low risk of escape and therefore I do not share the Councils concern. The site is fitted with security systems and with internal CCTV and night-time monitoring. There are also intruder alarms and frequent mobile security patrols overnight such that the appellants would be alerted in the event of an emergency.
15. Taking all of the above into account I find no conflict with Policies E8 and LHW4(a) of the Test Valley Borough Revised Local Plan (2016) which seek to ensure that development does not affect the amenity of neighbouring properties nor cause noise pollution which would cause unacceptable risks to general amenity.

Other Matters

16. The appellants draw attention to the Environmental Health licence for overnight boarding facilities. Though this is a licence separate to the planning process it is part of the information on which the EHO comments are based. It has not however been determinative in relation to this appeal.
17. A number of representations have been made both in support of, and objecting to this proposal. Several take issue with the planning history of the site and the number of previous restrictions/conditions which have been modified or relaxed through subsequent application; others relate to compliance with conditions on earlier consents or the impact of dogs barking upon the living conditions of the residents of Grove Place. One points to DEFRA guidance which, though not provided in full, is quoted as stating that barking can be audible over distances

of up to 500 metres and potentially give rise to noise nuisance. In this case the measurements in the noise assessment coupled with the high levels of background noise from the adjacent motorway satisfy me that, given the circumstances of the site, any disturbance levels to residents at Grove Place from the overnight boarding of dogs would be unlikely to cause harm to the living conditions of occupants residing there.

18. Other representations raise concern that should this appeal be allowed it may lead to an application for a residential presence on site. That would be a matter for the Council should it arise though it has no bearing on the outcome of the matters under consideration here.

Conditions

19. Aside from the normal time limit condition the Council have recommended conditions relating to the number of dogs allowed to board overnight, the location of that boarding, and requiring development to be carried out in accordance with the submitted plans. A restriction on the number of dogs in order to ensure the Council can exercise control in the future is reasonable and proportionate. The recommended condition relating to compliance with plans is superfluous given that no details are included. However, for the avoidance of doubt I have indicated the plan number within condition 2 and the building to which this consent relates in the interests of clarity and completeness.

Conclusion

20. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be allowed.

Janet Wilson

INSPECTOR