



Appeal Decision

Site visit made on 24 November 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Appeal Ref: APP/J0405/W/20/3255177

16a Little Chapel Stables, Crafton Lodge Road, Crafton LU7 0QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs Purnell against the decision of Aylesbury Vale District Council.
 - The application Ref 19/01900/APP, dated 17 May 2019, was approved on 10 January 2020 and planning permission was granted subject to conditions.
 - The development permitted is retention of the existing barn (to include alterations and re-positioning from that approved under 13/00373/APP) along with the use of the barn for dog day care and ancillary accommodation, use of part of the dwelling (Little Chapel Stables) for dog boarding and the mixed use of land for agricultural, equestrian, grazing and the exercising of dogs.
 - The condition in dispute is No 1 which states that: *The land and building highlighted in blue on the approved block plan (titled SJ462-02) received by the local planning authority on 23 October 2019, shall not be used for any purpose except for as a dog day care facility between the hours of 0700 am and 1830 pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays.*
 - The reason given for the condition is: *To safeguard the private residential amenity of neighbouring residents (GP8 of the Aylesbury Vale District Local Plan and Policy BE3 of the emerging Vale of Aylesbury Local Plan) and to comply with the National Planning Policy Framework.*
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 1 April 2020 Aylesbury Vale District Council, the council who originally determined the planning application merged with a number of other local planning authorities into Buckinghamshire Council. Aylesbury Vale District Council is now called Buckinghamshire Council - Aylesbury area. For the purposes of this appeal the development plan remains in place for the area.

Background

3. In January 2020 planning permission was granted for a dog day care and boarding use subject to a series of conditions. In doing so the Council imposed a condition restricting the use of part of the site for dog day care use to 0700 to 1830 Mondays to Fridays and not at any time at weekends and on Bank Holidays.

4. The appeal seeks to vary this condition to allow dog care provision within the barn and the surrounding land at weekends and bank holidays between the hours of 0700 and 1830 and for the barn to be used for either dog care or for residential purposes incidental to the main dwelling and has suggested an alternative condition.

Main Issues

5. The main issues are whether Condition 1 is necessary and reasonable having regard to the living conditions of existing neighbouring occupiers and whether the use of the land and building for ancillary residential use would be acceptable.

Reasons

Living conditions of existing neighbouring occupiers

6. The appeal site is formed of a dwelling, buildings and land used for a number of uses including residential and dog care and boarding. The site borders existing residential development to one side with open countryside beyond. The dog day care barn and land is largely contained by fencing but its relatively open nature contributes to the rural character of the open countryside.
7. I note that dog day care does not occur at weekends and boarding dogs are already accommodated on site during this period. Consequently, the use of the barn and land for use by boarding dogs would move associated activities further away from nearby dwellings at weekends and bank holidays. However, the wording of the alternative condition, suggested by the appellant, would allow the use of the barn and the surrounding land by boarding dogs and would not prevent its use by dogs being cared for during the day, should the appellant wish to do so. This could result in up to 23 dogs on two parts of the site at weekends and bank holidays which has the potential to unduly harm the living conditions of nearby existing occupants, by reason of noise and disturbance.
8. Whilst I appreciate that that dogs are not left unattended and the Council's Environmental Protection Officer did not raise an objection to the proposal I am not satisfied that the condition as suggested by the appellant is a credible alternative in respect of protecting the living conditions of existing neighbouring occupiers.
9. As such the proposal would be contrary to Policies GP.8 and GP.95 of the Aylesbury Vale District Local Plan (2004) (AVDLP) and emerging Policy BE3 of the Vale of Aylesbury Local Plan which, amongst other things, seek to protect the amenity of nearby residents.

Whether the use of the building for ancillary residential use is acceptable

10. The barn and associated land are accessible from the main dwelling across a track forming part of the site and is contained by fencing. There is a sense of spatial separation between the barn and the dwelling due to the distance between the two and the intervening track and fencing. There is, however, a dependency and functional link between the two buildings due to the nature of the activities taking place across the wider site and the limited facilities in the barn.

11. The appellant advises that the first floor of the barn has been used for incidental residential purposes for a number of years as well as a respite area for staff. Whilst there is no suggestion that this link would be severed and the site is within the same ownership the potential use of the entire barn and surrounding land for incidental residential use would, in my view, unacceptably spread residential activities and paraphernalia across a greater area of the site. This would result in a domestication of the barn and surrounding land eroding the rural character and appearance of the area.
12. I conclude that the proposal would be contrary to Policy RA.8 of the AVDLP which, amongst other things, requires developments to respect the landscape character of Areas of Attractive Landscape. It would also be contrary to paragraph 170 of the National Planning Policy Framework (the Framework) which, amongst other things, requires planning decisions to recognise the intrinsic character and beauty of the countryside.

Other Matters

13. The appellant contends that the suggested alternative condition would better satisfy the tests for planning conditions in the Planning Practice Guidance (PPG) and the Framework. However, I do not share this view and find that it would not be suitably precise as it would potentially permit the use of large parts of the site by boarding and dogs being cared for during the day at weekends and bank holidays unduly affecting the living conditions of nearby existing occupants. It would also lead to residential activities extending across a larger part of the site, undermining the rural character and appearance of the area.
14. The condition imposed by the Council by comparison is precise and given the relationship to neighbouring dwellings and the nature of the surrounding area is clearly necessary, relevant to the development and to planning and reasonable under the circumstances.

Conclusion

15. Condition 1, in my judgement, meets the tests set out in the Framework and the PPG and is reasonable and necessary.
16. Therefore, for the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR