



Appeal Decision

Site visit made on 19 April 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/P1133/W/21/3281943

4 Maddacombe Road, Kingskerswell TQ12 5LF

- 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 Kirsty Stuart against the decision of Teignbridge District Council.
 - The application Ref 20/02044/FUL, dated 3 November 2020, was refused by notice dated 5 August 2021.
 - The development is described as 'To run a doggy daycare service for up to 10 dogs from my own home using only the house and garden'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is understood from the planning application form that the business has been operating at the premises since January 2020 and I have assessed the proposal on this basis. At the time of my visit, thirteen dogs were at the property including two belonging to the appellant and another belonging to a friend.

Main Issues

3. The main issues are the effect of the development on:
 - The living conditions of occupiers of neighbouring residential properties with particular regard to noise and disturbance; and
 - Highway safety.

Reasons

Living Conditions

4. The appeal site is located in the countryside on a well-trafficked road. The property forms one half of a pair of semi-detached dwellings and is also located adjacent to a residential dwelling with its associated holiday letting business and caravan park. On the opposite side of the road is a property which I understand to have planning permission for holiday units, although these are not currently on site. Approximately 100 metres away to the east is a commercial boarding kennels and cattery.
5. I observed during my site visit that the road is well used by heavy vehicles which all parties advise, relates to the transporting of material from a nearby quarry. These vehicles pass the site at frequent intervals. In addition, barking

dogs can be heard in the distance and again, I am advised by all parties that this is from the commercial boarding kennels. I also understand that the neighbouring holiday accommodation business allows dogs and that the use of the site by holiday makers having outdoor gatherings can create noise. In addition, there is a dog agility business operating in the locality. I found that for short periods, the area was quiet and peaceful where bird song could be heard but for the most part, there was discernible background noise within the immediate locality.

6. The appellant has provided a copy of the operating procedures for the business. A day care service is offered from 0800 through to 1800 from Monday to Saturday with overnight boarding for dogs not collected by 1800. It is clear that the appellant employs measures designed to minimise noise. Indeed, the immediate neighbour in the adjoining semi-detached dwelling at 2 Maddacombe Road indicates their support for the proposal, notwithstanding the fact that the dogs are kept for the most part in the downstairs rooms of the appeal dwelling. However, other neighbours clearly indicate that noise is a problem, particularly when dogs are outside.
7. Barking is normal behaviour for dogs. As such, dogs are likely to bark at drop off and pick up times. The care of dogs in an environment where there are groups of dogs together has the potential to increase the likelihood for dogs to bark, particularly during group exercise in the garden. The unpredictability of animal behaviour is such that dogs may also bark for other reasons.
8. Notwithstanding that the response from the Council's Environmental Control Team Leader advised that a period of noise monitoring revealed minimal barking arising from the site. However, I cannot ignore the comments made by the residents living close to the site or the later document from the Council's Scientific Officer which advises that monitoring of the premises revealed levels of barking from dogs at a level likely to give rise to complaints of noise. The appellant states that they have taken advice from local noise consultants but I have not been provided with any documentary evidence of their findings. Overall, there is no substantive evidence in the form of a noise assessment which demonstrates the development does not lead to unacceptable levels of noise and disturbance with or without mitigation.
9. Even though the dogs are exercised outside in a controlled and supervised manner, the proximity of residential dwellings to the site and the number of dogs needing to be exercised, means that there are considerable periods of the day when the neighbouring residents are subjected to noise disturbance which would be clearly discernible, relative to the background. These effects would be most pronounced in summer when neighbours may have their windows open or utilise their garden spaces. I do not accept the appellants argument that this causes no more noise than one might expect from pet dogs. The nature of barking as intermittent short bursts of loud noise has the potential for considerable noise disturbance and there is no substantive evidence to suggest that the levels of such is acceptable in this location having particular regard to people living nearby.
10. In reaching these conclusions, I acknowledge that the business is the appellant's livelihood and that they provide an invaluable service including to staff working at the local hospital. Mindful of this, and the advice in the Planning Practice Guidance as to the use of conditions, I have considered

whether any conditions can be imposed that would overcome concerns I have. The Council has suggested a condition which limits the hours of operation on a Saturday to 0800 to 1300 but the appellant is not agreeable to this. In any event, I am not persuaded that this would effectively reduce the harm. The appellant has suggested that a 'temporary' permission for a limited period would enable the impact of the business operation to be assessed. The Planning Practice Guidance advises that temporary permissions may be appropriate in order to assess the effect of a development on the area. However, given that the business has been in operation since 2020 and has generated complaints to the Council, I do not find that a temporary permission would be reasonable in this instance.

11. I have also considered the comments about whether or not uses or developments nearby are lawful or have planning permission. However, the fact remains that the property is close to other dwellings. I have considered the scheme before me, on its planning merits and based on the limited evidence before me and I cannot be satisfied that the development does not have an unacceptably detrimental impact on the living conditions of neighbouring residents with particular regard to noise and disturbance.
12. Thus, I must take a precautionary approach and find, for the reasons given, the development is harmful to the living conditions of occupiers of neighbouring residential properties with particular regard to noise and disturbance. It is therefore contrary to Policy EC4 of the Teignbridge Local Plan 2013-2033 adopted May 2014 (LP) insofar as it supports the use of part of a dwelling for employment generating business provided that there is no detrimental effect to the amenity in the area. The proposal is also contrary to Policy S1 of the LP which seeks to, amongst other things, ensure that proposals perform well in terms of the environmental effects of noise or nuisance arising from the proposed development.

Highway Safety

13. There does not appear to be any dispute between the parties that there is likely to be sufficient space on site to provide parking and turning for the residential property and customers of the dog day care business and I see no reason to disagree.
14. The property has an existing vehicular access onto the road. There is sufficient space for a vehicle to pull off the road and wait for the automated gate to open. However, the width of the opening means that it is limited to one vehicle using it at a time such that a car arriving at the same time as one departing, would be required to wait on the highway or park in the wider part of the road outside 2 Maddacombe Road.
15. I note that the neighbour at number 2 has offered the appellant the use of their drive but as it does not form part of the application site, nor it is within the control of the appellant, it could not be required by condition.
16. Given the nature and frequency of the traffic using the road and that it is subject to the national speed limit, I find that it would be undesirable to have vehicles waiting in the carriageway to access the site. Having said that, the appellant has indicated that they would be willing to carry out the necessary works to widen the access and provide sufficient on-site parking for both the

residential use and the dog day care business and I see no reason why this could not be controlled by the conditions suggested by the Council.

17. With the necessary access and parking provision in place, I find that the scheme would not have a harmful impact on highway safety. As such, I find no conflict with Policy S1 of the LP insofar as it requires proposals to perform well in relation to road safety.

Other Matters

18. The appeal site is within the South Hams Special Area of Conservation (SAC) Landscape Connectivity Zone for greater horseshoe bats. The site also falls within cirl bunting breeding territory in a County Wildlife Site (CWS) such that the Council indicate that there is a pair breeding on or near to the appeal site. The Council are not satisfied that sufficient information has been provided to determine the impact of the proposal on protected species. However, as I am dismissing the appeal, further consideration of this and an appropriate assessment under Regulation 63 of the Habitats Regulations 2017 in terms of the impact of the proposal on the SAC, CWS and cirl bunting is not required.

Planning Balance and Conclusion

19. I have found that the scheme does not have a harmful effect on road safety. I have considered that the proposal is an employment generating use and the appellants source of income. However, this is outweighed by the effect on the living conditions of occupiers of neighbouring residential properties as a result of noise and disturbance which cannot be overcome by conditions. For the reason given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Alison Fish

INSPECTOR