



Appeal Decision

Site visit made on 17 May 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th June 2022

Appeal Ref: APP/P0240/W/21/3286585

The Rabbitry, Fordfield Road, Millbrook, MK45 2HZ

- 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 Stephenie Staples against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/03309/FULL, dated 13 July 2021, was refused by notice dated 27 September 2021.
 - The development is a stable to kennel conversion.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is located within the Green Belt. However, the evidence before me indicates that the development has not resulted in an increase in the level of built form. In consequence, the development has not led to an erosion of the Green Belt's sense of openness.
3. The development has already been carried out. Accordingly, I am considering this appeal retrospectively.

Main Issue

4. The main issue relevant to this appeal is the effect of the development upon the living conditions of the occupiers of neighbouring properties, with particular regard to noise.

Reasons

5. The appeal site contains a kennel business, however the evidence before me is indicative that this use has commenced without the benefit of planning permission. The planning application and this resultant appeal attempts to regularise the existing use. The appeal site is located in open countryside. There are some dwellings within the surrounding area, in addition to some commercial activities, which include some leisure uses.
6. By reason of the nature of the development, there is a likelihood that activities would take place throughout the day and night owing to the need to undertake tasks such as caring for the dogs or exercising them. In addition, there is a likelihood that noise would be generated from dogs barking.
7. The submitted documents indicate that the kennels could be occupied by no more than 15 dogs at any one time. However, at this intensity of use, there is

the potential for a significant amount of noise to be generated, which must be given weight.

8. This causes a concern given that there is a likelihood that noise generated from within the buildings could be audible from various positions outside. In addition, the development includes an external exercise area. The operation of this area would therefore generate some noise.
9. Given the nature of this use, the building types and the fact that some activities would take place outside, there is the potential for noise to be clearly audible within the surrounding area. This is also reflected in the evidence before me. In reaching this view, I have had regard to the fact that some of the activities, such as those that would take place outside, could not be readily screened owing to the lack of existing physical structures that might offer some mitigation.
10. Although the nearest residential dwellings are not directly adjacent to the appeal site, there are several nearby. Owing to the scale of activities within the appeal site and the nature of the surrounding land uses, the noise that would be generated has the potential to be audible within the neighbouring properties, including the dwellings themselves. This is due to the general proximity of the dwellings to the appeal site.
11. Owing to the fact that the business would operate on a continual basis, there is a likelihood that noise would be generated during periods when residents might reasonably expect a greater level of peace and quiet.
12. Whilst there are some commercial uses within the appeal site's surroundings, these are commensurate to what might be expected within a rural area. In consequence, they do not appear to generate significant amounts of noise that might mask the effects of the appeal development. In addition, the topography of the surrounding area is relatively level. This means that there are insufficient geographical features that might screen the noise generated by the appeal scheme.
13. I have noted some soft landscaping in the surrounding area. However, such planting is likely to vary depending on health or season. Furthermore, due to the nature of planting it would not be a solid screen. This also reduces the effectiveness of such screening as a means of mitigating the effects of the proposed development. It therefore does not overcome my previous concerns.
14. I have given consideration as to whether it would be possible to impose a condition to secure some physical mitigation measures. However, a noise survey has not been submitted. Therefore, it is not possible to adequately establish whether any mitigation is required and if it could be provided.
15. In addition, if the development were to require the installation of future built structures, it would be necessary to consider the effects of the development upon the Green Belt. It has not been demonstrated that an appropriate quantum of physical screens could be provided within the land controlled by the appellant without eroding the character of openness of the Green Belt or conflicting with the purposes of including land within it. Therefore, the possibility of additional screening being installed does not allow me to disregard my previous observations.

16. The appellant's Statement of Case indicates that the operation of the development has not generated complaints to this point. Although this is a matter of note, for the preceding reasons regarding the layout of the site and its surroundings, when combined with the scale of the development means that the potential exists for excessive noise to be generated. Therefore, this situation does not allow me to disregard my previous concerns.
17. I understand that the Council's Pollution Officer has not raised any objections to the development. Although a matter of note, the observations in part refer to legislation outside of the control and operation of the planning system. Furthermore, I have also been directed to planning policies that seek to maintain the living conditions of the occupiers of neighbouring properties.
18. I therefore conclude that the development has an adverse effect upon the living conditions of the occupiers of neighbouring properties. The development, in this regard, conflicts with the requirements of Policies DC1; EMP4; and HQ1 of the Central Bedfordshire Local Plan (2021). Amongst other matters, these require that developments do not have an unacceptable adverse impact upon nearby existing uses; are not detrimental to existing communities; and have no adverse impact on the location, neighbouring land uses or residents.

Conclusion

19. The proposed development would have an adverse effect upon the living conditions of the occupiers of neighbouring properties. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR