



Appeal Decision

Site visit made on 16 August 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/A3010/W/22/3297975

Poppy View Farm, Stone Hill Lane, Everton, Doncaster

- 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 David Atkinson against the decision of Bassetlaw District Council.
 - The application Ref 21/00781/FUL, dated 8 May 2021, was refused by notice dated 24 February 2022.
 - The development is retention of use of stables for breeding and training of greyhounds and residential caravan for security.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Based on the submitted information and my site visit observations, the site is being used for greyhound training and breeding purposes and there is a residential caravan on site. I have considered the appeal scheme accordingly.

Main Issues

3. The main issues are:
 - the effect of the development on the living conditions of neighbouring occupants with regard to noise;
 - the effect of the development on the character and appearance of the area; and
 - whether there is an essential need for a rural worker to live permanently at the site.

Reasons

Living Conditions

4. The appeal site is located in the countryside to the south of the A631 road near to the settlement of Everton. It comprises an area of land which was previously used as a paddock and for the stabling of horses. The development is for the use of the site for the breeding and training of greyhounds and the retention of the caravan at the site for residential purposes. There are three noise sensitive properties within around 125 metres of the site. The closest is to the south west at Newstead Farm.

5. The appellant commissioned a Noise Impact Assessment (NIA) to consider noise issues. A noise survey was carried out over an approximate 24-hour period. One noise monitoring location to the south west of the site was used for the survey, approximately 25 metres from the kennels and 20 metres from the external area which the NIA identifies as being used during the daytime for younger dogs.
6. The NIA identifies that day-time and night-time ambient noise levels in the absence of barking were measured at around 49dB L_{Aeq} (0700-2300) and 45dB L_{Aeq} (2300-0700) respectively at the noise monitoring location, arising from road traffic on the nearby A631 road. This noise source tallies with my site visit observations. Using a worst-case scenario, the NIA assesses noise levels at the monitoring location for dogs barking as ≤ 53 dB L_{Aeq} (1 hour) from dogs in the external area and ≤ 45 dB L_{Aeq} (1 hour) from dogs in the kennels, with a ≤ 54 dB L_{Aeq} (1 hour) cumulative level from all dogs. The NIA calculates that, with a two metre high acoustic fence along the southern and western boundaries, the cumulative noise level from barking dogs at the external area and kennels would be 33dB L_{Aeq} (1 hour) at the nearest receptor.
7. On this basis, the NIA concludes that, with the acoustic fence, the development would be unlikely to give rise to complaints as the predicted noise level associated with the development would be at least 8dB below the worst-case (lowest) background noise level during periods of kennel activity of 41dB L_{A90} (0600-0700). The NIA also states that in terms of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG), noise would be at the No Observed Adverse Effect Level. The PPG states that noise at this level would not cause any change in behaviour, attitude or other physiological response and although it can slightly affect the acoustic character of the area, this would not change the quality of life.
8. However, no information is presented in the NIA on the number of dogs that were at the site during the noise survey period, or whether any assumptions were made about the number of dogs. In addition, the monitoring period was relatively short, and provides a less than certain reflection of the noise environment, particularly given that the noise source being measured is one that can be sporadic. I therefore cannot be certain that the noise survey is an accurate reflection of the usual use of the site, with it being possible that there was less noise generated during the period of the noise survey than at other times.
9. I appreciate that there is no specific methodology to assess dog barking. The initial response from the Council's environmental health officer (EHO) recommended undertaking the noise assessment in accordance with BS4142 which the NIA references. Both the Council's EHO and the NIA reference the guidance prepared by South Holland District Council relating to noise issues associated with premises for the boarding and breeding of dogs and other animals. This advises that the specific noise level should not exceed the background level measured over a one hour reference period.
10. However, the reality is that noise produced by the development is unlikely to be continuous in the manner of, for example, traffic noise, but sporadic and unpredictable, and it is these random incidents which would represent the worst-case scenario and be perceived by neighbouring occupants as a potential source of disturbance. In this regard, the Council's EHO highlights that a one

- hour measurement period will tend to average out the peaks resulting from a relatively small number of incidents of barking, and so appear as a negligible or no increase above the background noise level while still causing annoyance.
11. More recent guidance has been developed by the Northern Ireland local authorities. This guidance bases the limit on maximum barking levels rather than averaged out over time and sets that level at 10dB(A) below the measured background level. The Council's EHO considers that this guidance has merit for the appeal scheme.
 12. A number of controlling conditions have been put forward. These include a three metre high acoustic fence around the whole site and maximum noise levels at the site boundary that would take account of both the South Holland and Northern Ireland guidance.
 13. However, based on the submitted evidence, I am not persuaded that the installation of an acoustic fence would be sufficient to enable the recommended noise limits to be met. In addition, it is not clear whether further measures to insulate the kennel building would achieve the required mitigation or what other works might be necessary given that no evidence has been presented on these matters.
 14. While appreciating that there would have been some noise associated with the building when it was used for keeping horses, for the reasons stated above, noise associated with dogs has a particular characteristic that differentiates it from the noise that may have occurred with this previous use. While some degree of tolerance of agricultural related noise is to be expected by those residing in the countryside, this would not necessarily extend to the nature of the noise that would arise from the development.
 15. The NIA highlights that there is no history of noise complaints associated with the use of the site. The Council's EHO has identified one complaint. Nevertheless, based on the submitted evidence, I am not persuaded that the nature of the use is such that there would not be harm to the living conditions of nearby occupiers, notwithstanding the relative absence of complaints.
 16. For these reasons, I find that the evidence before me does not demonstrate satisfactorily that the development would not cause unacceptable harm to the living conditions of nearby occupants. Given my findings, I am not satisfied that these concerns could be overcome by a planning condition limiting noise to a specific decibel level.
 17. Consequently, the development conflicts with the residential amenity requirements of Policy DM4 of the Bassetlaw District Local Development Framework Core Strategy and Development Management Policies DPD, 2011 (the DPD) and paragraph 130 of the Framework. It would also conflict with paragraph 174 of the Framework which seeks to ensure that development is not adversely affected by unacceptable levels of noise pollution amongst other matters.

Character and Appearance

18. The site is located in an area of flat to gently undulating countryside characterised by predominantly open agricultural fields with boundaries formed by hedgerows or open fences. Scattered groups of residential properties are present within the landscape including farmsteads as well as the settlement of

Everton. Although there is built development in the vicinity of the site, the area has a distinctly rural character.

19. Based on the submitted evidence, part of the required noise mitigation would be a three metre high acoustic fence around the site. The site has boundary vegetation along much of its length and there is an earth mound along its northern boundary. This would help soften the appearance of the acoustic fence to an extent, although this would lessen during winter months when much of the surrounding vegetation would not be in leaf. Nevertheless, because it would need to be a solid and continuous structure, the acoustic fence would be unavoidably noticeable and visually dominating and would harshly enclose the site. Accordingly, the acoustic fence would appear as a dominant structure which would be an alien feature and would be detrimental to the area's open, rural characteristics.
20. The residential caravan is not in keeping with the form and appearance of buildings in the local area. However, unless entering the site, the caravan is well screened from public view. It therefore has only a limited adverse effect on the character and appearance of the area.
21. I therefore conclude that the development would harm the character and appearance of the area. As such, it would conflict with the requirements of Policies DM4 and DM9 of the DPD and Policies E1 and E8 of the 2019 Everton Parish Neighbourhood Development Plan 2019 – 2034 (the NP). Amongst other matters, these policies require development to respect its wider surroundings, enhance local distinctiveness and qualities of the landscape character and relate well to the immediate local context. It would also conflict with the design objectives of part 12 of the Framework.

Essential Need for a Rural Worker

22. Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside unless one of the five listed circumstances apply. In this context, the word "isolated" would be taken to mean a dwelling that is physically separate or remote from a settlement. The Framework does not define what constitutes a settlement for these purposes, nor does it specify a minimum number of dwellings or population for a settlement.
23. While the surrounding area is not free from development, the nearby dwellings do not in my judgement constitute a settlement. The siting of a residential caravan at the site therefore represents an isolated home in the countryside. Paragraph 80 a) of the Framework is where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. The PPG sets out that a functional need and the degree to which there is confidence that the enterprise will be viable for the foreseeable future are factors that may be relevant when considering whether there is an essential need for a rural worker under the terms of paragraph 80.
24. No substantive evidence has been submitted on these matters to enable me to come to a definitive view concerning the essential need for a rural worker at the site. In any case, given my findings that the development would be unacceptable with regard to its effects on the living conditions of nearby occupiers, there is no justification for the residential caravan. Based on the

submitted evidence, I therefore conclude that there is no essential need for a rural worker to live permanently at the site.

25. I note the appellant's argument that the use of the caravan as a residence is the only viable option to stop them from becoming homeless. I have therefore had regard to Article 8 of the European Convention on Human Rights, as set out in Schedule 1 of the Human Rights Act 1998. However, this claim has not been substantiated by evidence and this consideration would not therefore outweigh the harm caused by the use of the caravan as a permanent residence in the open countryside.

26. Accordingly, the residential caravan is contrary to paragraph 80 of the Framework, which has been summarised above, and Policy E8 of the NP, which supports small scale residential development in or adjacent to the existing built form of Everton.

Other Matters

27. While there may have been a caravan at the site for many years, the Council contends that there is no record of any planning permission for the siting or residential occupation of a caravan, and no evidence has been submitted to demonstrate any lawful planning position. I therefore give this matter only very limited weight.

Conclusion

28. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR