



Appeal Decision

Site visit made on 21 February 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/X1355/W/22/3312601

Craggs View Kennels, Land to the east of 21-25 West View, Evenwood, Bishop Auckland, County Durham DL14 9QH

- 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 Stephen Devlin against the decision of Durham County Council.
 - The application Ref DM/22/00048/FPA, dated 27 December 2021, was refused by notice dated 29 September 2022.
 - The development proposed is described as 'part of the site has been used for breeding dogs for the last 7 years and the client is registered to breed dogs with Durham County Council and has had regular inspections. He has added more kennels and dog runs, converted part of an existing building for breeding dogs, concreted a new base and constructed additional walls and timber fencing.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form is 'Craggs View Kennels'. The appeal form describes it as 'land to the east of 21-25 West View, Evenwood, Bishop Auckland, Co Durham' and the Council also used this address in their decision notice. I have therefore amended the banner heading to include this address.
3. Plans have been provided which appear to broadly accord with the development on the ground, apart from the electric sliding gate which was not in place at the time of my site visit. The Planning Statement includes a photograph, Photo 5, of a wooden gate, but I was not aware of a gate when I visited the site.
4. The site previously had permission for a storage building on the site¹. The Council and the appellant have both commented on the previous use of this building and the requirements for planning permission for the proposal, which the appellant agrees is required. These are, however, matters between the Council and the appellant and I will decide the appeal based on the proposal before me.

Main Issues

5. The main issues are:

¹ DM/14/02251/FPA

- The effect of the proposal on the character and appearance of the area; and
- The effect of the proposal on the living conditions of neighbouring properties in regard to noise and disturbance.

Reasons

Character and appearance

6. The appeal site is located on the edge of a tight-knit area of housing, accessed from a private road off Even Wood Lane. A narrow footpath lies between it and the rear gardens of the terrace along West View. Behind the site is a large commercial building on the Randolph Industrial estate.
7. The boundary of the site is constructed of blockwork walls, with pillars, inset with timber panels. The buildings are in a roughly L-shape, constructed along two sides of the yard area, and include cages and a timber building, no larger than a garage. The site was organised and tidy at the time of my site visit.
8. The buildings are low in height, which according to the appellant, apart from the roof structure, cannot be seen from any public view. Once the proposed sliding gate is in place and closed, the development would be totally enclosed. The height of the structures would not be out of scale with adjoining buildings at the end of Randolph Terrace and a wooden garage close to the entrance to the kennels.
9. The use of cream render on part of the kennels would not appear inappropriate in a site close to residential properties where a variety of materials have been applied to buildings, whilst the other materials reflect the industrial character of the surroundings and the garages nearby. As the site is located to the rear of West View and adjacent to these other buildings, the proposal does not appear obtrusive or visually dominant in this location. Moreover, the whole site is dominated by the large, corrugated panel building to the rear which provides a backdrop to the site and its surroundings.
10. Therefore, for these reasons, the proposal does not harm the character and appearance of the area and therefore accords with the County Durham Plan (CDP) Policies 6 and 29 which seeks proposals that are appropriate in scale and design to the character of the settlement. It would also accord with Chapter 12 of the Framework.

Living conditions

11. The kennels house 14 gun dogs. A guard dog, previously at the site, has been removed. During the shooting season, between August and February, the dogs attend shoots during the daytime, Mondays-Saturdays. At other times of the year the dogs spend more time on the site, although would leave the kennels when they are being trained. The Dog Management Plan shows that the dogs are taken off site for exercise. Whatever the activity, the dogs generally sleep on site in the night-time kennel building.
12. The kennels adjoin gardens of sensitive receptors and are in close proximity to residential homes, with bedrooms facing the kennels. Two noise impact

assessment (NIA) reports have been undertaken for the proposal. There has been disagreement between the parties as to the standards required for the Noise Assessment. Nevertheless, while the dogs housed at the site are trained specifically not to bark unless required as part of their working duties, the second NIA reveals significant spikes in noise emissions associated with the times that the dogs are moved and fed. As such, these sound events are likely to be associated with sound from the site rather than other dogs in the locality.

13. Moreover, I note that following the appellants favoured assessment criteria, the conclusions that disturbance is unlikely are based upon a conclusion that average noise emissions from the dog kennels are not likely to be louder than other noise events in the area. However, especially given the characteristics of the dogs kennelled at the site, any barking is likely to be infrequent individual events and not well represented by averaged sound levels.
14. The proposal includes the construction of an acoustic gate. This is designed to prevent the dogs seeing any activity outside the compound, thereby reducing barking and disturbance to neighbours; and to provide partial acoustic shielding for the sensitive receptors. However, there is no robust evidence presented that this would work in practice.
15. Consequently, the proposal would harm the living conditions of neighbouring properties in regard to noise and disturbance. It would not accord with Policies 6, 29 and 31 of the CDP which requires the proposal to be appropriate to the location and functions of the area, and to ensure that there is no unacceptable impact on living conditions, such as noise. It would also not accord with the Framework.

Other Matters

16. The appellant considers that as the Council's Noise Action Team view the development as a statutory noise nuisance and have not exercised their powers, that this means that no nuisance is being caused, or it cannot be established that it is from the appellant's site. The Council have highlighted that these are separate powers outside of planning legislation and that despite the lack of action, there have been complaints and therefore there is likely to be a statutory nuisance level to noise from the site. This does not, however, affect how I have determined the appeal.
17. The size of the operation is a matter of disagreement. It has been clarified by the appellant, that whilst they hold a commercial breeding licence, they do not breed dogs for sale and that any puppies are looked after in the appellant's home. Based on what I saw on site, it appears to be a small-scale commercial activity, reputed to provide half of the appellant's livelihood. This, however, is a neutral matter in the determination of the appeal.
18. The Management Plan has identified that there are no odour issues associated with the site which is also a neutral matter.

Conclusion

19. Whilst the proposal would not harm the character and appearance of the area, this is a neutral matter. The other harm brings the proposed

development into conflict with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.

20. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR