



Appeal Decision

Site visit made on 3 October 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2023

Appeal Ref: APP/L1765/W/22/3311095

Land to the rear of the Alma Inn, Alma Lane, Upham, Hampshire

- 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 Ms Claire White-French against the decision of Winchester City Council.
 - The application Ref 22/01143/FUL, dated 24 May 2022, was approved on 25 July 2022 and planning permission was granted subject to conditions.
 - The development permitted is change of use to dog walking/training.
 - The condition in dispute is No 3 which states that: *The development hereby approved must only operate within the following hours:*
 - a) 08:00 to 18:00 on weekdays
 - b) 08:00 to 13:00 on Saturdays
 - c) Not used on Sundays or Bank Holidays
 - The reason given for the condition is: *To ensure the risk of noise disturbance for neighbours is managed and mitigated.*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the site location as described on the appeal form and decision notice. This is more precise than that provided on the application form.
3. The National Planning Policy Framework (the Framework) was updated on 5 September 2023. However, the sections pertinent to this appeal have not materially altered and so I will reference the revised version in my decision.

Background and Main Issue

4. The appellant seeks to amend condition 3 of the approved scheme to extend the hours of use on Saturdays from 8am to 1pm, to 8am to 6pm. This would allow them to provide additional dog walking sessions at the weekends. The Council consider that the extended opening hours would result in additional unnecessary noise nuisance for nearby residents.
5. Therefore, the main issue is the effect varying condition 3 would have on the living conditions of occupants of neighbouring properties regarding noise disturbance.

Reasons

6. The appeal site is an open field positioned to the rear of the parking area of the Alma Inn, bounded by Mortimers Lane and Alma Lane. It is surrounded by hedging and accessible from Mortimers Lane. Broadly opposite the site access

is a dwelling set back from the road, and there are several dwellings located on Alma Lane close to the site.

7. On visiting the site, a user was completing their dog walk session, so I was unable to witness first hand any noise from the site's use. However, I was able to appreciate the reasonable quiet of the general area, particularly from Alma Road. I also noted that although apparent, the noise from the well-used Mortimers Lane was not excessively dominant or intrusive except along the immediate edges of that road.
8. Nevertheless, considering the approved use it is unavoidable that, even for a short period of time, the very nature of dog barks and human shouts or whistles is to attract attention. They are often louder and at higher frequency than the background noise levels and unpredictable in their occurrence. Due to the variable nature of humans and dogs as a source of noise, I am satisfied that the most appropriate form of control is by conditioning hours of operation. This would provide certainty to the occupants of nearby properties as to when they could expect noise from the appeal site and to ensure a reasonable period of respite from potential noise during the weekend, when people are most likely to be at home.
9. The appellant's noise assessment (NA) shows measurements were taken on a singular Saturday between 8am - 5pm. The NA states that 'there is no reason to think that noise impact would be worse during the afternoon if the hours of operation were extended', relying on the median range of values across both time periods.
10. Notwithstanding that the NA does not cover the full period the appellant is seeking to extend the Saturday operational hours by, it fails to specify what level of use had taken place within the existing operational hours, whether the site was at full capacity, or where the measurements were taken from. It also has only taken measurements on a singular day, therefore does not necessarily represent the typical use of the site and its effect on neighbouring residents.
11. The NA also does not explain the several instances where there seems to be a variance of around 10 decibels (dBs) or more between the ambient and background noise levels. A 10dBs increase in sound can be perceived as doubling in loudness, and the measurements set out in Table 2 of the NA show that there are more occasions of these incidents within the period between 8am - 12.55pm than between 1pm - 4.55pm. As there are no other sources of noise identified in the NA, the louder incidents within the 8am - 12.55pm period are, in probability, linked to the use of the appeal site.
12. Therefore, I am not persuaded by the NA's conclusion, that the proposal would likely have the same effect after 1pm as it does before 1pm, as the information before me is too limited, and may not represent a typical Saturday.
13. Nevertheless, even if the noise impact would be similar across the day, the relatively quiet and tranquil nature of the surrounding area, and lack of any proposed mitigation would mean the proposal could still have a harmful effect on the living conditions of nearby residents by considerably reducing the period of time they could expect respite from potential noise incidents.
14. It is acknowledged that according to the NA, there is no legislation or guidance which differentiates between weekdays and weekends in terms of different

levels of impact. However, this does not account for the effect of that impact over an extended period.

15. That there is support for the change of use of the appeal site from interested parties is reflected in the approval, however this does not alter the planning merits in relation to operational hours and noise disturbance.
16. Consequently, it has not been satisfactorily shown that an extension in operation hours, by varying condition 3, would not have a harmful effect on the living conditions of occupants of neighbouring properties regarding noise disturbance. The proposal would not therefore comply with Policies DM13, DM17(viii) and DM20 of the Local Plan Part 2 insofar as they seek to ensure new development does not create unacceptable noise intrusion or impact on human health or quality of life.

Conclusion

17. For the reasons given above, the variation of the condition proposed, would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations that would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR