



Appeal Decision

Site visit made on 1 December 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 January 2024

Appeal Ref: APP/F2360/W/23/3318134

Gables Farm Livery Stables, Lindle Lane, Hutton, Lancashire PR4 4AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Miss Nicola Wildman against South Ribble Borough Council.
 - The application Ref 07/2022/00689/FUL, is dated 10 August 2022.
 - The development proposed is the change of use from livery yard to dog training facility including 6 floodlights to outdoor area at rear.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matter

2. The Government published on 19 December 2023 a revised version of the National Planning Policy Framework (the Framework). Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issue in this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.

Preliminary Matters

3. This appeal results from the failure of the Council to issue a decision within the prescribed period. Since the submission of the appeal, the Council provided a statement of case in which it clarified that it would have granted planning permission for the proposed development had the jurisdiction to do so remained with it. The appellant was provided an opportunity to comment on the Council's statement of case.
4. Nevertheless, a number of interested parties have raised concerns with the proposed development. The comments submitted represent material considerations in the determination of this appeal. Whilst it can be seen from my decision that I consider there to be one main issue in this case, I note the various other concerns which were raised, and I shall return to those matters later.

Main Issue

5. The effect of the proposal on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

Site and proposal

6. The appeal site is a former commercial livery yard complex, last used by Myerscough College. The site is of a very generous size and, further to the stables, the complex includes an indoor arena, horse walker, various outbuildings and outdoor grazing areas. At the time of my site visit the appeal site was vacant and in a poor state of disrepair. Immediately adjacent to the complex, and within the appellants ownership, is a detached dwelling, which is also in a state of neglect.
7. The appeal proposal seeks to use the site as a dog training facility with the total training provision for 18 dogs inside, split across three arenas, and 6 dogs in an outside arena. Physical works to the site would be limited to the introduction of floodlighting, modest internal works to buildings and the marking out and surfacing of parking areas. There would be a total of three members of staff. It would operate seven days a week with customer hours varying between 0800 and 2100 throughout the week.

Living conditions

8. The appellant has provided a Noise Assessment¹ (the NA) in which the existing noise levels at the site and various predicted noise assessments have been made. The proposed development would generate noise from vehicles arriving and leaving the site and customers congregating before and after classes.
9. The primary concern with respect to noise however is from the barking of dogs, which could occur within the appeal buildings, in external areas around the site and within parked cars.
10. The main source noise level which has been relied upon within the NA was taken from an existing facility run by the appellant. Other than suggesting that the measurements were of a typical class, there is little further detail. I do not know the number of dogs, staff and handlers which were present at that training session, what the class entailed and the total number of people and dogs which were present at that wider site during the period in which the data was collected.
11. Therefore, even though the NA relies upon the noisiest 1 minute from the class in the source data, I cannot accurately ascertain whether the measurements taken would be commensurate with the total number of dogs and handlers expected to be accommodated at the appeal site at any one time. This includes handlers and dogs waiting for the next class and those using the outdoor areas.
12. Indeed, the NA confirms that the classes could be quieter or busier. I am not therefore satisfied that the data entered into the modelling software was a like for like data set, or indeed as close as may be possible.
13. I acknowledge that the canine disciplines which may be provided on site are those in which barking is discouraged as this may result in a decreased score in competitive work. Activities such as flyball or protection dog work, which are noise generating dog handling activities, will not be offered.

¹ ARR/C/3575.01 Rev A, 8th November 2022, Rev A 17th January 2023

14. Whilst I appreciate that the appellant also seeks to ensure barking is restricted, barking is a natural display of emotion for dogs, and it would be expected to occur at times. Dogs can be unpredictable, vary in nature, size and breed and it is difficult to establish what scenarios could or would disturb them to make them bark. As such, to rely on responsible management of the dog's behaviour by staff and their handlers so as to keep barking to a minimum is not sufficient and there may be times in which excessive barking is not adequately prevented.
15. There will therefore be an inherent level of uncertainty and variability in the noise level of the proposed development given the unpredictability of barking dogs. The NA attempts to allow for this through the additional modelling of a dog barking constantly for 10 minutes an hour, which also reflects various permutations i.e. 10 dogs barking for 1 minute each. The data used is based upon industry recognised guidance and standards.
16. The NA therefore aims to err on the side of caution and modelled an extreme, worst-case scenario, using the noisiest 1 minute period in the source data, along with the additional modelling and the use of the lowest background noise level. Nonetheless, given the uncertainty regarding the main source data, I am not convinced that this approach calculates a predicted noise level which is truly representative of the development proposed.
17. Even if I were to accept the main source data which has been used, it remains that the NA has only considered the effect of barking dogs within the appeal building and parked cars. Whilst noise from customers congregating in external areas of the appeal site are included in the NA, it fails to consider the noise from dogs in external areas. Indeed, the NA confirms from the offset that it is an assessment of noise impact of a proposed indoor dog training facility.
18. I note that the Council's Environmental Health consultee is in agreement with the NA, however this is predicated on the external use of the site being prevented. Although the Council has not suggested conditions which reflect such an arrangement, it would be within my remit to prevent the use of the external yard/training arena for classes and events.
19. Nevertheless, the proposed development seeks to use the external areas for classes, during changeovers and for warm up/cool down sessions and the appellant has not indicated that they would be willing to remove the use of these areas. Moreover, it seems to me that the external areas of the site could not be prevented in their entirety as it is clear that the dogs require warming up and cooling down before and after classes.
20. Whilst the NA notes that the buildings on site offer very little sound insulation qualities and thus it is expected that the use of the outside areas for classes would not be significantly different than the predicted internal noise levels as set out in the NA, there is no conclusive evidence before me to confirm this. I have already outlined my concerns with the source data used in the NA.
21. Moreover, as an assessment of all predicted external noise resulting from the level of activities within outdoor areas of the site, both prior to, during and after classes, along with the noise resulting from internal areas, has not been fully considered, this further adds to my concerns regarding the reliability of the NA.

22. Notwithstanding this, even based on the results of the NA, it seems to me that the predicted noise level, taking into account character corrections for perceptible impulsivity and intermittency, along with external activity such as barking dogs in cars, would lead to ratings above the background levels at the nearest residential property.
23. I note that this property is within the appellant's control and it is suggested that they may occupy it. However, as occupancy cannot be controlled, consideration has been given to the introduction of an acoustic fence along the shared boundary between the dwelling and appeal site, to which the appellant is agreeable. Be that as it may, I cannot ascertain whether an acoustic fence would be effective based on the very limited detail before me.
24. Moreover, given the uncertainties around the source data and its effect on the results of the NA, I am not satisfied that the effect on other nearby residential properties has been fully or accurately considered, regardless of their distance from the appeal site. This raises serious concerns in my mind regarding noise levels of the proposed development and the resultant effect on other nearby occupiers.
25. Whilst I note the context of the locality, which includes busy highways and a nearby police dog kennelling facility, it seems to me that residents experience a degree of peace and quiet which is typical of a semi-rural area. The evidence does not satisfy me that the proposal would ensure this remains.
26. Taking all the above into consideration, I have serious concerns with regards to the content of the NA and thus I cannot confidently conclude that the proposal would not result in harm to the living conditions of nearby residents. As such, the proposal would fail to comply with Policy 17 of the Central Lancashire, Adopted Core Strategy, Local Development Framework (July 2012) which aims to ensure that developments are sympathetic to surrounding occupiers and avoid demonstrable harm to the amenities of the local area.
27. The proposal would also fail to accord with paragraphs 135 and 191 of the Framework which state that decisions should ensure developments which do not undermine the quality of life and mitigate and reduce to a minimum potential adverse impacts resulting from noise from new developments.

Other Matters

28. Interested parties have raised various other concerns with the appeal proposal, which include but are not limited to the effect of the proposal on the Green Belt; visual harm to the character of the area; highway and pedestrian safety; the safety of dogs within the site; drainage; biodiversity and; lighting, including its effect on ecology and local residents.
29. It has not been necessary for me, within the context of this appeal, to consider these matters further as, had I done so, my findings on each matter would not alter my overall conclusion.
30. I note the concerns which have been raised with regards to the Council's handling of the planning application however this is not a matter for me within the context of this appeal.

31. I appreciate that the appellant has sought to engage with local residents throughout the course of their planning application. This matter does not however outweigh the concerns I have found above.

Balance and Conclusion

32. The proposed development would provide jobs and I acknowledge the comments from users at the appellant's other sites which indicate that the classes proposed to be undertaken at the appeal site bring benefits in terms of mental well-being. Given the small scale of the proposed development however, I assign only limited weight to these benefits in favour of the proposal.
33. Taking all the above into consideration, the proposal conflicts with the development plan as a whole and there are no other considerations which indicate that a decision should be made other than in accordance with it. Therefore, the appeal should not succeed.

H Ellison
INSPECTOR