



Appeal Decision

Site visit made on 23 January 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/J1915/W/23/3315560

Hightrees, 1 Parkside, Buntingford, Hertfordshire SG9 9RT

- 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 Miranda Delnevo of Bonus Canine against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/1208/FUL, dated 9 June 2022, was refused by notice dated 4 November 2022.
 - The development proposed is described as 'I have already been granted a two year dog day-care/animal activity license by environmental health. Inspector was Neil Webb. I have since been informed by the planning department that "change of use" is required in order for the license to be granted'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original description of the development, as stated on the application form, is specified within the banner above. However, the nature and extent of the development is wholly unclear from this description. Based on the evidence, and notwithstanding the Council's description of the development on the decision notice, I understand the development subject of this appeal to be 'the use of the site as a residential dwellinghouse and for business purposes associated with dog daycare'. The appellant and the Council have had the opportunity to comment on this description, and no objections have been raised. I therefore proceed on this basis.
3. The Council determined the application on the understanding that it was made retrospectively. However, the application form indicates that the change of use had not been undertaken at the time the application was made. Furthermore, and from my observations on site, I cannot be certain that any development that has been undertaken is as per the submitted plans and details. Therefore, this appeal is considered as a scheme for proposed development.
4. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

Main Issues

5. The main issues are the effect of the development on;
- the living conditions of occupiers of adjoining dwellings, with particular regard to noise and disturbance; and
 - highway safety.

Reasons

Living conditions

6. The appeal site comprises a semi-detached dwelling with associated gardens and areas of hardstanding, as well as a small paddock-type area beyond the rear garden. Gardens serving several nearby dwellings are also adjacent to parts of the paddock. Although a snap-shot in time, during my site visit, and from within the paddock, the sound of chirping birds was easily discernible above the moderate and frequent noise of vehicles using the nearby road network. As such and notwithstanding the road noise, I found the area to be somewhat peaceful. I have no reason to doubt that the types and levels of sound I encountered were typical of the area.
7. Barking is a normal behaviour for dogs. They may bark for many reasons, but in an environment where dogs are brought together in a restricted area, as is proposed under this appeal, there is an increased likelihood of barking, whimpering, and/or whining. Although such noises are unlikely to be constant, they would be variously likely during onsite exercise/training; periods of outdoor free play; at drop-off and pick-up times; and/or at times when unaccompanied. These noises would also be likely when other infrequent or irregular activities or noises occur in the area.
8. The presence of a range of dogs within the appeal site as part of a dog daycare business, would therefore be likely to result in intermittent bursts of loud noises of various pitches. Even though I have no reason to doubt that the dogs would be well-cared for, there would be considerable periods when the neighbouring residents would be subjected to noises that would be clearly and harmfully prominent above the existing background noises. Furthermore, the proximity of the nearby residential dwellings to the site, means that these effects would be especially pronounced at times when neighbours may have their windows open or when utilising their garden spaces.
9. There could be days and times when the number of dogs being cared for on-site in association with the dog daycare business would be nearer the lower estimate provided by the appellant. However, I am unconvinced that restricting the hours of operation and the maximum number of dogs permitted to be on-site at any one time to those suggested by the appellant, would overcome the previously identified harm. Nor would the planting of additional hedgerow shrubs, and/or scented climbing plants.
10. For the reasons given, the proposed development would cause harm to the living conditions of the occupiers of neighbouring residential properties, with particular regard to noise and disturbance. Consequently, it would conflict with policies DES4 and EQ2 of the East Herts Council East Herts District Plan October 2018 (the Local Plan). These policies require development to avoid significant detrimental impacts on the amenity of occupiers of neighbouring

properties and land, and to minimise the direct and cumulative impact of noise on the surrounding environment.

Highway safety

11. Parkside is a private road serving a low number of properties. Drivers travelling along the 2-way Ermine Street near the junction with Parkside, closest to the appeal site, are afforded good forward visibility. This is because of the straightness of the carriageway. Good visibility of oncoming traffic is also available when exiting this junction onto Ermine Street.
12. On the evidence before me, vehicle movements to and from the site which would be associated with the dog daycare business, would be likely to comprise a mixture of individual customer drop-off and collections, and individual and group drop-off/collections undertaken by the appellant. Details of the numbers of associated movements have not been provided. However, the appellant indicates that between 4 and 12 dogs would be cared for on-site in any one day, and that these would be dropped off and collected at various times throughout the day. As such, and subject to the number of dogs being restricted to no more than 12, the number of additional vehicles that would be attracted to the site in connection with the business, is likely to be moderately low and spread out.
13. I observed that the existing driveway within the appeal site is of sufficient size to accommodate at least 3 cars parked end to end. However, the width is such that only the vehicle closest to Parkside would be clear to manoeuvre on and off the site independently. Furthermore, while some parking spaces have been formed within the verge between Parkside and Ermine Street, the evidence suggests that these are associated with allocated dwellings, which do not include Hightrees. As such, these spaces cannot be relied upon to provide car parking provision for visitors to the appeal site.
14. The creation of an additional parking space within the front garden of Hightrees would enable parking and independent access and egress to be secured to the site for more than one vehicle at any one time.
15. Given the additional vehicle movements anticipated, and subject to the use of the extra on-site parking being restricted to customer drop-off and collection only, the on-site parking provision would be sufficient to meet the needs of the occupiers of the dwelling as well as the dog-day care business. The additional parking would also prevent the likely occurrence of dangerous or obstructive parking, such as at the closest road junction between Parkview and Ermine Street, and/or across driveways. Had the development been otherwise acceptable, this additional car parking provision could have been secured via an appropriately worded condition.
16. On either arrival or exit, it would be necessary for drivers to undertake a reversing manoeuvre between Parkside and the on-site parking. However, the need to undertake such a manoeuvre is common to many of the properties along this road. Drivers can then secure access Ermine Street in forward gear. The evidence does not indicate that there have been collisions, injuries, or near misses in the past either on Parkside or its junctions with Ermine Street. Therefore, and given the relatively low number of additional vehicle movements anticipated, such movements would not lead to either a harmful obstruction to the free flow of traffic in the area, or harm to highway safety.

17. For the reasons given, the development would not cause harm to highway safety. In respect of this main issue, it would comply with policies TRA2 and TRA3 of the Local Plan. Amongst other things, these policies require development to provide safe and suitable access for all users, which is acceptable in terms of highway safety, and to provide suitable car parking provision, to ensure the provision of safe environments.

Other Matters

18. Even if a license has been granted for dog daycare/animal activity on the site, the licensing regime is separate and different from the planning process. The granting of a license therefore has a very limited bearing on my decision.
19. Although the occupiers of some neighbouring properties have not objected to the proposals, I have found that harm would be caused to the living conditions available to them. Furthermore, I must also consider the living conditions that would be available to future occupiers of these properties.
20. I am mindful that the National Planning Policy Framework states that local planning authorities should approach decisions on proposed development in a positive and creative way. However, given the nature of the Council's concerns, it is highly unlikely that better communication between the main parties, prior to the determination of the application, would have led to an alternative outcome. Furthermore, and even if informal support of the proposals was given by officers of the Council before the application was submitted, any such support would not have been binding.

Conclusion

21. I have found that the development proposals would cause harm to the living conditions of the occupiers of neighbouring properties. Whilst I have also concluded that the development would not cause harm to highway safety, the absence of harm in respect of this consideration does not justify a different conclusion being reached regarding the acceptability of the development.
22. The proposed development would conflict with the development plan when taken as a whole. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR