



Appeal Decision

Site visit made on 1 May 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2024

Appeal Ref: APP/D2510/W/23/3326645

Mallard Ings, Main Road, Saltfleet, Louth, LN11 7SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Cynthia Wrigg against the decision of East Lindsey District Council.
 - The application Ref is N/145/02081/22.
 - The development is change of use of land to provide a mixed use for residential and the keeping of dogs and the erection of 16 kennels.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development on the application form is 16 wooden chalets with metal runs sat on concrete base, not fixed down, to house retired show dogs. The council amended this to the description used in the banner heading above. I have used the council's description as it is the use of the land as opposed to the operational development that is the main cause of concern.

Main Issue

3. The main issue is the effect of the development on the living conditions of occupiers of nearby dwellings with regard to noise.

Reasons

4. The site is located in the open countryside, approximately 350 metres beyond the built-up area of Saltfleet. The nearest neighbouring dwelling is Riverside Cottage, which is located directly across the road from the kennel block. This appears to be approximately 30 metres from the kennels and not 40-50 metres as suggested. It is in fact closer to the kennels than the appellant's own home. Meadow Cottage is approximately 180 metres away, on the opposite side of the appellant's house to the kennels. Except for these two properties, the area surrounding the site is very open.
5. The kennels and runs in question had already been constructed and were in use at the time of my visit. There is a large grass exercise area to the front of these, which is separated from the remainder of the garden by a low fence. On my visit I saw that the appellant has various breeds of dogs, of various ages. Having sought written clarification on the number, breed and age of the dogs remaining on the site, it is apparent that there are still 31 dogs in total, 20 of which live in the kennels at the end of the garden, and 11 of which live in the

house. The dogs are aged between 3 and 13 years old, and 22 of them are Dachshunds.

6. I acknowledge that the dogs kept in the kennels all belong to the appellant, that this is their permanent home, and that the dogs will be familiar with each other. As such they are less likely to be anxious or distressed, than for example dogs in boarding kennels. I am also mindful of the fact that the appellant is an experienced dog trainer, and that the kennels are not being used for breeding or boarding purposes. The appellant has now retired from showing dogs, and those which she still has are growing older and will not be replaced.
7. Although complaints have been made to the council's Environmental Health department, I have not been advised that the council has undertaken any noise monitoring of its own or taken the matter any further. However, the fact that an activity might not amount to a statutory nuisance does not necessarily mean that it would not have an unacceptable effect upon the living conditions of the occupiers of neighbouring properties. Furthermore, the fact that the kennels are located in a rural area does not overcome the fact that the closest neighbouring property is situated in close proximity to them.
8. Due to the relatively open and quiet nature of the surroundings, it is inevitable that noise will carry. Representations made in relation to the planning application, report barking being heard from properties some distance away, and from the nearby Dunes and Nature Reserve. I noted that the kennels do not benefit from any noise insulation, and even if this was the case, it would not be appropriate for the dogs to be kept shut inside the kennels at all times. The site is however much lower than the adjacent road level, and is bound by trees and hedges, which are likely to reduce the noise to some extent. Although there is some background noise from traffic passing on the adjacent road, the road is not particularly busy.
9. No noise impact assessment has been undertaken, and whilst I have visited the site, this only allowed me to experience a small snapshot in time and not a true reflection of the typical noise levels that might be experienced over several days, taking into account, for example, feeding time, exercise time, nighttime and when the dogs are let out first thing in the morning.
10. Upon my arrival there was no barking from the kennels until I reached a position in the site where the dogs could hear or see me. Given the location of the kennels and the screening around the site the dogs would not generally see anyone other than their owners. Barking ceased once I returned to the rear of the house. I was aware of some odour and flies whilst standing immediately adjacent to the kennels, but this was not apparent from outside of the site. I also noted that a radio was playing in the background at a low volume, which was not audible outside of the site or away from the kennels.
11. Given the low level of the site and the landscape screening, acoustic fencing may be feasible without causing harm to the character and appearance of the countryside. The appellant is willing to accept conditions requiring the installation of noise attenuation measures such as cladding the kennels and erecting acoustic fencing. However, I have no technical evidence before me to advise whether such measures would be beneficial in this case and to what extent they would make a difference. The use of the kennels, the maximum number of dogs kept in the kennels and on the site, and the control of waste could however all be controlled by conditions.

12. I have no reason to doubt the appellant's professionalism in caring for and controlling her dogs. However, all dogs bark, regardless of breed or training. Moreover, it would be unreasonable to expect that Mrs Wrigg is, or can be, present on site at all times.
13. I have given serious consideration as to whether it would be reasonable to grant a temporary or personal planning permission but given the number of younger dogs the appellant still has; it is likely that a large number of dogs will continue to be kept on the site for many years.
14. I therefore conclude that the use of the kennels and the keeping of up to 31 dogs on the site, has an unacceptable adverse effect on the living conditions of occupiers of nearby dwellings with regard to noise and there is currently insufficient evidence before me to demonstrate how this could be suitably mitigated by the imposition of planning conditions. Whilst I am not convinced that design policy SP10 of the East Lindsey Local Plan Core Strategy (2018) is relevant to the issue of noise, the proposal conflicts with paragraph 191 of the National Planning Policy Framework, which seeks to ensure development is appropriate for its location, taking into account the likely effects on living conditions by mitigating and reducing to a minimum any potential adverse impacts from noise.

Other Matters

15. I have had regard to the two appeal decisions that have been brought to my attention. These related to breeding kennels and restricted the number of dogs permanently kept on site to 15 and 20. Moreover, in one of those cases the nearest neighbouring dwelling was some 100m away and the main issue was the tranquillity of the Area of Outstanding Natural Beauty, in the other case no noise complaints had been made to the Council, despite that site being closer to a built-up area. In the case before me, despite some dogs having recently passed away, there are still over 30 dogs living permanently on the site and noise complaints have been made. As such, the cases are not comparable, and I have considered this appeal on the merits of the evidence before me.
16. Whilst I appreciate that noise and odour from farming and other rural activities are experienced in the countryside, the noise of 30+ dogs from a residential property is not typical of what occupiers of nearby properties should expect from living in the countryside.
17. I acknowledge that the construction of the kennels provided some local economic benefit and that allowing the appellant to care for her dogs avoids the need for rehoming, potentially by local charities. These limited benefits do not outweigh the concerns I have regarding noise and the absence of a noise survey to identify what measures, if any, could be effective in reducing the level of noise experienced from nearby properties, particularly Riverside Cottage.

Conclusion

18. For the reasons given above the appeal is dismissed.

R Bartlett

INSPECTOR