



Appeal Decision

Site visit made on 4 February 2025

by **Sarah Housden BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th February 2025

Appeal Ref: APP/Y2003/W/24/3354641

Mulberry Lodge, Spruce lane, Ulceby, Lincolnshire , DN39 6UL

- 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 Lesley Rance against the decision of North Lincolnshire Council.
 - The application Ref is PA/2024/862.
 - The development proposed is Change of use of existing dwelling to a mixed use as a residential dwelling and commercial dog breeding premises at Mulberry Lodge, Spruce Lane, Ulceby, DN39 6UL.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. However, aside from changes to paragraph numbers, there are no other changes that would affect the matters that are most relevant to this appeal, and I have therefore not sought any further comments on the revised Framework from the Council or the appellant. I have determined the appeal in accordance with the December 2024 version of the Framework.
3. As set out in the appellant's evidence, and as was clear at the time of my site visit, the change of use is underway and the dwelling is being used for residential purposes and for the breeding and sale of dogs. I have determined the appeal on this basis.

Main Issues

4. The single reason for refusal refers to the impact of the dog breeding use on the living conditions of surrounding residents and on the character and quality of the residential area. The main issues are therefore:
 - the effect on the living conditions of neighbouring occupiers, having particular regard to noise and disturbance; and
 - the effect on the character and appearance of the area.

Reasons

Living conditions

5. The appeal property is a recently constructed, detached two storey dwelling, to the south of Spruce Lane. It is within a residential part of the village and is served by a private access drive off Spruce Lane which serves five other dwellings.
6. The appellant has nine dogs, which are a mix of toy and medium sized breeds. Four of the dogs are used for breeding, and the appellant indicates that around four litters per year are produced.
7. Customers of the dog breeding business generate only a limited number of additional vehicular movements compared with the usual comings and goings of occupiers of the dwelling. Any additional noise and disturbance from vehicles is to the front of the property where there is already background noise from traffic on Spruce Lane, and it is not likely to cause material harm to the living conditions of adjoining residents.
8. The rear of the property comprises a patio and grassed rear garden enclosed by 1.8 metre high concrete post and timber panel fencing. The rear gardens of adjoining properties surround the rear garden of the appeal dwelling with the fencing on the common boundaries. The appellant indicates that the use of the rear garden is carefully managed, by restricting the number of dogs allowed out at any one time, and by taking appropriate action when dogs bark or cause disturbance.
9. However, the representations in the evidence before me indicate that the dog breeding use has had a negative impact on the living conditions of neighbouring occupiers due to the noise and disturbance from dogs within the rear garden, and the frequency with which that occurs. Whilst there has been no formal complaint to Environmental Health about the noise, statutory noise nuisance is dealt with under other environmental regulations and my determination of the appeal is based on a broader assessment of the living conditions of surrounding occupiers, having regard to planning policy.
10. The Planning Practice Guidance advises that conditions can be used to enable development proposals to proceed where it may otherwise be necessary to refuse planning permission. In this context, I note the comments and suggested conditions from the Environmental Protection Department in the event of the appeal being allowed, and the appellant's agreement to those.
11. Whilst a condition has been suggested to limit the number of litters bred per year to four, it would not be possible to limit the number of dogs on the site at any one time. Such a condition would be difficult to enforce in practical terms given that there could be significant variations in the numbers of dogs at the property once litters are produced and then sold. A condition restricting the frequency and duration of the outdoor use would not be reasonable for a property used for residential purposes as well as dog breeding and it, too, would be impractical to enforce.
12. I appreciate that the dwelling is affected by traffic noise from the A180 dual carriageway road and air traffic. However, that noise is distant and forms part of the background noise environment, whereas the noise and disturbance from dogs

using the rear garden is much more direct, and it is immediately adjacent to surrounding dwellings.

13. I note the satisfaction of the Environmental Health Department and the vet with the management and welfare standards of the dog breeding business. However, the issuing of a dog breeding licence is a separate regulatory regime from the need for planning permission, for which the impact on the amenity of the wider area and neighbours are relevant factors.
14. Normal domestic activity of a property generates a certain amount of activity and associated noise and disturbance. However, the mixed use of the property for the dog breeding business results in a much more intensive use of the rear outdoor area and the likelihood of more frequent occurrences of noise that are harmful to adjoining occupiers' enjoyment of their properties.
15. For the reasons outlined above, I conclude that the mixed use of the dwelling for dog breeding is materially harmful to the living conditions of adjoining occupiers, having particular regard to noise and disturbance. The use conflicts with Policies DS1 and DS4 of the North Lincolnshire Local Plan (2003) (LP) which, taken together seek to ensure that development, including changes of use in residential areas, does not cause an adverse effect on residential amenity from noise. It would not accord with the provisions of the Framework to ensure a high standard of amenity for existing users.

Character and appearance

16. The mixed use for residential and dog breeding purposes has not resulted in any changes to the external appearance of the house when viewed from Spruce Lane. There are no commercial signs or advertisements relating to the dog breeding business. The internal layout of the house is also unchanged from its original construction, with all facilities for breeding purposes being dog crates, enclosures, bedding and other normal canine equipment and accessories contained within the open plan area on the ground floor, the garage and two bedrooms on the first floor.
17. There are two small timber outbuildings in the rear garden, one of which is used for dog grooming, but they are close to the dwelling and contained within the property's boundaries and appear as normal domestic outbuildings. To the side of the property there is a dog washing station and washing machine enclosed by a metal gate and fence, but these are screened from the adjoining dwelling 'Hawthorn Cottage' by the 1.8 metre fence. There are no outside kennels, runs or other enclosures within the rear garden.
18. The dwelling's driveway area can accommodate four cars and customers are invited by appointment only. Given that the presence of customer vehicles is very intermittent and for short periods only, the level of parking is not materially different from the use of the property as a family dwelling and there is no material harm to the street scene arising from the visual impact of parked vehicles.
19. Overall, I conclude that the mixed use of the dwelling for residential and dog breeding purposes does not adversely affect the character and appearance of the surrounding residential area. As such, there is no conflict with Policy DS5 of the North Lincolnshire Core Strategy (2011) and LP Policies DS1 and DS4 in so far as they seek to ensure that proposals should reflect the character, appearance and

setting of the immediate area and that changes of use in residential areas should not adversely affect their appearance and character.

Other Matters

20. Whilst I am sympathetic to the appellant's personal circumstances, they can change over time, whereas the grant of planning permission for the mixed use of the property would be permanent. Whilst a condition has been suggested to ensure that the use of the property would revert to sole domestic use on its future sale or the cessation of the business, this could be some time away during which the adverse impact on adjoining occupiers would continue.
21. The appellant refers to the presence of other dog breeders in the area, but as I do not have further details of their location or activities, I cannot be certain that the circumstances are comparable with the case before me. In any case, I have determined the appeal based on the circumstances of the appeal site and the details in the evidence before me.
22. Whilst some neighbours have not objected to the appeal scheme, this does not affect my conclusion in relation to the first main issue in this case.

Conclusion

23. Whilst I have found that the mixed use of the appeal dwelling for the dog breeding business is not harmful to the character and appearance of the residential area, it is materially harmful to the living conditions of adjoining occupiers. There is conflict with the development plan, read as a whole and there are no material considerations to indicate a decision other than one in accordance with the development plan.
24. For the reasons outlined above, and having had regard to all other matters raised, the appeal is dismissed.

Sarah Housden

INSPECTOR