



Appeal Decision

Site visit made on 29 January 2025

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th March 2025

Appeal Ref: APP/B2002/W/24/3352579

Summerfields, Louth Road, Waltham, North East Lincolnshire, DN36 4RY

- 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 Mr and Mrs North against the decision of North East Lincolnshire Council.
 - The application Ref is DM/0220/24/FUL.
 - The development is change of use to create a mixed use site consisting of residential, dog grooming, dog breeding, dog day care, dog boarding and a dog park within an existing paddock.
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Decision

1. The appeal is dismissed insofar as it relates to dog day care and dog boarding.
The appeal is allowed insofar as it relates to dog breeding, dog grooming and dog park, and planning permission is granted for change of use of dwelling and its residential curtilage to mixed use residential, dog breeding and dog grooming, and change of use of paddock to a dog park, at Summerfields, Louth Road, Waltham, North East Lincolnshire, DN36 4RY, in accordance with the terms of the application, Ref DM/0220/24/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The development was described on the application form as retrospective change of use to create a mixed-use site consisting of residential, dog grooming, dog breeding, dog day care, dog boarding and a dog park within an existing paddock. The term retrospective is not an act of development and as such has been omitted from the description of development. The superfluous text added by the Council is also unnecessary to describe the development and has been omitted in the interests of conciseness.
3. There is no evidence before me to suggest that the area of land used as the dog park has ever formed part of the residential curtilage of the dwelling or to explain why it should be granted mixed use consent. I have therefore amended the description of development in my decision to change of use of dwelling and its residential curtilage to mixed use residential, dog breeding and dog grooming, and change of use of paddock to dog park.

Main Issue

4. The main issue is the effect of the development on occupiers of nearby residential and business properties with particular regard to noise and disturbance.

Reasons

Background

5. The appeal site comprises a detached house with an attached garage and outbuildings, set within a generous parcel of land. There is parking for at least three cars in front of the former garage, which has been converted into a small dog grooming parlour. There is a further area of hardstanding used for car parking on the eastern side of the front garden.
6. The large rear garden has been sub-divided into three separate areas. The area closest to the neighbouring dwelling to the west (The Lodge), is used as private domestic garden space. It comprises an outdoor kitchen and patio area with hot tub and a large lawned area. Although there is one small dog pen in this area, I understand this is only used occasionally for example when there are young puppies or bitches in season that need to be separated from other dogs.
7. On the eastern side of the dwelling there is an enclosed area with artificial grass and a large outbuilding, which is used to provide shelter and beds for the dogs and for preparing their food. There are also some smaller sheds and kennels albeit these were only being used as storage at the time of my visit. Beyond this there is a substantial enclosed area of lawn. Both areas are used by the appellants own dogs as well as those in boarding and daycare. All areas are enclosed by solid fencing.
8. To the east of the dwelling and gardens, there is a large, enclosed grass paddock, which is used as the dog park and contains a variety of dog agility, training and play equipment. This is screened from the private road by a high hedge and is bound to the north and east by large former farm buildings and grazing paddocks that are now in equestrian use. The land and buildings to the north and east are within the appellants ownership and control.
9. Access to the site from the busy A16 Louth Road, is via a private access road, which also provides access to the equestrian use, the farm opposite, rear access to the Waltham House Care Home and three further dwellings.
10. Despite its close proximity to New Waltham, a small cluster of dwellings and a care home, the site is in a rural setting. Due to being set back from the main road, where traffic noise is high, and beyond a range of large barns, the dwellings and gardens are relatively quiet.
11. Planning permission is sought for multiple dog related uses, which each have different effects on nearby residential properties and businesses. As such, I have assessed each part of the proposal individually before considering the cumulative effects.
12. I understand that the appellant has a licence to breed from her own family pets, a licence to cover 8 dogs for boarding/daycare, and a licence to keep up to 16 dogs in total on the premises. I have not been provided with copies of any licences or any terms or conditions that may apply to them. As licences generally last a maximum of 3 years and can be revoked, they carry little weight. I am also advised that a noise abatement notice is in place, but I have not been provided with a copy of this or any details pertaining to it. I am aware that the Council has been unable to determine the existence of a statutory nuisance in relation to the barking of dogs

at the host property. However, statutory noise nuisances are dealt with under environmental protection legislation, whereas I have a broader duty to consider the living conditions of surrounding residents and effects on local businesses, having regard to planning policy.

Dog Breeding

13. The appellants have 6 dogs that live with them in the house as domestic pets and not in outdoor kennels. The information submitted with the application stated that 2 of the dogs are bitches that could be bred from, 1 of which has never had any pups and the other who may have a final litter in 2024 and would then be spayed. Pups are ready to be rehomed after 8 weeks. I am advised that the average litter size is 3 for the Poodle and 6 for the Cocker Spaniel, and that a minimum of 1 year between pregnancies is required. I have not been advised what breed the younger bitch is, that may be bred from in the future, although this is somewhat irrelevant as the planning permission relates to the land use, not the dogs, and the appellant may have different dogs in the future.
14. Given the size and nature of the detached house and its substantial gardens, the keeping of 6 dogs as domestic pets in the family home would not result in a material change of use requiring planning permission. Considering this element of the proposal on its own, the primary use of the dwelling would remain residential, with the keeping of dogs being incidental to the enjoyment of that main use.
15. Whether or not the commercial breeding of dogs requires planning permission is a matter of fact and degree, having regard to things such as the scale, nature and frequency of this. However, I have dealt with the application as it was submitted. There are no details before me of any proposals to increase the current level of dog breeding on the site or the number of breeding dogs. The commercial breeding element of the development is therefore very small and could be controlled by conditions. I acknowledge that if the level of breeding was to increase, it could cause harm to the living conditions of neighbours in terms of noise and disturbance from the additional dogs and increased comings and goings. Whilst I am advised that the appellant has a licence to breed dogs, I have not been provided with a copy of this or of any conditions or restrictions relating to it. However, I believe that a licence is only required to breed 3 or more litters per year and that these last a maximum of 3 years. This planning permission is sought on the basis that there would be no more than 2 litters per year.
16. Based upon the disturbance incident diary records submitted to the Council, dating back to 2020, it appears that the primary complaint from the occupiers of the nearest dwelling relates to barking and whining from the appellants own personal dogs and occasional litters of puppies, particularly during the daytime when the dogs are left outdoors unsupervised whilst the owners are out or busy with other things. However, there is little evidence of any noise from dogs inside the house or during the night and this is confirmed in the Noise Assessment.
17. Dogs barking when neighbours or their dogs are also outside in their gardens is not unusual and is not a planning land use matter. Furthermore, I understand this matter is already being monitored by the Council's Environmental Health Officers.
18. I am advised that when the strip of land running along the rear of the domestic gardens was in use as a dog park/exercise area, it triggered increased barking between the appellants own dogs and those in the adjoining area. However, this

use has now ceased, and it does not form part of the development before me for consideration. I also accept that allowing additional dogs to be kept on site for day care and boarding would exacerbate the noise issue and would create more barking triggers, by a higher number of dogs. I will address this matter separately below.

19. I therefore conclude that the continued breeding of dogs on the scale proposed would be subordinate to the scale of the site and would not result in harm to the living conditions of neighbours or adversely affect any nearby business operations.

Dog Grooming

20. The garage attached to the dwelling has been converted to a small dog grooming parlour. I am advised that the walls have been insulated and boarded and I noted the windows and door to the front, behind the roller shutter, are double glazed. I am advised that the equipment used is no louder than domestic household and garden equipment. There is no substantive evidence before me of any noise nuisance specifically from the grooming parlour and the Noise Assessment also suggests that no breakout noise from dogs or equipment was noted from this area.
21. Grooming is by appointment only, for 1 dog at a time. At present the appellant generally has 3 or 4 appointments per day, which on average last approximately 1 hour 45 minutes. I have not been advised that any outside staff are employed and based upon the application form and other information before me, it would seem that one of the appellants undertakes the grooming, in addition to caring for the other dogs that are onsite and overseeing the maintenance and management of the dog park.
22. There are 3 car parking spaces to the front of the parlour, which has direct access without going through the house or garden and disturbing the appellants own dogs or those in other areas of the site. Provided the grooming continues to be limited to one dog at a time, it is unlikely that it would generate any frequent barking or whining, and there is sufficient onsite parking and turning for customers arriving by car to this small-scale use.
23. I therefore conclude that the dog grooming element of the development is acceptable and subject to suitable conditions would not adversely affect nearby residents and businesses.

Dog Park

24. The dog park is a large enclosed grassed area containing some dog agility and play equipment. It is currently hired out in 30-minute slots between 08:00 and 21:00 and is generally occupied by no more than 4 dogs at a time.
25. Dog parks are very popular and are often used by those with dogs which, for a wide variety of reasons, cannot be exercised off lead in public areas, with other dogs, or in unsecure or unenclosed areas. Accordingly, such facilities will often be used by individual dogs or those that live together or are familiar with each other. This reduces the risk of them making much, if any, noise. Furthermore, this part of the site is located away from residential properties, and subject to being properly managed and controlled, would not result in unacceptable noise or parking issues.
26. Interested parties have mentioned dog training sessions in the dog park and in an adjacent barn. Neither the adjacent barn nor the use of the dog park for group

training sessions or classes are before me for consideration. However, I acknowledge that such a use would be materially different to the individual use of the park or its shared use with friends or family, in that it would be likely to increase the number of people, dogs and cars, and consequently give rise to more noise and parking issues. Individual dog training sessions would have a negligible effect on parking and noise.

27. I appreciate that the dog park is likely to be popular with dog owners before and after work and at weekends and that during winter, when nights are dark, there is likely to be limited demand for evening bookings. Indeed, I am advised the park only opens dusk until dawn and not after dark. However, as background noise levels are lower at nighttime, I consider that opening until 21:00 in summer is too late, particularly given the presence of noise sensitive surroundings and the history of complaints.
28. Pre-booked individual sessions with staggered timeslots to avoid unwanted interaction between dogs, and to avoid waiting customers parking where they may obstruct access for other residents or delivery and farm vehicles, would address the concerns raised. However, this would require regular monitoring, in person or by CCTV adjacent to the parking area and park entrance gate, and enforcement by the owners, to ensure that booking terms and conditions are being met and that where these rules are breached, customers are warned or where necessary banned from using the site in future. This could be controlled by a management plan condition, the details of which shall be agreed with the Council and shall set out details of the park booking system, terms and conditions, how these will be monitored and how the appellant will deal with customers breaching the terms and conditions or with complaints from neighbouring businesses or residents. The dog management plan submitted sets out the current situation but fails to identify any methods to control and manage the dog park in the future to address its existing problems.
29. I therefore conclude that the dog park element of the development is acceptable and subject to suitable conditions would not adversely affect nearby residents and businesses.

Dog Day Care and Home Boarding

30. I am advised that this business has been operating since March 2020 and that the appellants have a 5* licence. I do not have a copy of this, but I am advised that the licence is for 8 dogs for this activity.
31. The daycare operates Monday to Friday 08:00 to 18:00. I acknowledge that most dogs in daycare are regulars that all know each other, but there is no guarantee that this would always be the case as customers and dogs will change periodically. Boarding dogs reside in the house with the appellants dogs and follow the same routine. No dogs are confined to kennels or kept outside. Dogs are however let out from approximately 07:30 until approximately 22:15. I acknowledge that drop off and pick up times for boarding and day care dogs are staggered, that trial runs and introductions are undertaken before accepting new dogs, and that dogs are not left outside when nobody is present on site.
32. The noise assessment identifies the main source of noise as being from the large external grass run used by the dog day care and boarding dogs, in addition to the appellants own dogs. This was based on 14 dogs using the run although the

appellant has a licence for 16 dogs. The measurements were amended to reflect this. I also note concerns that the submitted Noise Assessment was dated January 2024, with Measurement Data being taken over 2nd and 3rd March 2023, and that dogs are likely to be outside more often and for longer periods during summer months. However, the nuisance incident diary records submitted to the Council indicate that dogs are left outside barking at all times of year. Furthermore, adjustments have been made within the assessment to calculate the worst-case scenario.

33. The Noise Assessment recognises that noise levels experienced within the neighbouring residential site are unacceptable. In order to reduce the noise levels experienced by the nearest neighbours, over boarding the fence panels with an additional layer of timber to avoid any gaps and installing a gravel board at the base is recommended. It is concluded that by upgrading the fence the development would have a No Observed Adverse Effect Level. However, I understand that this is reliant on significant respite between occasional instances of dog barks. The noise arising from barking dogs is likely to be intermittent and variable in tone, pitch and volume. Significant breaks between occasional barks cannot be guaranteed. Whilst I note the appellant states that dogs are never left outside when they are not home and that barking is dealt with promptly, the evidence from interested parties, the noise abatement notice, ongoing complaints, and the observations of an Environmental Health Officer who witnessed dogs barking for a prolonged period contrary to the content of the noise abatement notice served, indicate that this is not always the case.
34. Furthermore, if the appellant is busy in the grooming parlour with a dog for up to 1 hour 45 minutes and nobody else is employed or home to oversee the other 16 dogs, or to observe what is happening in the dog park, it is difficult to see how noise from dogs in all areas could be effectively managed and promptly brought under control. I am not persuaded that improvements to the fence would be sufficient to remove the noise disturbance currently experienced by local people. Whilst there was little barking during my visit, this was a short snapshot in time, with a limited number of dogs present and the grooming parlour not in use. I have no reason to doubt the comments from nearby residents, workers and council officers, which are documented and are not limited to the concerns of a single person.
35. I acknowledge the demand and need for dog day care and boarding, particularly within a caring and secure home environment such as that which is offered by the appellant, but this does not go to the planning merits of the case and is not a reason to grant planning permission in light of the harm identified.
36. I therefore conclude that this aspect of the development increases the number of dogs on the site, to a level that results in an unacceptable effect on the living conditions of occupiers of nearby residential properties, particularly residents of The Lodge, which is directly to the west of the site. As such it is contrary to Policy 5 of the North East Lincolnshire Local Plan 2013 to 2032 (the local plan), which requires at Part 1(D) that all development is considered with regard to impact upon neighbouring land uses by reason of noise and disturbance. The proposal would also conflict with Paragraphs 187(e) and 198 of the National Planning Policy Framework (the Framework), which seek to prevent development from contributing to unacceptable levels of noise and to ensure it is appropriate for its location taking into account the likely effects (including cumulative effects) on living conditions.

Other Matters

37. The wider area is agricultural and equestrian in nature and there is no substantive evidence before me to suggest that any vermin problems are related to the appellants dog related activities. I also note the problem of dog faeces bags being left on the floor near the dog park and it is clear from the evidence submitted that the owner did not find this acceptable and was tackling the problem. With regard to odour, at the time of my visit the smell of dog urine was apparent from within the smaller outdoor area, which is surfaced by artificial grass. No odour was apparent from anywhere else within the site or from outside of it.
38. Access restrictions contained within covenants or breaches of these are subject to separate control outside of the planning system. Likewise, any damage to the private road caused by increase in traffic is a private matter. The absence of any objection from the local highway authority is a neutral matter and does not weigh in favour of the development. Furthermore, the highway authority is not responsible for the private access road or the access to land and premises served by it.
39. I note the concerns that some customers park in the incorrect areas, disregarding signs and obstructing/disrupting adjacent businesses. However, I am satisfied that if visitor numbers are restricted and controlled there is adequate parking for customers directly outside the grooming parlour and dog park. Viewings and collections of puppies bred on site would be by prior appointment and very occasional. Although overflow parking is shown on the submitted plans, this should not be needed if conditions relating to the scale and operation of the approved uses are adhered to or enforced. Moreover, I have no details of the stable business and cannot be sure that the parking needs of both can be met by the overflow spaces shown. In any event, dog park customers are more likely to try and park closer to the dog park entrance gate.
40. The new housing development under construction to the north is far enough away from the site that future occupiers of it would not be adversely affected by noise and disturbance, and future occupiers may well benefit from the services offered.
41. I acknowledge the support from existing customers and others, but this is not sufficient in itself to make the development acceptable and does not outweigh the policy conflict in this instance. Moreover, most of those supporting the development do not live close enough to it to be directly affected by the associated noise and disturbance generated by it or to witness this given that they are only present occasionally and for short periods of time. Many of the support letters refer specifically to the dog park and grooming elements of the proposal, which I have found to be acceptable.

Conditions

42. I have considered the Council's suggested conditions against the Framework and Planning Practice Guidance. As the development has already commenced, I agree a time limit condition is not necessary. I agree that a plans condition is necessary in the interests of certainty.
43. In order to reduce the risk of noise and disturbance to occupiers of nearby residential and business premises, I consider it necessary and reasonable to impose conditions to restrict the number of dogs bred on the site, to control the hours of operation of the grooming parlour and dog park, to restrict the numbers

and type of users of the dog park, to control parking and external lighting at the site and to agree a robust management plan that the Council can enforce.

Conclusion

44. The limited breeding of pet dogs, the grooming of 1 dog at a time, and the use of the play park by no more than 4 dogs, would still enable 11 dogs (including the appellants own 6 dogs) and a number of puppies to be on site at one time. However, this would not always be the number of dogs on site and subject to conditions to restrict the intensity of the use, the breeding of dogs, dog grooming and dog park uses would not be detrimental to occupiers of nearby residential and business properties with particular regard to noise and disturbance. As such these elements would accord with Policy 5 of the local plan and the Framework.
45. The cumulative effect of the above uses, plus dog day care and home boarding, would intensify the use of the site and the number of dogs within it, to a level that results in an unacceptable effect on occupiers of nearby residential and business properties with particular regard to noise and disturbance. As such these elements would not accord with Policy 5 of the local plan and the Framework.
46. For the reasons given above and having had regard to all matters raised, I conclude that the appeal should succeed in part, and I will grant planning permission for change of use of dwelling and its residential curtilage to mixed use residential, dog breeding and dog grooming, and change of use of paddock to a dog park. The appeal is dismissed in relation to the dog day care and dog boarding.

R Bartlett

INSPECTOR

SCHEDULE OF CONDITIONS

Plans

- 1) The development hereby permitted shall be carried out in accordance with the following drawings: Site Location Plan 1:1250; Proposed Block Plan 1:500 except in so far as it relates to the dog day care area; Floor Plans and Elevations Drawing No. 842-1 Rev D except in so far as it relates to the dog day care area.

Dog Breeding

- 2) No more than 6 dogs in total shall be kept on the site excluding any pups under the age of 16 weeks old.
- 3) Dog breeding on the site shall be limited to one dog at a time and no more than 2 litters of puppies in total per calendar year.

Dog Grooming

- 4) The dog grooming use hereby permitted shall only take place between 09:00 and 17:00 on Mondays to Saturdays and shall operate on a pre-booked appointment basis only. Bookings shall be limited to 1 dog at a time, with pre-arranged drop off and collection times. Appointments should allow sufficient time to avoid customers waiting or overlapping and no dogs shall be left on site before or after their grooming appointment. Booking records shall be kept and made available to the Council to inspect upon request.
- 5) Car parking for dog grooming customers shall be directly in front of the grooming parlour and shall be kept clear for this purpose at all times when appointments are booked.
- 6) The dog grooming parlour shall not be sold or let as a separate unit from the dwelling.

Dog Park

- 7) The dog park hereby permitted shall only be used by customers between 08:00 and 19:00.
- 8) The dog park hereby permitted shall be operated on a pre-booked system only and shall be limited to one booking, for a maximum of 4 dogs, at any one time.
- 9) No dogs shall be left unsupervised in the dog park at any time.
- 10) The site shall not be used for group dog training or classes at any time.
- 11) Within 8 weeks of the date of this decision, a management plan for the dog park, shall be submitted in writing to the local planning authority for its written approval. The plan shall include, but shall not be limited to, details of staggered booking times, customer parking, waste disposal, terms, conditions and rules to be displayed on site and on any online website/booking site, details of how the owners will monitor and enforce its own rules, and details of how the owners will deal with any complaints relating to the use of the dog park, including complaints relating to dog park customers parking in the wrong place. The dog park shall thereafter be operated in strict accordance with the approved management plan.
- 12) The car parking bays shown on the proposed block plan, adjacent to the entrance gate in the southeast corner of the dog park, shall be maintained clear of any obstruction and retained free for dog park customers at all times.
- 13) No external lighting shall be installed on the site at any time unless and until a scheme has first been submitted to the local planning authority which details the materials and finish of the lighting, the positioning of the lighting, the luminescence level of the lights and how light pollution will be managed to prevent obtrusive light causing a disturbance. No artificial lighting shall be used other than that approved by the approved scheme which shall thereafter be retained and maintained whilst ever it is in place upon the site.