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## Appeal Decisions

Site visit made on 24 June 2025

**by Mr James Blackwell LLB (Hons) PGDip, Solicitor**

an Inspector appointed by the Secretary of State

**Decision date: 18 July 2025**

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### **Appeal A Ref: APP/A1530/W/24/3345025**

#### **Petalo Lodge, Boxhouse Lane, Dedham CO7 6HZ**

- 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 S Stubbs against the decision of Colchester City Council.
- The application Ref is 232292.
- The development proposed is a new field kennel (retrospective).

**Summary Decision: The appeal is allowed and planning permission is granted in the terms set out below in the Formal Decision.**

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### **Appeal B Ref: APP/A1530/C/24/3345027**

### **Appeal C Ref: APP/A1530/C/24/3345028**

#### **Petalo Lodge, Boxhouse Lane, Dedham CO7 6HZ**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr S Stubbs (Appeal A) and Ms J Sillett (Appeal B) against an enforcement notice issued by Colchester City Council.
- The notice was issued on 25 April 2024.
- The breach of planning control as alleged in the notice is “*Without the benefit of planning permission, the construction of a field kennel*”
- The requirements of the notice are to: (i) Demolish/dismantle/remove the field kennel from the land (for the avoidance of doubt this is the field kennel, outlined in red on the attached plan); (ii) Leave the land in a clean and tidy condition.
- The period for compliance with the requirements is four calendar months from the date the notice takes effect.
- The appeals are proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).

**Summary Decision: The appeals are dismissed and the enforcement notice is upheld.**

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### **Preliminary Matters**

1. The appellants sought retrospective planning permission for a field kennel within the southern part of the site. This application was refused by the Council in March 2024 and Appeal A relates to this refusal. Appeals B and C relate to an enforcement notice which was subsequently issued by the Council in respect of the same development.
2. There are several other appeals concerning the same appeal site, which relate to the construction of another kennel, boundary treatments and a garage. These applications are the subject of separate decision notices.
3. The appeal site is located within the Dedham Vale Area of Outstanding Natural Beauty (AONB). The National Planning Policy Framework (2024) (Framework) is clear that great weight must be given to conserving and enhancing the landscape and scenic beauty in National Landscapes, which include AONBs. I have determined these appeals accordingly.

## **APPEAL A (PLANNING REFUSAL)**

### **Main Issue**

4. The sole main issue is the effect of the development on the character and appearance of the area, including the AONB.

### **Reasons**

5. The appeal site is located along the western side of Boxhouse Lane and comprises a detached dwelling set within a large plot of land. There are several outbuildings close to the house, which include a stable block, a hay barn, a garage and a home office. Together with the house, these buildings are all sited within the northern part of the appeal site. In the southern part of the site, there are a series of enclosed fields for the keeping of horses, which include two modest field shelters.
6. The field kennel, which is also modest in size, is situated discreetly within the south-eastern corner of the appeal site. Owing to the tall and dense hedgerows along the site's southern and eastern boundaries, the field kennel is largely screened from public view. This means its impact on the wider character of the area is very limited.
7. The existing field shelters also mean the southern part of the appeal site is already punctuated by intermittent built form. The kennel is seen within this context, which means even where glimpsed views of the kennel are possible, it integrates comfortably without undermining any particular sense of openness within this part of the site.
8. Given the kennel's modest size and scale, it contributes little to the cumulative sense of built form across the wider site. Its use of sympathetic materials, which are consistent with the tone and palette of those used elsewhere on the property, also ensures it complements the prevailing character of built form across the site as a whole.
9. Overall, I am therefore satisfied that the development does not harm the character and appearance of the area. I am also satisfied that it conserves the landscape and scenic beauty of the Dedham Vale AONB. In turn, the development is consistent with Policy SP7 of the Council's Local Plan (Section 1 – 2013-2033), which requires development to respond positively to its local character and context. The development is also consistent with Policies OV2, ENV1, ENV4, DM13 and DM15 of the Council's Local Plan (Section 2 – 2017 – 2033). Together, these policies require development to achieve high quality design which complements local character. They also require proposals to protect the borough's natural environment and countryside, and to safeguard the special qualities and tranquillity of the AONB. Finally, the development is consistent with the design objectives set out in the Framework, including those which seek to preserve and enhance the special quality of Natural Landscapes.

### **Other Matters**

10. Reflecting the Council's view, I am satisfied that the development is sited far enough away from other domestic dwellings to ensure it will not adversely affect the living conditions of neighbouring occupiers, particularly in terms of noise. Conditions will be secured to ensure the number of dogs is limited within the kennel, which will help safeguard this position.

11. Whilst barking may sometimes be heard by passers-by, such sounds are not uncommon from residential properties within a rural setting. In terms of fears around public safety, the boundary walls and hedgerow provide a robust separation between the property and the lane, which helps to mitigate against the risk of dogs escaping. A condition can also be secured to ensure the kennel is used solely for domestic animals, and not for any commercial purpose.
12. Comments regarding other appeal decisions relating to the appellants' former properties are noted. However, each case must be determined on its own merits, with regard to its individual site context. These appeal decisions therefore carry little weight in the present case.

### **Conditions**

13. I have included a plans condition to ensure certainty over the development permitted (condition 1).
14. I have included a condition which restricts the number of dogs which can be kept in the kennel at any one time (condition 2). This is to help safeguard neighbouring amenity, particularly in terms of noise. For similar reasons, I have included a condition which precludes the kennel from being used for commercial purposes, or in any way which is not ancillary to the residential use of the dwelling (condition 3).
15. Finally, I have included a condition which restricts external lighting within the development, which will help protect neighbours from unnecessary light pollution, and will also help preserve the dark skies which characterise the AONB.

### **Appeal A - Conclusion**

16. The development is consistent with the development plan as a whole, and planning permission should be granted

### **APPEALS B AND C (ENFORCEMENT NOTICE)**

17. Notwithstanding the outcome of Appeal A, I have still addressed the enforcement appeals in full. However, in practice, the outcomes will be of little consequence, as planning permission has been granted for the development.
18. Pursuant to ground (f), the appellants say that the steps required to be taken in the notice exceed what is necessary to remedy the alleged breach of planning control. As per s173(4) of the Town and Country Planning Act 1990, the purpose of the notice is to remedy the breach of planning control and the requirements must achieve this purpose. In this instance, the requirements to remove the field kennel and to leave the land in a clean and tidy condition are proportionate steps, which go no further than remedying the breach. The appeals on ground (f) therefore fail.
19. In turn, Appeals B and C do not succeed and I shall therefore uphold the enforcement notice. However, notwithstanding the outcome of the enforcement appeals, planning permission has been granted on Appeal A for the totality of the development alleged in the enforcement notice. In these circumstances, pursuant to s180(1) of the 1990 Act, the enforcement notice will cease to have effect.

## **Formal Decisions**

### **Appeal A**

20. The appeal is allowed and planning permission is granted for a new field kennel at Petalo Lodge, Boxhouse Lane, Dedham CO7 6HZ in accordance with the terms of the application, Ref 232292, subject to the following conditions:

- 1) The development hereby permitted shall be retained in accordance with the following drawings: 1328/K6 (Location Plan); and 1328/K3 (Field Kennel).
- 2) No more than two dogs shall be kept in the kennel at any one time.
- 3) The development hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as Petalo Lodge, Boxhouse Lane, Dedham, nor for any commercial purpose.
- 4) No external lighting fixtures shall be constructed, installed or illuminated unless approved in writing by the Local Planning Authority.

### **Appeal B**

21. The appeal is dismissed and the enforcement notice is upheld.

### **Appeal C**

22. The appeal is dismissed and the enforcement notice is upheld.

*Mr James Blackwell*

INSPECTOR