



REPORT FROM:	PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER
TO:	POLICY AND RESOURCES COMMITTEE
DATE:	25th JULY, 2019

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO POLICY AND RESOURCES COMMITTEE ON 25 JULY 2019

Application Ref: 19/0259/FUL

Proposal: Full: Change of use of dog breeding kennels to a mixed use of dog breeding and dog sales (Retrospective).

At: Douglas Hall Cottage, Spenbrook Road, Newchurch In Pendle

On behalf of: Mr W Lancaster

Date Registered: 11/04/2019

Expiry Date: 06/06/2019

Case Officer: Alex Cameron

This application has been referred to Policy and Resources as Barrowford and Western Parishes Committee were minded to refuse the application due to highway safety impacts resulting from inadequate car parking provision, this would result in a significant risk of costs being awarded against the Council at appeal.

Site Description and Proposal

The application site is a dog breeding kennels located in the open countryside to the south of Spenbrook and within the Forest of Bowland Area of Outstanding Natural Beauty (AONB). In addition to the existing buildings the site has planning permission for the erection of 21.6m x 12m building to provide rest and circulation space for the breeding bitches and space for general storage associated with the business.

The lawful use of the site is dog breeding, which can include an ancillary element of sales of the puppies bred on site. However, the operation of the site predominantly involves the sale of puppies bred elsewhere, this is an unauthorised retail use.

A planning application to retain the sales use together with puppy petting use and a car park extension necessary to support the traffic generated by the petting use was refused earlier this year. The reason for that refusal related solely to landscape impact of the proposed extension to the car park.

This application is for the retrospective change of use of the site to a mixed use of dog breeding and dog sales. The previous proposals for petting use and an extension to the car park do not form part of this application.

Relevant Planning History

13/14/0442P - Erection of an extension and creation of a granny annex.

13/14/0052P - Formation of an access and track (Part Retrospective).

13/15/0110P - Retention of a dog breeding kennel (retrospective)

13/15/0477P - Sub-division of existing dwelling to create 2 dwellings including erection of porch, raised timber decking and creation of off-street parking areas. Approved

13/15/0516P - Erection of an agricultural building – Refused

13/15/0581P - Erection of a stable and change of use of land – Approved

16/0316/FUL - Erection a building for the sale of canine products – Refused

17/0469/FUL - Full: Change of use and extension of equestrian building to provide dog breeding facility, erection of office building and associated works (Part Retrospective) - Approved

18/0517/FUL - Extension of barn building for dog breeding purposes – Approved

18/0818/FUL - Full: Change of use of dog breeding kennels to a mixed use of dog breeding, dog sales and dog petting (Retrospective) and formation of an extension to the existing car park. Refused.

Consultee Response

LCC Highways – No objection.

Goldshaw Booth Parish Council - It should be noted that the premises are located within an Area of Outstanding Natural Beauty. Residents have previously complained about the annoying current noise levels from dogs barking, disturbing the tranquillity of a quiet rural area. Vehicular access to the kennels is via a single gateway from the narrow country lane. The access and exit is located adjacent to a sharp bend which restricts views available for approaching drivers. Visiting vehicles often park on the carriageway opposite the gated entrance which further restricts visibility causing vehicles to deviate onto the opposite side of the road. This causes an unnecessary hazard to local residents. The car parking space is inadequate and any larger car park would result in an unacceptable visual impact in the area.(AONB) Increasing the facility will undoubtedly exacerbate the current problems.

Public Response

A press and site notice were posted and nearest neighbours notified. Over 200 responses have been received objecting to the development on the following grounds:

- Issues relating to animal welfare and the background of puppies sold.
- The use would exacerbate issues of unwanted dogs.
- Concerns relating to disposal of foul sewage and dog waste.

- The third part sale of dogs will become illegal in England in April 2020 and therefore the development is unsustainable and contrary to the adopted Core Strategy.

Officer Comments

Policy

National Planning Policy Framework

Planning policy nationally is set out in the National Planning Policy Framework (“the Framework”). This sets out the economic, social and environmental role that planning has. Part 3 deals with supporting a prosperous rural economy. It supports sustainable growth and expansion of all types of businesses. It also supports the diversification of agricultural and other land based rural businesses as well as retaining local services and rural communities. The encouragement of growth is predicated on the conversion of existing buildings and well-designed new buildings.

Paragraph 115 requires great weight to be given to conserving the landscape and scenic beauty in, amongst others, Areas of Outstanding Natural Beauty.

Adopted Core Strategy

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) requires great weight to be given to the landscape and scenic beauty of the AONB. Proposals are to be considered on a needs basis and be in scale and respect for their surroundings. Proposals in the designated open countryside should have regard to the Development in the Open Countryside SPG.

Policy ENV2 (Achieving Quality in Design and Conservation) seeks to encourage high standards of design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Policy WRK4 (Retailing and Town Centres) states that main town centre uses should follow the following sequential approach:

- 1: Town and local shopping centres
- 2: Edge of centre locations
- 3: Out-of-centre sites which are well serviced by a choice of means of transport and have a higher likelihood of forming links with a nearby centre

Policy ENV4 (Promoting Sustainable Travel) requires new development to have regard to potential impacts that may be caused on the highway network. Where residual cumulative impacts cannot be mitigated, permission should be refused.

Policy ENV5 seeks to minimise air, water, noise, odour and light pollution.

Replacement Pendle Local Plan (RPLP)

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP.

Development in the Open Countryside SPG

The Open Countryside SPG is referenced as a supporting document to policy ENV1. In relation to dog kennels it states that such development normally requires new buildings and extensive fenced areas. The countryside (except in the AONB) can be an appropriate location for such uses, subject to an existing access arrangement. However it is important to ensure that the landscape character of an area is protected.

Principle of the Development

Dog kennels are a sui generis use and there is no specific policy relating to their location, however, due to their nature they are typically based in countryside locations.

The Open Countryside SPG does address dog kennels and indicates that they can be an acceptable use in the open countryside subject to acceptable landscape impact, however it indicates that the AONB is an exception to this. The SPG is not a policy document and cannot be read as forming policy that dog kennels cannot be located in the AONB. Neither the adopted Local Plan Part 1 nor the Framework preclude development of kennels in the AONB.

The AONB is a sensitive location in relation to landscape impact rather than there being a specific conflict between a dog kennel use and the AONB designation in principle. Therefore, subject to the landscape and other planning impacts of the development being acceptable the location of the proposed use for dog breeding / accommodation is acceptable in principle.

The proposed use includes a retail use. Retail uses should be accommodated within town centres as first order of priority. However, the retail use applied for is specifically for the sale of puppies associated with other canine uses, this is not a use that can reasonably be accommodated within a town centre as there are animal welfare requirements, such as outdoor space for exercise, which cannot reasonably be met in or adjacent to town centres or in other locations within settlements.

The applicant has submitted an assessment demonstrating this to be the case. Taking this into account, and with a condition limiting the retail use to that proposed, the location of the proposed dog sales use is acceptable in principle.

Landscape Impact and Visual Amenity

This application does not include any proposals for development that would result in visual impacts or otherwise unacceptably impact upon the AONB. The proposed use is acceptable in landscape and visual amenity terms in accordance with policies ENV1 and ENV2.

Highways

The recently approved new building was proposed for indoor exercise and storage space and did not directly increase the breeding capacity of the kennels. However, if the building were fitted out with pens to accommodate puppies it could significantly increase the number of puppies that could potentially be accommodated on the site. We estimate the potential number, while meeting welfare requirements set by licencing, to be around 420 puppies.

The level of visits for sales that number of dogs could generate could potentially result in unacceptable highway impacts.

A condition is therefore necessary to restrict the number of puppies that can be accommodated at one time. The applicant has previously suggested that a number of 150 would meet the needs of their business.

Based on the floor area of the existing and approved kennel buildings and equivalent retail floor area would require a maximum of 19 car parking spaces. The existing car park has provision for up to 15 spaces. Taking into account that the proposed condition would restrict the number of puppies that can be accommodated for sale to 150, from a potential of around 420 based on the floor area, 15 spaces is a sufficient level of car parking.

The access and surrounding highway network is also adequate to accommodate the level of traffic that would be likely to be generated.

Concerns have been raised regarding access to public transport. However, there are bus stops within nearby Spenbrook which offer a two hourly service during the day to Nelson and Clitheroe. Concerns have been raised with regard to highway safety implications of pedestrians using Spenbrook Road, however, pedestrians would have the option of using public footpaths 33, 37 and 38 avoiding Spenbrook Road. Furthermore, by their nature uses such as those proposed would generally be located in locations with a lower accessibility. Taking these factors into account, the site has an acceptable level of accessibility for the proposed uses.

The proposed development is therefore acceptable in terms of highway safety and accessibility in accordance with policies ENV4 and WRK4 of the LPP1 and policy 31 of the RPLP.

Residential Amenity

The house adjacent to the site has been subdivided into two dwellings, the nearest to the kennels is occupied by a member of the applicant's family who works in the business and is linked to the business by condition. The other was subdivided after the dog breeding use was established and, as such, has always been adjacent to a dog breeding kennels. The subdivided dwelling is sufficiently separated from the existing business that it does not result in unacceptable impacts.

The Parish Council raise the issue of noise complaints in relation to the current activities. Environmental Health have confirmed that they have received no complaints about noise.

Taking these factors into account, and with the condition limiting the number of dogs as detailed above attached, the proposed use would not generate an additional level of noise or activity that would result in unacceptable residential amenity impacts upon that dwelling.

The nearest dwelling without a current or past connection to the use is approximately 130m away. This distance is adequate to ensure that the use would not result in unacceptable impacts upon that or any other dwelling.

Suitable dog waste management arrangements have been approved in relating to the existing permission under discharge of conditions application 17/0667/CND. The proposed use does not alter the acceptability of the approved arrangements.

The proposed development is therefore acceptable in in terms of residential amenity in accordance with ENV5

Other Issues

Numerous concerns have been raised relating to animal welfare concerns. Those matters are not material considerations in the determination of this planning application. The operation of the premises in terms of animal welfare is controlled by other legislation, such as licencing requirements.

It has also been raised that third party sale of dogs will become illegal in April 2020 and that this makes the proposed use unsustainable.

This is a matter completely separate from planning.

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That legislation is a separate matter to this planning application, the approval of planning permission would not override any such legislation and, at present, such sales

are lawful, subject to meeting licencing requirements. National planning practice guidance requires that where controls exist in other legislation planning decisions should not duplicate those controls.

Whilst change to the law banning the third party sale of dogs may change the way the business currently operates, that does not affect the sustainability of the development in planning terms. The business would have the ability to continue to operate as a dog breeding kennels with dog sales associated with that use under any permission granted.

Summary

The proposed use, subject to conditions, would not result in any unacceptable impacts upon the visual amenity, landscape character or natural beauty of the AONB, the vitality and viability of Pendle's town centres, residential amenity or highway safety and would be an acceptable location for such a use. The application is therefore recommended for approval.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed use is acceptable in accordance with the policies of the Pendle Local Plan Part 1: Core Strategy and saved policies of the Replacement Pendle Local Plan. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

Subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Unless otherwise approved in writing by the Local Planning Authority, animal waste removal shall at all times be undertaken in accordance with the details of waste disposal approved under discharge of conditions application 17/0667/CND.

Reason: In the interests of residential amenity and in order to protect the health of nearby occupants.

4. The breeding kennels and dog sales use hereby approved shall be only be used in conjunction with Douglas Hall Cottage and shall not be operated as a separate or independent business at any time.

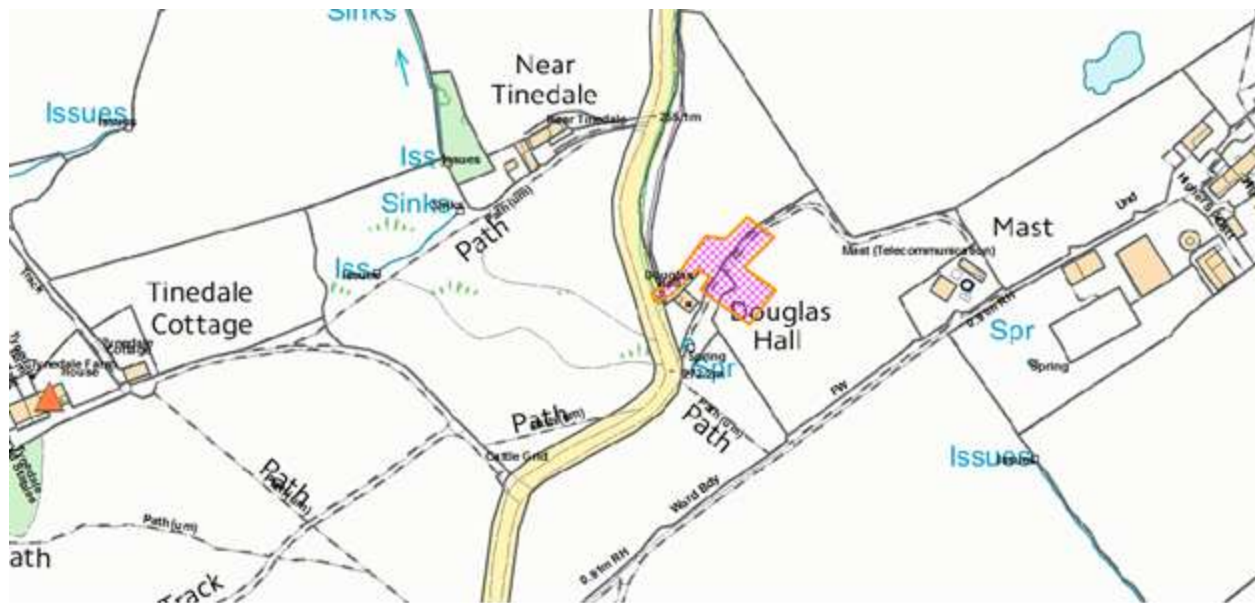
Reason: The separation of the uses may lead to an unacceptable loss of amenity to the occupants of the property.

5. The total number of puppies accommodated on the site at any time shall not be exceed 150 and the number of breeding bitches accommodated on the site at any time shall not exceed 30. The operators of the kennels shall maintain an up-to-date register of the number of all puppies and breeding bitches accommodated on the site and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: The unrestricted accommodation of dogs for sale and breeding would potentially result in unacceptable impacts upon highway safety and residential amenity, the applicant has not provided details to fully assess those impacts in relation to the accommodation of an unrestricted number of dogs.

6. Notwithstanding the provisions of Use Class A1 of the Town & Country Planning (Use Classes) Order 1987 (as amended), or any statutory instrument revoking and re-enacting that Order with or without modification, the retail use hereby approved shall be for the retail sales of puppies only, there shall be no retail sales of any other type from the site.

Reason: To protect the vitality and viability of the Borough's town centres.



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