

10/19/0011

MS S LOCK

Erection of dog kennel and log store at Fairfield Stables, Moor Lane, Churchinford

Location: FAIRFIELD STABLES, MOOR LANE, CHURCHINFORD, TA3 7RW

Grid Reference: 321855.112392

Full Planning Permission

Recommendation

Recommended decision: Conditional Approval

Recommended Conditions (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

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

A1) DrNo JW/1110/0216 200.11 Existing Plans and Elevations
(A1) DrNo JW/1110/0216 200.13B Proposed Plans and Elevations - Kennels
(A1) DrNo 200-10C Site Location and Block Plan
(A1) Dr No 200.12 Proposed Proposed plans and elevations - Log store

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

3. No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale.

Reason : In the interest of the amenity of neighbouring occupiers, impact on the tranquility of the AONB and in accordance with Policies DM1 and CP8 of the Core Strategy.

Notes to Applicant

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

Proposal

The proposal is to erect housing, in the form of 8 kennels, to the rear of the stable block and adjacent to the existing set of kennels. This housing will be used for whelping and for the young, post weaning, to enable them to be housed away from their mother, prior to being sold. The applicant breeds four different breeds of dog which produce up to 15 litters of puppies per year, one from each breeding bitch and the puppies remain on site after birth for a minimum period of 8 weeks before leaving for new homes.

The new housing will be masonry. The roof will be corrugated metal sheets. The enclosure will be steel heras fencing.

The new log store would be sited to the rear of the existing kennels formed with timber posts and corrugated metal sheeting for the roof.

Site Description

The application site concerns Fairfield Stables; a former equestrian site, situated approximately 400m from the edge of the village of Churchinford within the Blackdown Hills AONB. The site is accessible via Moor Lane to the south. The site currently operates a dog breeding business approved on appeal.

The site is situated in a reasonably remote and rural location, with agricultural land surrounding the majority of the site. However, there is a residential property, Fairhouse Farm, situated some 100m to the south east of the site on the opposite side of Moor Lane. The next nearest property is some 200m to the west along Moor Lane. A sewage treatment works is situated to the west of the site.

The dogs are currently all housed in the concrete block kennels formed inside the existing pole barn. In front of each kennel and extending out into the field, there are outdoor run areas utilising temporary (moveable) metal fencing panels, a separate pedestrian walkway and direct access to an exercise area which runs alongside the neighbouring sewage works. A mobile home is located to the east of the kennels. An isolation kennel exists in one of the stables.

Relevant Planning History

E/0196/10/15 – Enforcement application relating to the unauthorised mobile home. Appeal decision ref. APP/D3315/C/16/3149290.

10/14/0025 - Permission for a new detached dwelling was sought in association with the equestrian business. However, the financial information submitted was insufficient to demonstrate that the business was financially viable and was refused

on these grounds 2nd October 2014. An appeal decision (ref. APP/D3315/A/14/2228121) was subsequently dismissed 19th February 2015.

10/08/0026 – Change of use of land for the provision of a temporary occupational dwelling in the form of a mobile home for a period of three years. Permission was refused 27th November 2008, as the development was considered to be visually intrusive within the AONB and would result in increased traffic generation to a site that would have been car dependant. However, permission was subsequently allowed at appeal (ref. APP/D3315/A/09/2105152) 3rd September 2009.

10/16/0008 -Change of use of the land and buildings from equine to commercial dog breeding business and retention of a mobile home for use as a temporary workers dwelling refused 7.11.16

10/16/0028 -Change of use of the land and buildings from equine to commercial dog breeding business and retention of a mobile home for use as a temporary workers dwelling refused 3.2.17 Allowed on appeal 4.8.17 One of the conditions stated:

"No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale"

Consultation Responses

CHURCHSTANTON PARISH COUNCIL - Object. The parish are generally supportive of the extension of rural businesses, however in this case a limit of 15 breeding bitches and their puppies has been imposed for a specific reason to protect the tranquility of the AONB. This application appears to unreasonably expand the scope for general numbers of dogs that can be kept on site and to make/provide adequate measures to protect the special qualities of the AONB. The PC therefore objects to the proposal on the basis of insufficient justification or explanation of the proposed use.

ENVIRONMENTAL HEALTH - NOISE & POLLUTION -

Thank you for consulting on the above application regarding concerns about noise and a noise report has been provided

- Sound impact assessment for the erection of dog kennel and log store at Fairfield Stables.6th August 2019,. Soundguard Acoustics

The proposal is for some additional kennels at an existing dog breeding business, which are to be used for whelping and the young dogs. The report states that there are no proposals to increase the number of dogs breeding at the site over the existing condition.

A noise assessment was carried out in July 2016 for the previous application and the recent report states that as there are no significant changes the information from these has been re-purposed within this report.

The report gives information on the design of the proposed kennels. The kennels will be masonry blocks, insulated roof and GRP roof lights. The doors open to the south and there is an external run with a Perspex roof.

Modelling of noise in the area was carried out. The predicted noise levels were compared to a range of criteria, however, as the report itself states there are no set methods for measuring and assessing noise from dog barking.

The report concludes that the proposal will not result in an adverse noise impact, or

annoyance.

Comment

The proposal says that this will not increase the number of dogs at the site. So this should limit any potential increase in noise.

There is an existing condition on the site giving a limit of 15 breeding bitches.

No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale.

However, I note that the report states that there are 3 dogs on the site in addition to the 15 breeding bitches.

The proposed kennels are closer to the nearest residential properties. Also, the open/exercise area for the new kennels are on the south west side, which is facing the direction of the nearby properties. The existing kennels were designed so that the open area was facing north east, and away from the nearest properties, with a bund on the southeast side. The report does state that the existing stables will provide a barrier to the noise and minimise disturbance to any dogs from cars or people in the yard

Noise from a structure will escape through the weakest points, in this case it is likely to be the roof-lights for the kennels, and for the runs perspex roofing provides minimal acoustic attenuation (although the walls appear to be blockwork).

It is also not clear whether separating puppies from their mothers will generate any more noise.

Assessing the potential noise from dogs/kennels is not straightforward, as there is no standard way to measure or assess noise from dog barking, and no criteria against which to compare any predicted noise levels. Also, noise from dogs can be very varied depending on the individual dog and the management of the operation. Therefore, it is not possible to confirm whether or not the noise from the proposed kennels will lead to an unacceptable increase in noise levels in the area.

If the proposal is to go ahead there are some things that could help to minimise any disturbance, for example, ensuring that the kennels are constructed using best practice to minimise noise breakout; keeping the restriction on the number of dogs at the site and managing the dogs in kennels/runs/exercise areas to minimise any noise.

SCC - TRANSPORT DEVELOPMENT GROUP - There is no increase in the level of vehicle movement to the site, therefore no highway objection.

Representations Received

Ward Cllr Ross Henley: Formal objection as I am concerned about noise issues from barking dogs and there could be a significant increase in noise if approved as this constitutes a significant expansion of the business on-site.

Five letters received including a statement from Collier Planning with the following comments:

- Increasing number of kennels can only lead to increased noise levels
- Already an isolation kennel for the whelping bitches and puppies, no reason for any more
- Previously imposed condition not being complied with regarding number of dogs.
- Will increase visual impact on AONB
- Indicates expansion of business with no measures to mitigate effects.

- Number of inconsistencies with the permission and enforcement issues relating to the activities that have occurred on site.
- New building will house grown dogs closer to client's property which has the potential for increased noise disturbance.
- Should permission be granted, the number of breeding dogs on site should be limited by condition.
- Runs should be north facing toward the field so noise impact is reduced.
- Clarity on building materials.
- Previous appeal permission included a 1.5m high earth bund which has still not been formed and not shown on the plans, a suitably worded pre-commencement condition should be attached to any permission.
- New building would be better sited behind the existing kennel building to the north-west of the site.
- The calculations used in the Sound Impact assessment report are based on numbers of dogs and puppies anticipated to be on site and this assumption that there will not be any puppies older than 2 months implies that they will not be contributing to any new noise, which is far from the case for 11 week old and older puppies, as we can hear.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

SD1 - Presumption in favour of sustainable development,
 CP8 - Environment,
 DM1 - General requirements,
 DM2 - Development in the countryside,

PD 5/A - Blackdown Hills AONB Management Plan

Local finance considerations

Community Infrastructure Levy

N/A

New Homes Bonus

N/A

Determining issues and considerations

1. COMMERCIAL DOG BREEDING BUSINESS

In relation to the first matter, the main issues for consideration in this application include the principle of the development, noise impacts in relation to residential amenity and the tranquility and character of the AONB, impact upon visual amenity / landscape and impact upon highways.

Principle of development

The application site itself is situated outside defined settlement limits, which, in accordance with Policy SP1 of the Taunton Deane Core Strategy (TDCS), is considered to be development within the 'open countryside'.

It is proposed to erect a new housing, in the form of 8 kennels, to the rear of the stable block and adjacent to the existing set of kennels. This housing will be used for whelping and for the young, post weaning, to enable them to be housed away from the mother, prior to being sold. Following the appeal decision above, the site is currently in use as a commercial dog breeding business, with the number of dogs limited to 15 bitches and their puppies.

Given that the number of dogs on-site is restricted, the principle of the new kennels for the above use is considered to be acceptable as it would not lead to the increase in number of dogs on-site, subject to it not harming the amenity of residents or the character of the area, discussed below.

Noise – Residential amenity

In relation to noise, the NPPF states, at paragraph 123 "planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development".

The development would involve the formation of a new building housing 8 kennels, sited to the rear of the stable block. The kennels would face south toward the stable building. This location has the benefit of screening the kennel and the stable building will aid in reducing noise impact. It is also away from the arrival area to reduce activity in close proximity to the dogs which could lead to barking. This is also a breeding kennel, the dogs being familiar with the kennel owners. As such the dogs are more settled. The issue of noise was addressed by the above appeal decision. In allowing the appeal the Inspector stated:

"...the breeding of dogs has the potential to introduce noise which is not capable of strict control...the likely receptors of any noise resulting from dogs barking are walkers along Moor Lane or the occupiers of Fairhouse Farm...it would not reach the level where it would have significant adverse effects on health and quality of life. It is not possible to predict or place strict controls on the level of noise resulting from breeding dogs. However by restricting the operation to housing only breeding dogs and limiting the numbers by condition, it would be possible to limit the likely levels of noise to that which would not adversely affect the tranquility of the AONB..."

A comprehensive noise impact assessment has been prepared and submitted by

'Soundguard Acoustics' in order to assess the significance of potential noise disturbance on residences. Environmental Health have provided comments in relation to the submitted details and, although they have not formally objected to the proposal, they have advised that there is no recognised criteria for assessing the impact of noise from dog barking at kennels. They have concluded that therefore, it is not possible to confirm whether or not the noise from the proposed kennels will lead to an unacceptable increase in noise levels in the area.

It is acknowledged that there is no specific guidance, standard or criteria available to assess noise impact from dog barking. The submitted noise report however concludes that this noise impact assessment is not an assessment of inaudibility of dogs, it is expected that they will be heard, but it is an assessment of the context of that noise within the environment. When considering the LAmax levels and the published data in regards to 'annoyance' then these levels can be met and no significant 'annoyance' is expected. Similarly, within the methodology used and with good kennel management it is expected that the barking level is below the threshold at which an adverse noise impact becomes likely and therefore the guidance within NPPF and NPSE (Noise Policy Statement for England Defra 2010) can be demonstrated as met.

Given the above comments and the fact that the kennels are not intended to house an increase in the number of dogs on site (a condition restricting numbers is recommended), it is not considered that the proposal in terms of noise would be contrary to the development plan policies or within the Framework.

Noise – Blackdown Hills AONB

The application site is situated within the Blackdown Hills; a designated area of Outstanding Natural Beauty (AONB), where careful consideration has to be given to development proposals to ensure that they contribute to conserving and enhancing the natural beauty of the area and are not detrimental to the AONB's special qualities.

Paragraph 123 of the NPPF states that "planning policies and decisions should aim to identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason." Additionally, the Blackdown Hill AONB Management Plan encourages quiet enjoyment of the AONB, and supports the restriction of developments and activities that detract from the tranquillity of the Blackdown Hills. Most notably, Policy PD5/A states that the tranquillity of the AONB should be conserved and enhanced by restricting or reducing noise and the Local Planning Authority should avoid or restrict development which would detract from the tranquillity of the Blackdown Hills.

The impact of noise on the tranquility of the Aonb was assessed by the previous Inspector who concluded that:

...by restricting the operation to housing only breeding dogs and limiting the numbers by condition, it would be possible to limit the likely levels of noise to that which would not adversely affect the tranquillity of the AONB..

Given the amount of dogs on site will be limited by condition it is not considered that the proposal would be contrary to development plan policies outlined above.

Visual amenity / Landscape

The site is reasonably well screened by trees and other vegetation planting that are situated along the boundary, with the only direct sightlines of the site available through the access gate itself. The new kennels would be sited adjacent to the existing kennels and behind the existing stable block. The kennels would be constructed in masonry with corrugated steel roof sheets with GRP rooflights and GRP roof sheets over the runs. The enclosure would be formed with steel harris fencing. These materials are consistent with other buildings on the site and would be seen against the backdrop of the stable building. The new log store is sited behind the kennels and not visible from public view. The proposal should not therefore be contrary to Policy DM1 or give rise to harm to the visual amenity of the area and surrounding landscape.

Highways

There is sufficient parking and turning space available within the site and the development is not expected to give rise to any significant increase in vehicle movements that would cause harm to highway safety.

Other issues

The above comments have raised issues with regard to compliance with the conditions of the planning appeal and on-going enforcement issues with regard to dogs not being kept within the kennels. This application in seeking to provide additional kennel space addresses to some extent, the accommodation space for the dogs. Notwithstanding the considerations of this application, any conditions attached to the appeal decision should be complied with regardless of the outcome of this planning application.

Conclusion

Whilst this application is for an increase in the number of kennels, this represents an increase in the accommodation for the dogs to improve the site conditions for breeding, There is no proposal to increase the number of breeding dogs at the site over the existing limiting condition. As such the application is seen to comply with the policies of the development plan as outlined above.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

Contact Officer: Jackie Lloyd