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Planning Development

By Email Only

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Kirklees Council
Planning – Development Control

FAO Alice Downham

OBJECTION TO PLANNING APPLICATION FOR CHANGE OF USE OF BUILDING AND LAND FROM EQUESTRIAN TO DOG CARE CENTRE AT LAND OFF LILEY LANE, GRANGE MOOR, HUDDERSFIELD, WF4 4EN

LPA REF: 2022/92368

Dear Madam,

Robert Halstead Chartered Surveyors and Town Planners have been instructed to submit an objection letter to Kirklees Council on behalf of

Our client is concerned that the already operational business is having, and will continue to have, an adverse impact on his residential amenity by way of noise, and that the proposals are also a significant risk to highway safety. There are also concerns regarding the impact the development would have on the openness of the Green Belt.

These issues will form the basis of this objection, however a number of preliminary issues with the application are detailed first of all.

Preliminary points

- 1) The application description states, 'Change of use of building and land from equestrian to dog care centre.' However, this is incorrect because the application is retrospective, and so for the sake of clarity this should be included as part of the description. As part of their deliberations, the planning committee in particular need to be fully aware the application is retrospective.
- 2) Paragraph 5.9 of the Planning Statement also states that operating hours are 9:30 to 14.30 Monday to Friday. However, the Happy Hounds online advertising clearly states that a day care facility operates from 8am to 6pm, as well as a home boarding service. This strongly suggests that the stated operating hours of 9.30 to 14.30 are incorrect. Our client can also verify that

the business does look after dogs overnight and at weekends. The description should therefore include reference to overnight boarding.

- 3) It is also considered that the plans submitted as part of the application are unclear and incomplete. The Proposed Floor Plan does not include a scale, and there are no details relating to the large field located in the north-eastern part of the application site (see photograph in Appendix 1). This field has been recently enclosed by a very high fence, and its purpose must be ascertained because it is suspected this area will also become an outdoor exercise area for dogs. Consequently, the use of this field needs to be made clear on the plans, so that a full assessment of its potential impact can be assessed.
- 4) Finally, the application form declares there will be no waste or trade effluent produced by the development, which is clearly incorrect. Furthermore, no bin storage or collections points have been shown on the plans.

The amount of dog waste accumulating as a result of the number of dogs using the facility not only has the potential to create bad odours, but could also be dangerous to human health and / or create other nuisances (flies etc) if not collected, stored and disposed of in an appropriate and timely manner.

Noise

The application site is located (see Location Plan).
We have been informed by our client that when the business first began operating, there were approximately 40 dogs on the site each day. The dogs were heard barking constantly with the noise being audible both inside our client's house, and outside in his garden.

A complaint was subsequently made to the Council regarding the development, hence this retrospective application. Since the application was submitted however, the number of dogs on the site has been reduced. The question the Council perhaps need to consider is whether this has been done to make the application look more favourable?

However, our client is deeply concerned that should the application be approved, the number of dogs on site will once again increase to at least 40 dogs per day, which would once again raise noise levels significantly. In our opinion, the additional fenced-off field in the north-eastern part of the application site strongly points towards this being the case. Otherwise, it is logical to conclude there would be no need for this additional field to be included as part of the proposals. It is noted that on the Happy Hounds Facebook page, approximately 20+ dogs at a time are seen running around the existing horse menage area. Music has been superimposed on the videos so the level of barking cannot be heard, however this suggests the additional area could accommodate extra dogs over and above the numbers stated in the application.

It is noted that Environmental Health have commented on the application. Although they have raised the fact that the proposed development has the potential to create noise which could result in a loss of amenity to nearby sensitive receptors (e.g. our client), they have only requested that a Noise Mitigation Scheme be conditioned, rather than request that this information be submitted prior to any approval.

We strongly disagree with this stance.

The application is retrospective and complaints relating to noise have already been made to the Council. The conditioning of a Noise Mitigation Scheme once the application is approved will therefore be too late and ineffective in our view. These details should be requested before the determination of the application in order for any proposed mitigation measures to be fully assessed.

As Policy LP52 (Protection and improvement of environmental quality) in the Local Plan states,

‘Proposals which have the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level. Such developments which cannot incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level to protect the quality of life and well-being of people will not be permitted.’

Paragraph 185 in the NPPF also states that,

‘Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions ... In so doing they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.’

Both local and national planning policy make it clear that the impact of noise and appropriate mitigation measures should be presented by the applicant as part of the application, and not conditioned once the application has been approved.

It is also considered that it would be difficult for the Council to control or enforce certain aspects of the proposals. For instance, the number and frequency of customers dropping off and picking up their dogs from the site and the amount of noise created by the dogs themselves e.g. barking. Both of these issues have the potential to create a large amount of noise and disturbance, that would affect our client.

In accordance with paragraph 56 in the NPPF, *‘conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.’*

Appendix 2 contains an appeal that was dismissed for the demolition of existing building to facilitate construction of a dog kennelling facility (ref: APP/A4710/W/16/3163361). The Inspector made the following relevant points in relation to the impact the development would have on the living conditions of an equally nearby neighbouring dwelling in respect of noise and disturbance:

- ‘Dog barking takes many forms depending on breed and temperament, and in my judgement loud and persistent barking could readily be discerned above background noise. Barking would be of a very different character to the general hum of the background and could well include repetitive but irregular noise incidents which would be aurally disturbing.’
- ‘It has been suggested that a condition could be imposed which would restrict the exercising of dogs to a single animal, or animals from the same household, at any one time. Whilst that may have some effect, I cannot see how it would control the propensity of a particular dog, or dogs, to bark. In any event such a condition would seem to me to be difficult to enforce, relying on reported incidents after any potential nuisance had been caused. **I am not satisfied**

that the condition would meet the tests for conditions set out in the Planning Practice Guidance because of the difficulty surrounding enforcement of the condition.’¹

- ‘I also bear in mind that the proposal seeks to house up to 20 dogs. Some would no doubt be delivered and collected in pairs or groups, but many would generate individual journeys by their owners. The access to the site passes close to No. 197, and the parking proposed would be close to that property. Taken together with the potential for excitable dogs at the point of being reunited with their owners or introduced to the kennels, there seems to be the possibility (at the very least) of additional noise creation during the time when dogs are delivered and collected.’

Taking the above into account, it is considered that the proposed development is unacceptable as it would have a detrimental impact on the residential amenity of our client by way of noise and disturbance.

Moreover, in addition to the uncertainty of the acoustic insulation qualities of the former stable building to be utilised, there would be no realistic way of mitigating external noise in such close proximity to our client’s house and garden.

It is our inescapable conclusion therefore that the development would cause significant harm to the living conditions and amenities enjoyed by our client, and the development is contrary to the aforementioned local and national planning policies.

Highway Safety

Access to the application site is off the B6118 Liley Lane. The access is a narrow, single track lane which is privately owned. As such, the applicant only has a right of access to use it and is therefore unable to widen it or improve it in any way.

There are no passing places along the current access which could prove problematic if two vehicles were to meet halfway. One vehicle would be required to either reverse along the drive, or reverse back out onto Liley Lane, the latter of which would be extremely dangerous given the 40mph speed limit. The greater number of vehicles using the access, the greater chance of vehicles meeting one another. Our client has already had several ‘near misses’ on the access lane with cars visiting the facility.

Liley Lane is a fast, busy and twisting road with blind spots. Although the speed limit is 40mph, cars are known to drive along the road much faster than that, and accidents regularly occur along the stretch of road where the site access is.

The Site Entrance and Parking Plan shows the proposed visibility splays. To the south-east of the site a visibility splay of 29m is shown, although as the Highways Department have pointed out, this has been incorrectly drawn. To the north-west of the access a visibility splay of 65m is shown, although again this has been drawn incorrectly. It is our understanding that a visibility splay of at least 65m should be achievable in both directions on roads which have a speed limit of 40mph. Given that average speeds along Liley Lane often exceed 40mph, the visibility splays proposed fall short of what is required, especially in the south-easterly direction (see Photographs in Appendix 1).

¹ Our emphasis

There is also no right-hand pocket on Liley Lane for cars wishing to turn right into the site. The proposed development could therefore potentially affect the free flow of traffic along Liley Lane and cause traffic to build up as cars wait to turn right.

Moreover, cars wishing to turn right into the site would be vulnerable to collisions with other vehicles, should the access either be blocked by another vehicle leaving the site or from vehicles driving at speed along Liley Lane behind them (lack of forward visibility increasing the prospects of the latter). The Site Entrance and Parking Plan also shows parking spaces proposed on the site for two transit vans. Paragraph 5.10 of the Planning Statement states that *'the business operates a pick up and drop off service, so customers would not drive to the site.'* However, we have been informed by our client that customers (approx. 12 per day) regularly come to the site to drop off and pick up their dogs. The number of parking spaces to be provided on the site is therefore considered to be insufficient in our view and more spaces are required in order for the business to function safely and effectively. If cars were to start parking along Liley Lane this would further reduce visibility, making the road even more dangerous.

Furthermore, no details have been provided in relation to refuse vehicles. Presumably dog waste plus other normal domestic waste will be collected from the site? How will this be done? There appears to be limited turning space within the site, especially for larger vehicles. This issue could also be problematic in terms of highway safety.

It is considered that due to the nature of the access lane and its location off the busy Liley Lane, even a small increase in the number of vehicles using the lane would have a significant impact on highway safety. In reality, the proposed development would result in a relatively large increase in the number of vehicles using the access, and as such the development would most certainly be of detriment to highway safety in our opinion.

Paragraph 111 in the NPPF states that, *'Development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

Given the above, it is considered that the proposed development would be unacceptable on highway safety grounds and should therefore be refused in accordance with paragraph 111 in the NPPF.

Green Belt

Paragraph 150 in the NPPF states that, *'Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include: d) the re-use of buildings provided that the buildings are of permanent and substantial construction; and e) material changes in the use of land...'*

The proposed development includes the change of use of a building. However, the application contains no details or evidence to demonstrate that the building is of permanent and substantial construction - for example a Structural Survey, or detailed 'as existing' and 'as proposed' elevations of the building. The applicant should, in our view, be required to submit these details in accordance with paragraph 150 in the NPPF and Policy LP60 (the re-use and conversion of buildings) in the Local Plan.

Paragraph 5.5 of the Planning Statement states that, *'The proposals would not introduce any incongruous domestic or urban characteristics into the landscape, as there are no changes proposed to the building or external surfacing. Similar there are no design or boundary changes intended.'*

This statement is not entirely true. A new boundary fence has been erected around the field in the north-eastern part of the application site but as previously mentioned these details have not been shown on the plans. As no details concerning the use of this field have been provided, how can the Council be sure that no dog related exercising equipment or other paraphernalia would not be erected in the field at a later date? If this were to happen, the openness of the Green Belt would most certainly be affected. Again, it is considered that the applicant should provide further details in relation to this issue before a final decision is reached.

In conclusion, it is considered that the application lacks sufficient information for it to be properly assessed. However, in assessing the limited plans and details that have been submitted, the proposed development would, in our view, cause undue harm to the residential amenity of our client by way of noise and disturbance. It would also have a detrimental impact on highway safety, and the openness of the Green Belt.

We therefore respectfully request that this application is refused.

Yours faithfully,

Nick Willock MRTPI MRICS

Robert Halstead Chartered Surveyors & Town Planners

Appendix 1 – Photographs



Large field in the north-eastern part of the application site



Access Lane facing towards Liley Lane



Access Lane facing away from the development



Access Lane facing away from the development



Visibility onto Liley Lane from Access Road



Visibility onto Liley Lane from Access Road



Visibility onto Liley Lane from Access Road