



TO: Planning Committee North

BY: Head of Development

DATE: 30 April 2019

DEVELOPMENT: Retention of existing kennels and re-homing centre with ancillary overnight accommodation. Extension to existing detached outbuilding in connection with this use.

SITE: Kennels and Rehoming Centre Hammerpond Road Plummers Plain West Sussex RH13 6PE

WARD: Nuthurst and Lower Beeding

APPLICATION: DC/17/2086

APPLICANT: **Name:** Ms Elaine Barter **Address:** Highgate Kennels and Rehoming Centre Hammerpond Road Plummers Plain RH13 6PE

REASON FOR INCLUSION ON THE AGENDA:

More than eight persons in different households have made written representations raising material planning considerations that are inconsistent with the recommendation of the Head of Development.

RECOMMENDATION: To grant planning permission subject to appropriate conditions

1. THE PURPOSE OF THIS REPORT

1.1 To consider the planning application.

DESCRIPTION OF THE APPLICATION

- 1.2 The application seeks to regularise the existing use of the site as a kennels and re-homing centre. The activities on the site are carried out from former equestrian stables and tack rooms which have been reconfigured to provide kennels, storage and associated office / staff facilities. The activities on the site (and both the stabling and kennel activities) is undertaken by Arundawn Dog Rescue which, the supporting statement advises, is a dog rehoming centre which works to house and rehoming both strays and pound dogs; in addition, the site provides for rescued, sick or foaling horses.
- 1.3 The former tack room, a detached building to the eastern section of the site, is a single-storey building with mezzanine floor. The application also seeks retrospective consent for a timber clad extension to this building, which provides additional staff facilities. The mezzanine floor of this building provides overnight accommodation for staff present on the site in connection with the kennelling activities.

DESCRIPTION OF THE SITE

- 1.4 The application site comprises land to the south of Hammerpond Road within a countryside location. The site comprises a former stable building with abutting lean-to barn and a detached single-storey building arranged around a hardstanding with direct access onto Hammerpond Road. This upper level of the site features relatively well established vegetation to front and side boundaries. The land levels are lower to the southern section of the site, with this part of the site providing a paddock in association with the equestrian element of the use. The site is located between two residential properties, with the wider surroundings predominantly rural with sporadic residential and commercial buildings.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

2.2 National Planning Policy Framework

2.3 Horsham District Planning Framework (HDPF 2015)

Policy 1 - Strategic Policy: Sustainable Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 4 - Strategic Policy: Settlement Expansion

Policy 9 - Employment Development

Policy 10 - Rural Economic Development

Policy 24 - Strategic Policy: Environmental Protection

Policy 25 - Strategic Policy: The Natural Environment and Landscape Character

Policy 26 - Strategic Policy: Countryside Protection

Policy 30 - Protected Landscapes

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 40 - Sustainable Transport

Policy 41 - Parking

2.4 RELEVANT NEIGHBOURHOOD PLAN

There is no made plan.

2.5 PLANNING HISTORY AND RELEVANT APPLICATIONS

LB/27/94

Erection of eight loose boxes

Application Permitted on
07.03.1995

3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

INTERNAL CONSULTATIONS

- 3.2 **HDC Environmental Health:** There is a history of some noise complaints about dogs barking in this area, none are specifically alleging the noise was coming from this premises.

The establishment must have a procedure in place to deal with excessive noise from animals kept on site. There is no objection to the proposal provided that noise from the site is adequately controlled. There is no noise assessment included in the supporting documentation and no mention of how waste from the site will be dealt with.

OUTSIDE AGENCIES

- 3.3 **WSCC Highways:** The proposal uses an existing access from Hammerpond Road, a C classified Road subject to 40mph speed restrictions. The access appears to be sufficient for the use, allowing two vehicles to pass and turning is available within the site. Parking standards are unchanged to that previously used on the site, although the applicant has not demonstrated where these 4 spaces are located, there appears ample room within the site for this to occur.
- 3.4 Visibility at the site entrance is limited to the West, however weight is given in this application to the fact that this access has served the site for many years with no Highways Accidents or Personal injury claims. It is noted that an agricultural use with horses exists at the site also which will require the use of horse boxes and delivery vehicles, these could generate a more intense use than the rehoming shelter its self.
- 3.5 **Southern Water:** There are no public foul and surface water sewers in the area to serve this development. The applicant is advised to examine alternative means of foul and surface water disposal.

PUBLIC CONSULTATIONS

- 3.6 15 representations have been received objecting to the proposal for the following reasons:-
- The proposal introduces a business into a predominantly residential location;
 - Activity at the site has intensified which has resulted in noise becoming more noticeable;
 - Instances of dogs escaping from the site;
 - The lack of parking impacts on Hammerpond Road;
 - There is a limit on forward visibility which increases risks of accidents;
 - The application does not specify the number of dogs to be housed on the site;
 - Question arrangements for foul and surface water drainage;
 - Question whether the use is regulated.
- 3.7 38 representations have been received supporting the proposal for the following reasons:-
- The use strikes a balance between helping dogs and how many can be realistically accommodated at the site;
 - The site is clean and the dogs content;
 - The site allows rescue dogs to be rehoused;
 - Noise is controlled;
- 3.8 **Parish Council:** Support the application, note the following:-
- We have assumed, have not committed to analyse, documentation and evidence that the site has been in use for the statutory period of 10 years described in the design and access statement. The Parish Council anticipates HDC planning officers will consider the accuracy and the appropriate level of proof and the 10year planning law relief for dog re-homing cited in the application;
 - The Parish Council did receive verbal testimony from local people that similar activity, if not to the scale currently undertaken, had been present on the site for more than 10 years;

- The application is for no expansion or alteration to the existing site, simply authorisation of the current use. We would anticipate that Horsham DC planning officers will consider whether extensions and alterations previously undertaken meet other planning requirements;
- Were the application not approved, the activity would need to finish under enforcement action and this would be a loss to the welfare of very needy animals both locally and more generally;
- The site is not in an ideal location due to its proximity to neighbouring houses and because "kennelling/rehoming" can have both extreme and variable noise levels;
- The site is also sharply sloping and would be expensive to adjust for a compromise location;
- Implementation of noise proofing may prove expensive and fruitless in light of the proximity to neighbours;
- The site is large and has been used for "natural" waste disposal. There is no specific dog waste removal or storage facility, an issue considered but not deemed sufficient to reject the current application. We anticipate planning officers will consider this;
- Horsham planning policies: this application meets many objectives and this was relevant to our decision.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

Principle

- 6.1 The structures on the site were originally granted planning permission under ref: LB/27/94, which was for a stable block comprising 8 loose boxes and an adjoining detached building for use as a tack room; the layout of this development remains broadly the same as currently exists on the site. It is apparent that since 1994, when the applicant is understood to have taken ownership of the site, there has been an incremental change of use at the site from a stables to a mixed use of a stables and kennels, and while there remains an element of equestrian stabling on the site this is now ancillary to the primary use as a kennels.
- 6.2 As a result of the length of time the kennels have existed it is likely that a semblance of the use would be lawful by virtue of it being immune from enforcement action. This application does though seek to regularise the use of the site, as a 'kennels and re-homing centre', in recognition that the level of activity at the site has and does fluctuate depending on the number of dogs being accommodated and the level of the demand on their resources. This view is consistent with a number of objections which advise that the level and nature of activity on the site has changed and increased to that which currently exists present day.
- 6.3 The application site lies within a countryside location surrounded by sporadic residential dwellings and agricultural buildings, a further kennels and cattery is located approximately

110 metres to the south-west (Hammerpond Kennels). The presence of some element of a kennel / rehoming centre has been established on the site for a prolonged and continuous length of time, such that its presence would likely be considered lawful. It is therefore considered that any conflict with countryside protection policies within the HDPF, such as policy 26, would not amount to a sound reason to refuse planning permission since no enforcement action against the use would be possible.

- 6.4 Notwithstanding the above, policy 10 of the HDPF, Rural Economic Development, states that 'development which maintains the quality and character of the area, whilst sustaining its varied and production social and economic activity, will be supported in principle'. It is extremely unlikely that the use of the site could be carried out within a settlement boundary and the rehoming of dogs serves a clear social purpose for which, based on the information available, there is a need. It is therefore considered that Policy 10 would provide support for the principle of the proposed use in this location.
- 6.5 The detached building, which provides kennels, an office and washroom, also provides a mezzanine sleeping area for overnight accommodation in connection with the wider use of the site. It is understood that this arrangement started intermittently as and when there was a need. The accommodation does not provide the primary residence for the applicant and is clearly ancillary to the primary use of the site. On this basis there is no objection to this element of the scheme, which would not equate to the provision of a new dwelling in the countryside. It is considered that the overnight accommodation can be suitably controlled through condition to control its nature and extent, and this would ensure no conflict with Policies 3 and 4 of the HDPF.

Character and appearance

- 6.6 The use of the site is largely contained within pre-existing buildings and the visual impact of activities from within the site is largely negated by existing boundary screening along Hammerpond Road and the absence of adjoining publically accessible footpaths and land. The layout and appearance of the site is though largely as originally approved for an equestrian use, and as a result the overall character of the site is of a rural / agricultural nature rather than 'urban', 'suburban' or 'commercial'. When seen in relation to existing structures in the vicinity the use of the buildings does not therefore appear at odds with the rural context.
- 6.7 The application is seeking retrospective consent for a single-storey extension to the detached building on the eastern section of the site. This extension, which provides ancillary office / kitchen facilities, is of modest scale and proportions and is considered to have a neutral impact on the character and appearance of the site and wider surroundings. The impact on landscape character is therefore considered acceptable, and there is no conflict with relevant design policies of the HDPF.

Impact on neighbouring amenity

- 6.8 A number of representations have been received objecting to the application due to the generation of noise related to the kennelling of dogs on the site, and it is clear that use as kennels and rehoming has potential to create such disturbance.
- 6.9 The applicant has not provided a noise report assessing the impact of the use, primarily as they consider the presence on the site of a kennels and rehoming centre to be lawful. However, as part of the application process a Noise Management Plan has been provided setting out measures in place to minimise the potential for noise and disturbance from the site, and the presence of overnight accommodation is a clear benefit in this regard. The stated measures include, but are not limited to, the creation of a daily routine, which includes use of the outdoor area, and the monitoring and possible relocation of dogs (to other kennels).

- 6.10 While the Noise Management Plan could not be the subject of an enforceable condition it is considered sufficient to demonstrate measures are in place to reduce potential disturbance. In the event that such management failed, other statutory means exist to manage any nuisance which might arise, largely through Environmental Health legislation, and this has been the case throughout the existence of the use on the site. It is therefore considered that the impact of the proposal on noise would not be of such magnitude or weight as to justify the refusal of planning permission.
- 6.11 There are no reasons to consider that dog walking carried out in relation to the kennelling would generate significant amounts of noise, or indeed more noise than could be generated by unlimited numbers of members of the public who are able to walk dogs along local footpaths in the area.
- 6.12 In the context of existing traffic noise and movements, including that generated by surrounding uses, it is considered that any noise generated by vehicles accessing the site on a daily basis would be unlikely to cause an unacceptable degree of disturbance to neighbours.
- 6.13 A condition is recommended to remove permitted development rights for the erection of gates, fences, walls or other means of enclosure, and for the erection of buildings (as defined in Section 336 of the Town and Country Planning Act 1990). This condition would prevent the formation of further kennels on the site without the need for planning permission, thus ensuring the current level of activity on the site could not be continually increased.

Impact on highways

- 6.13 The site benefits from an existing access onto Hammerpond Road, which is a C classified road subject to a 40mp/h speed restriction. The width of the access would allow two vehicles to pass, should the need arise, and the site features an area of hardstanding immediately off this access. The Highway Authority has advised that there is sufficient space on site for any expected demand for parking and manoeuvring, and as the access has been used for many years with no accidents the visibility arrangement is sufficient. There are no reasons to take a different view to the Highway Authority, and there is no evidence to suggest that the level of activity associated with the current use of the site has impacted on the highway network. A condition is though recommended to secure details of the on-site parking arrangement to ensure sufficient space for vehicles to park and manoeuvre.

Other considerations

- 6.14 The planning system would not be responsible for matters relating to animal welfare; where there are other regulations that need to be complied with, it would be necessary for the applicant to address these independently of the planning application.
- 6.15 A number of representations have raised waste management as a concern. The applicant has advised that a contract exists for waste collection, including dog waste, with the Council's Waste Collection Team, and there is clearly sufficient space within the site for the storage of waste, and recyclables. It is not therefore considered that this concern amounts to harm.

7. RECOMMENDATIONS

- 7.1 That planning permission be granted subject to the following conditions:-

- 1 A list of the approved plans
- 2 **Regulatory Condition:** Within 3 months of the date of this permission a scheme for the disposal of waste shall be submitted to the Local Planning Authority for its written approval. The scheme shall be implemented in accordance with the approved details within 1 month of such written approval being given. The scheme shall thereafter be retained as such.

Reason: To ensure adequate parking, turning and access facilities are available to serve the development in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 3 **Regulatory Condition:** Within 3 months of the date of this permission details of on-site parking, turning and access facilities shall be submitted to the Local Planning Authority for its written approval. The on-site parking, turning and access facilities shall be provided in accordance with the approved details within 1 month of such written approval being given. The parking, turning and access facilities shall thereafter be retained as such.

Reason: To ensure adequate parking, turning and access facilities are available to serve the development in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 4 **Regulatory Condition:** Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no gates, fences, walls or other means of enclosure and no building as defined in Section 336 of the Town and Country Planning Act 1990 shall be erected on the site without express consent of the Local Planning Authority first being obtained.

Reason: To enable the Local Planning Authority to regulate and control the development of land having regard to Policies 26 and 33 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** The hereby approved use shall comprise a kennels and rehoming centre, as set out in the Design and Access Statement dated September 2017, and shall not be used for any other purpose without the express consent of the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Regulatory Condition:** The overnight accommodation, within the building indicated on drawing no. 17006 P 001, shall not be used as a primary place of residence, and shall only be used in connection with the kennels and rehoming centre, as set out in the Design and Access Statement dated September 2017.

Reason: The establishment of an additional independent unit of accommodation would give rise to an over-intensive use of the site and lead to an unsatisfactory relationship between independent units of living accommodation contrary to Policies 1, 3, 4, 26 and 33 of the Horsham District Planning Framework (2015).