

APPLICATION NO.	P19/S4156/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	14.11.2019
PARISH	CHOLSEY
WARD MEMBER(S)	Anne-Marie Simpson Jane Murphy
APPLICANT	Andrew Tyler
SITE	Downlands Kennels, Westfield Road, Cholsey Oxfordshire, OX10 9JW
PROPOSAL	New Kennel Block (as amplified by Noise Impact Assessment received on 17 February 2020)
OFFICER	Will Darlison

1.0 INTRODUCTION AND PROPOSAL

- 1.1 This application has been referred to Planning Committee at the discretion of the Planning Manager because the recommendation conflicts with the views of the Parish Council. This report sets out the officer’s recommendation of approval and how that has been reached with regard to the relevant material planning considerations and the development plan.
- 1.2 Downlands Kennels is a kennel and cattery business, located in a rural area outside the built-up limits of any settlement but within the parish of Cholsey. The application site includes a detached, non-listed, residential dwelling that provides some office space and staff toilet facilities for the business. Located to the rear of the dwelling is a kennel building with external runs.
- 1.3 The application site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB).
- 1.4 A plan identifying the site in greater context is attached at **Appendix 1** to this report.
- 1.5 The application seeks planning permission for the erection of a single storey kennel building to be sited facing towards the existing kennels with external runs sited in between the two structures, which will be modified to be used by both buildings. The new building would require the removal of an existing, disused, former stable and sheep pen buildings.
- 1.6 Reduced copies of the plans accompanying the application are attached at **Appendix 2** to this report. All the plans and representations can be viewed on the Council’s website www.southoxon.gov.uk under the planning application reference number.

2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

2.1 Cholsey Parish Council – Objection

- The proposal is at odds with Policy H2 of the Cholsey Neighbourhood Plan.
- The Council consider that the proposals would create unacceptable noise levels for the neighbours.
- Further soundproofing and consideration of the orientation of the kennel block should be taken into account to have it much further away from the neighbouring house.

- The Noise Impact Assessment report is flawed as it was undertaken at the quietest time of the year.
- Concerns about the expansion of the kennels having a considerable extra level of pressure to the already constrained parking.

Forestry Officer - No strong views

Env. Protection Team – Initially no objection raised. Subsequently reviewed and a holding objection raised, and Noise Impact Assessment requested.

Holding objection withdrawn on the basis of the Noise Impact Assessment and clarifying information submitted by the agent. No objection subject to a condition requiring all of the requirements for sound insulation for the new block and improvements to the outdoor runs are implemented

Neighbour representations - Neighbour Object x (2)

- The additional noise that the new kennel building and increase in dogs would lead to is going to worsen the noise situation and the impact it has on the lives of the occupants at the neighbouring property.
- The noise impact assessment has not fully assessed the noise impact of the proposals, including the need to take account of the impact outside as well as inside, of total numbers and in the worst periods of the year.
- The proposals would increase the number of cars coming down the shared drive. There are difficulties at present with it being blocked due to the limited facilities at the kennel site.

3.0 **RELEVANT PLANNING HISTORY**

3.1 [P70/R4306](#) - Approved (06/08/1970)

Proposed use of two buildings as kennels for breeding and boarding of dogs and domestic pets

[P70/R4209](#) - Approved (05/03/1970)

Proposed use of existing building for dog breeding and boarding

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 N/A

5.0 **POLICY & GUIDANCE**

5.1 **National Planning Policy Framework 2018 (NPPF)**

National Planning Policy Framework Planning Practice Guidance (NPPG)

5.2 **South Oxfordshire Core Strategy 2027 (SOCS) policies:**

CSEM1 - Supporting a successful economy

CSEN1 - Landscape protection

CSQ3 - Design

CSR2 - Employment in rural areas

5.3 **South Oxfordshire Local Plan 2011 (SOLP) policies:**

C9 - Loss of landscape features

D1 - Principles of good design

E9 - Extensions to existing institutions

E6 - Loss of employment uses

EP1 - Adverse affect on people and environment

EP2 - Adverse affect by noise or vibration

G2 - Protect district from adverse development

5.4 **Cholsey Neighbourhood Plan (CNP) policies:**

CNP E1 – Landscape character

CNP 17 – Working from home

CNP 18 – Business and wider landscape setting

5.5 **South Oxfordshire Emerging Local Plan 2034 Policies:**

The Council is currently progressing the emerging local plan through the examination stage. Following recent examination hearings, the Planning Inspector has now asked South Oxfordshire District Council to prepare a 'Schedule of Proposed Main Modifications' to the plan. The schedule reflects the modifications, or changes, that the Inspector considers necessary to make the plan sound before it can move to the adoption stage. These are the only significant changes that can be made to the plan now. Consultation runs until 2 November 2020. As such, the plan currently carries **limited weight**. Relevant policies include;

DES1E - Delivering high quality development

DES6E - Residential amenity

EMP2E - Range, size and mix of employment

EMP3E - Retention of employment land

ENV1E - Landscape and countryside

STRAT1E - The overall strategy

ENV11E - Pollution - Impact from existing and/or previous land uses on new development (potential receptors of pollution)

ENV12E - Pollution - Impact of development on human health, the natural environment and/or local amenity

5.6 **Supplementary Planning Guidance/Documents**

South Oxfordshire Design Guide 2016 (SODG)

5.7 **Other Relevant Legislation**

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

5.8 Equality Act 2010

In determining this planning application the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

6.0 **PLANNING CONSIDERATIONS**

6.1 **The relevant planning considerations are the following:**

- **Principle of development.**
- **Impact on residential amenity.**
- **Design, appearance and impact on the character of the site.**
- **Impact on the special landscape character of the North Wessex Downs Area of Outstanding Natural Beauty.**
- **Impact on trees.**
- **Impact on parking.**
- **Other issues.**

6.2 **Principle of development.** The proposed business operating on the site is a long-established kennel and cattery. Policies CSEM1 and CSR2 of the SOCS, Policies E6

and E9 of the SOLP and CNP 17 and CNP 18 of the CNP aim to ensure the future viability of employment in a rural location by supporting proposals to improve existing facilities.

- 6.3 The above policies provide a framework for collaborative working with businesses to create an environment that positively and proactively encourage sustainable economic growth.
- 6.4 Chelsey Parish Council have stated in their comments that the development would be contrary to Policy CNP H2 of the CNP. However, I do not believe that to be the case. Whilst the site and proposals are outside of the settlement the nature of the development is not inappropriate in a countryside setting. The kennel use is an established lawful one taking place on the site and the rural setting is one that is compatible with the nature of the activities associated with the business.
- 6.5 **Impact on residential amenity.** Policy EP2 of the SOLP does not support proposals which would by reason of noise or vibrations have an adverse effect on existing or proposed occupiers, unless effective mitigation measures can be implemented.
- 6.6 The existing kennel business was granted permission under application reference P70/R4209 and there were no restrictive conditions to govern the hours of operation of the kennel activities or the levels of noise on the site. Therefore, the kennels are considered to be the lawful and there is currently no breach of any planning conditions.
- 6.7 Located along the northern boundary of the application site is a detached residential dwelling known as Kingstanding House. The proposed development would increase the number of animals by an additional 20 from 70 to a total of 90. Following comments from the neighbour at Kingstanding House in respect of noise, a noise impact assessment in support of the increase in the number of dogs was requested. The noise concerns are an alleged impact and no official complaint has been made to the Environmental Protection Officer (EPO). A noise impact assessment allows an assessment of any additional noise associated with the animals and kennels upon the area and the neighbouring residential property.
- 6.8 The EPO has assessed the submitted Noise Impact Assessment. He has concluded that the new kennel building would have suitable acoustic insulation appropriate to its use. The matter of the outdoor noise in the exercise yard was also considered and it is important to note that the EPO has not made any objection to the methodology of the assessment nor the time of year that it was carried out.
- 6.9 The Noise Impact Assessment states that the additional dogs would be exercised along with the existing dogs in an organised rotation in and out of the kennels within the existing time frames. This combined with the addition of higher opaque sides to the runs would prevent the dogs from seeing each other which reduces the potential noise produced, particularly when the fencing currently in place is all open mesh. The EPO has confirmed that this is a lawful business without any restrictions stemming from planning conditions and as such applying time limits on the existing use would not be appropriate for this application.
- 6.10 The EPO has confirmed that both announced and unannounced site visits have been carried out and, in neither situation, did he witness noise from barking dogs in the outdoor area. He also confirms that he has seen the outdoor area being used during busy periods, concluding that this was a good representation of a normal day. He also confirmed that no official noise complaints regarding barking dogs have been made in the past. Therefore, on that basis the EPO has no information to support the claim that

the current number of dogs is excessively noisy. The correct route to address instances of excessive noise from barking dogs would be through the Environmental Protection Act 1990 regarding statutory noise nuisance and by way of implementing noise control as required by the high standards of the premises licence. On this basis, the EPO has no grounds to object to the application but has recommended that all requirements for sound insulation for the new kennel block are completed in line with the acoustic assessment recommendations.

- 6.11 It is my view that the proposed development would not warrant refusal on the grounds of noise because the proposal has been assessed by the EPO and he has found no verifiable evidence to support a noise nuisance. I am satisfied that the proposal complies with the relevant development plan policies subject to a condition to require that the sound insulation and associated run screens are implemented and retained on an ongoing basis.
- 6.12 It is also important to reiterate some of EPO comments, specifically that the appropriate mechanism for addressing noise nuisance matters is through the relevant legislation and not through the planning system. Whilst the noise impact of the development is a material planning consideration this does not mean that the planning system should be duplicating efforts and encroaching onto matters that are covered within the Environmental Protection Act 1990.
- 6.13 **Design, appearance and impact on the character of the site.** Policy D1 of the SOLP sets out the principles of good design that should be taken into account for new development to reinforce and protect the local distinctiveness of the District. This is echoed in the Cholsey Neighbourhood Plan in the form of Policy CNP STRAT 1 which seeks to ensure that development conserves and enhances the rural setting of the village.
- 6.14 I am of the opinion that the proposed kennel building would be of a size, scale and siting appropriate to the site and the character of the area. It is a single-story building and would employ a rectangular footprint with a pitched roof over constructed steel insulated cladding over a larch boarded and steel clad exterior. This would match the other kennel on site. The size of the kennel building would be subordinate to the existing kennel and would demonstrate a clear degree of subservience to the host dwelling at the frontage of the site. This would ensure that there would be no disruption to the hierarchy of built form on the site and through the matching materials a degree of sympathy would be achieved. This would ensure that it would be in keeping with the site and assimilate readily into it.
- 6.15 **Impact on the special landscape character of the North Wessex Downs Area of Outstanding Natural Beauty.** Policy CSEN1 of the SOCS states that high priority will be given to conservation and enhancement of the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty and that planning decisions will have regard to their setting and their special landscape character. The protection of the landscape is also an objective of Policy CNP E1 of the Cholsey Neighbourhood Plan.
- 6.16 The application site is an established lawful kennel business with dwelling. There is a developed character to the rear of the residential dwelling in the form of the existing kennel building with the associated runs and outbuildings. Lying between the kennel and runs and the north eastern site boundary is a more open area. The proposed kennel building would be located in this area but aligned so that it would be away from the shared boundary to allow for the building to make use of the existing run facilities. With this arrangement the impact on the wider landscape character of the AONB is considered to be low due to the views of the site from outside already having kennel

buildings and associated structures forming part of its appearance. The new building would be nestled in the interior space of the site and not have built form cascading out into the more open and visually prominent land to the north west end of the kennels where it would be more readily perceived as a new feature. This combined with its not excessive size and scale, particularly when compared to the significantly larger existing kennel building would, in my opinion result in an acceptable level of impact upon the landscape and would be compliant with the development plan policies.

- 6.17 **Impact on trees.** A contributing factor to the landscape character of the AONB will be made through trees and Policy CSEN1 of the SOCS as well as C9 of the SOLP will be relevant. Policy C9 does not support development that would cause the loss of landscape features where those features make an important contribution to the character of an area.
- 6.18 The proposed additional kennel building involves the loss of one tree. This has been identified to be a small Horse Chestnut tree, which was damaged during bad weather. The Forestry Officer has confirmed that they have no objection to the loss of the tree. I consider that, given the compromised condition of the tree and its location within the confines of the application site, it is not a perceived in the wider landscape character and that it should not be considered a constraint to development.
- 6.19 **Impact on parking.** Cholsey Parish Council have raised concerns that the proposed additional kennel building would create additional pressure upon constrained parking provision at the site. This is a commercial enterprise that does not experience a regular pattern of usage that would result in customers arriving at the same time. In practical terms, it is likely that the coming and goings of cars to the business would be spread out throughout the course of a working day. Furthermore, in my opinion, it is acceptable to expect the owners of the kennel to control pick up and drop offs to be scheduled at times throughout the course of a day so that parking is not a problem.
- 6.20 **Other issues.** The council's CIL charging schedule has been adopted and will apply to relevant proposals from 1 April 2016. CIL is a planning charge that local authorities can implement to help deliver infrastructure and to support the development of their area and is primarily calculated on the increase in floorspace created as a result of the development. In this case CIL is not liable as the proposed development is not part of the adopted CIL charging schedule.

7.0 CONCLUSION

- 7.1 Officers recommend that planning permission is granted as the proposed kennel building would be of a size, scale and design which would be in keeping with the established character of the site and not harmful to the special landscape character of the North Wessex Downs Area of Outstanding Natural Beauty. The development would not result in an acceptable noise impact on the neighbouring dwelling and would positively contribute to the viability of the business on the site. In conjunction with the attached conditions the proposal accords with development plan policies.

8.0 RECOMMENDATION

- 8.1 **To grant Planning Permission subject to the following conditions:**

- 1 : Commencement three years - Full Planning Permission**
- 2 : Approved plans**
- 3 : Materials as on plan**
- 4 : Noise Impact (Implementation as approved)**

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