

AGENDA ITEM NO: 8/2(g)

Parish:	Nordelph	
Proposal:	Change of use to allow 10 dogs on site at one time for day care	
Location:	White Barn Cottage 2 Silt Road Nordelph Norfolk	
Applicant:	Libbys Lounge	
Case No:	18/01079/CU (Full Application)	
Case Officer:	Mrs N Osler	Date for Determination: 14 August 2018

Reason for Referral to Planning Committee – The views of the Parish Council are contrary to the Officer recommendation.

Neighbourhood Plan: No

Case Summary

Permission is sought for the retrospective change of use of agricultural land to dog day care. Part of the residential curtilage and parts of dwelling itself are also to be used for the same use.

Currently the land, garden and house are being used to look after 6 dogs per day. This is licensed and has been in operation since August 2017.

The current application will make lawful the use of the agricultural land that is being used and enable the business to accommodate more dogs to keep up with demand (there is already a waiting list).

It is recommended that a temporary approval can be granted to enable the operation of the use to be monitored for an initial period of 13 months.

Key Issues

Principle of Development
Highway Safety
Neighbour Amenity
Crime and Disorder
Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

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SUPPORTING CASE

The following statement has been submitted by the applicant:

I am unable to attend the committee meeting as i am on annual leave, so i would like to clear some points up that have been made by the Parish Council and a third party representative.

Highway and parking:

I have ample private parking off the road. Many of my owners have more than one dog and I also provide collection and delivery service (for which I collect / return 2/3 dogs every day.) Ten dogs do not therefore necessarily mean that 10 cars will attend the property each day.

Waste:

Dog waste is disposed of every two weeks as agreed by the Licencing Team.

Noise:

I have been functioning as a business for just over a year now, and I am yet to hear a complaint from my neighbour or anyone within close proximity of my property. As this is a home environment and not kennels, the dogs feel at ease and very rarely bark and certainly do not howl continuously. I am not allowed to leave the dogs for longer than 3 hours at a time, so this is unlikely to happen and I would certainly intervene if it was to.

Property and space:

I own a 3 bedroom semi-detached house with a spacious kitchen/diner, conservatory, lounge and hallway. These rooms are separated by gates, allowing the dogs to be separated and rest. I currently have 7 separate areas. I also have a large garden and field, which are safe and secure for them to exercise freely.

My licence currently allows 6 dogs including my own, so having 10 will also include my own dogs.

Both my children attend school from 8:30 till 3:30. All dogs are vetted before they come to me to ensure no harm will come to the children or the dogs, and that their care and welfare are not jeopardised.

I do offer boarding which has been agreed by licensing. It was also discussed with Michael Bates in 2017 whereby it was agreed no planning was needed due to the limited number and the fact they board in my house not in external kennels. If my application was to be approved I would be looking to stop boarding and solely do day care.

I have one neighbour who I believe is happy with the current situation. He works from 7:30 till 6 pm, Monday to Friday so my hours of work do not affect him.

I hope that this answers any questions or concerns the parish and any third party may have.

PLANNING HISTORY

No recent relevant history

RESPONSE TO CONSULTATION

Parish Council: Nordelph Parish Council recommends **REFUSAL** to this application for the following reasons:

- This is a semi-detached, residential property, not suitable for the suggested associated business use.
- Concerns surrounding the hours of business opening and the associated noise nuisance/disturbance in such close proximity to neighbouring properties.
- Associated smell surrounding an increase in the amount of dogs and disposal of the waste is a concern.
- An increase in traffic movements/parking along the Silt Road which is already an extremely busy road and one of major concern to the parish council surrounding speeding issues.

Highways Authority: NO OBJECTION – does not wish to restrict grant of permission

Licensing: No objection - Under the current legislation (Animal Boarding Establishment Act 1963) we would not have an issue with licensing Mrs Kent for 10 dogs if we were satisfied that she would meet all of the licence criteria for care and attention to the dogs being boarded. She has a large amount of land, however this is suitable this time of year but in the winter months she would need to think about accommodation within the home. My guess is that she would adapt her numbers accordingly to weather and control.

She was a new Home Boarder with effect from the 30th August 2017 and her current licence is waiting renewal from the 29th August 2018.

DEFRA are launching new legislation for various animal welfare Acts into one licence with specific activities. With regards to home boarding, there are relevant changes that currently state each dog must have its own designated area. What this means for Danielle is that she would need 10 separate rooms in the house (it is unclear yet as to what the definition of a room is). Therefore in August 2019 her numbers may reduce. We are currently awaiting further guidance and hence clarification on the specifics.

CSNN: Given that there is the potential for boarding, there is an attached un-associated dwelling, there could be 9-10 dogs in the dwelling or garden which are not owned by the applicant and which could bark, howl and whine, and there is no information on how or where waste is stored, I'm afraid I am registering an objection.

I have done a check of our records to ascertain whether there have been any complaints about the operation of the existing business from the site, and there is a record of complaint. I have taken into account that the number of dogs will increase and I also have to consider that the occupancy of the attached dwelling could change. Whilst in some circumstances I

would be able to recommend conditions to control noise and odour at the site, there is no real solution to an attached dwelling. My objection is validated because we have had a number of historical complaints about attached dwellings and dogs which have not just been an annoyance to neighbours but have been evidenced as a statutory nuisance, due to the noise from barking etc., and have resulted in us serving Notices under Environmental Health legislation.

If permission were to be granted the following conditions are recommended:

- Noise Protection Scheme,
- Hours of Day Care,
- max of 10 dogs incl. applicants,
- No overnight Boarding,
- Applicant Only Business Use (i.e. if she moved out the planning consent stopped and couldn't be transferred to new owner of house automatically)

Environment Agency: No comments to make

REPRESENTATIONS

One letter of objection has been received. The author writes: "The property is in a flat, open lying area close to other residential properties and noise resonates very easily around the whole village. It would be unfair for residents of the village to be expected to tolerate continual barking and howling from ten dogs.

The property itself is not large enough to cope with ten dogs. It is a very small two bed property with two adults and two to three young children in residence. It is not in the interests of animals or indeed family welfare to allow so many dogs to spend extended time in such a small environment, seven days a week. It is believed there is a resident dog also, which would mean the total number of dogs would be eleven. Some of the dogs currently catered for are also very large dogs, Alsatians and Dalmatians for example. Council licence stipulations say that 'there must be sufficient space to keep the dogs separately if required' that is not possible in this property with ten dogs.

The rented exercise area for the dogs is also sub-rented out by the applicant to anyone who wants to pay to use it (advertised on her Facebook page) the council licence states that the exercise area should be exclusively for use by the homeowner.

The applicant states: "my house is a family home, so no changes will be made or added as this is just for day care not boarding, the dogs will be with me between 7:30 am and 6pm 7 days a week" and yet on her Facebook page she regularly advises that she has dog boarders staying overnight and indeed advertises that boarding is available."

A further letter was received although little weight can be given to the comments due to the name and address being redacted. The issues suggest:

- There will be close to 20 additional vehicular movements
- Family welfare
- Welfare of the dogs
- The proposal is contrary to the Licence conditions
- Why was planning permission not needed in the first instance
- There is a restrictive covenant on the property that means it is not allowed to be used for business use.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS10 - The Economy

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

PLANNING CONSIDERATIONS

The main issues for consideration in the determination of this application are:

- Principle of Development
- Highway Safety
- Neighbour Amenity
- Crime and Disorder
- Other Material Considerations

Principle of Development

The proposal represents a rural enterprise in a relatively isolated location (there is one particularly affected neighbour as the property is one of a pair of semi-detached houses). In this instance, given the nature of the enterprise, an isolated location is preferable to one within a built-up area. Both national and local planning policy and guidance seek to support the rural economy where it accords with other relevant planning policy and guidance.

In relation to the change of use of the land outside the curtilage of the dwellinghouse from agriculture to the keeping of dogs, the only physical, permanent feature is the boundary fencing. As such, when the business is no longer in operation, it will be very easy for the land to revert back to agriculture.

Highway Safety

The Parish Council and a third party suggest there are highway safety concerns. However, the Local Highway Authority do not share these concerns and have no objection to the development and do not require any conditions to be appended if permission is granted.

Your officer experienced no issues with entry, exit and parking during her site visit.

Neighbour Amenity

The main issue is likely to result in noise and to a lesser degree perhaps odour – the latter (waste) being controlled under the license.

The only neighbour that is likely to realistically be affected is the one immediately adjacent. However, the LA has not received any complaints from this property in the past year and the occupier of that property has not objected to the current planning application.

When your officer visited the site there was very little barking and certainly no howling; although obviously this was a 'snap-shot' in time.

Notwithstanding this, the proximity of a non-associated dwellinghouse is a material planning consideration that carries significant weight and the concerns of the Parish Council and CSNN are noted. For this reason, it is considered reasonable to offer a temporary consent to enable monitoring of the situation. A temporary consent to 30 August 2019 would also coincide with the renewal date of the licence.

In relation to third party comments, your officers believe it would be difficult to suggest this property (that is nearly 900 metres from the site) would be materially affected by the proposed development.

Crime and Disorder

There are no specific crime and disorder issues arising from the proposed development

Other Material Considerations

The site lies in an area at risk of flooding. Due to the nature of the development (day care), numbers involved (if absolutely necessary all dogs could be taken to first floor refuge), and the fact that under licence the animals cannot be left for more than three hours, it is not considered that the risks associated with flooding should preclude development. The Environment Agency (EA) raises no objection to the proposed development on the grounds of flood risks; responding with 'no comments'.

Specific Comments

In relation to the conditions requested by CSNN, your officer comments as follows:

- Noise Protection Scheme – in their original comments CSNN suggest such a condition would not work in this instance
- Hours of Day Care – the applicant has confirmed dogs arrive no earlier than 8am and leave no later than 6pm (other than on the odd time someone collecting may get caught in traffic or the like)
- Max of 10 dogs including applicants – this can be suitably conditioned,

- No overnight Boarding – this issue has been investigated by Enforcement and the case was closed as planning permission was not considered necessary due to the limited numbers of dogs involved (max 3) – it is not therefore considered reasonable nor necessary to condition this element,
- Applicant Only Business Use (i.e. if she moved out the planning consent stopped and couldn't be transferred to new owner of house automatically) – clearly it is an applicant only venture as it is in the applicant's dwellinghouse. Furthermore, it is considered unlikely that any future purchasers would undertake the same venture, but if they did, if it is shown to operate without issue, then a personal consent is not considered to meet the conditions tests either. Additionally the license is personal.

In relation to third party comments not covered above, your officers comment as follows:

- There will be close to 20 additional vehicular movements – The Local Highway Authority assessed the application prior to comments from the applicant stating that she collects and delivers some of the dogs. As such the LHA will have made the assessment on the basis of the most traffic movements and has no objection on the grounds of highway safety or parking provision
- Traffic speeds on the road – this is a police matter
- Family welfare – this is not a material planning consideration, and is looked into by the licensing team
- Welfare of the dogs and the proposal is contrary to the Licence conditions – the Licence Department has no objection to the proposed increase in the number of dogs or their welfare. If DEFRA guidance changes then the applicant may have to decrease her numbers under the license regardless of what planning permission she has
- Why was planning permission not needed in the first instance – an enforcement investigation was undertaken and closed without requiring planning permission
- There is a restrictive covenant on the property that means it is not allowed to be used for business use – this is a civil matter.

CONCLUSION

The proposal is considered to accord with the overarching principles of rural enterprises and in this instance its isolated position is a necessity. The proposal would not result in the long-term loss of agricultural land, would not have material highway safety implications, and no objections have been received from the immediate neighbour either to this planning application. Furthermore in relation to the latter aspect it is considered that offering a temporary permission, to 30 August 2019, would enable a reasonable period of monitoring to take place.

It is therefore recommended that this application be approved, for a temporary period, subject to the following conditions.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

- 1 Reason To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition The use hereby permitted shall be discontinued and the land restored to its former condition on or before 30 August 2019 unless a further application for renewal is submitted prior to the expiry of this permission and is subsequently approved.
- 2 Reason In order that the Local Planning Authority may retain control over the development where a permanent permission may give rise to conditions detrimental to the amenities of the locality contrary to the NPPF.
- 3 Condition No more than 10 dogs (including the applicant's own dogs) shall occupy the site at any one time.
- 3 Reason To define the terms of the permission.
- 4 Condition The premises shall only be used for Doggy Day Care between the hours 08:00 and 18:00.
- 4 Reason In the interests of the amenity of occupiers of neighbouring dwellings in accordance with the NPPF and Development Plan.
- 5 Condition The development hereby permitted shall be confined to the area inside the red line site boundary submitted including the dwellinghouse and residential garden.
- 5 Reason For the avoidance of doubt and in the interests of proper planning.