

Application Number:	2014/0285	Application Type:	Full
Proposal:	Removal of condition 4 (not more than 40 dogs to be kept on premises at any time) of planning permission 2010/0618	Location:	Willows Wags And Whiskers Willows Farm Goodshaw Lane Crawshawbooth
Report of:	Planning Unit Manager	Status:	For publication
Report to:	Development Control Committee	Date:	02 September 2014
Applicant:	Mr & Mrs Ainsworth	Determination Expiry Date:	03 September 2014
Agent:	Janet Dixon Town Planners Ltd		

Contact Officer:	Richard Elliott	Telephone:	01706-238639
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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	Yes
Other (please state):	

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

That Committee approve Permission for the reasons set out in Section 10.

2. SITE

The application relates to Willows Farm, which is located in the Countryside approximately 300m to the east of Goodshaw Lane.

The Applicant operates a business from the site that trades under the name Willows, Wags and Whiskers, permission having been granted on Appeal in November 2007 for the

change of use of agricultural buildings to livery, indoor arena, cattery and kennels, and for the construction of external runs. At Development Control Committee in September 2011 permission was granted for Retention of Existing Kennel Building & Construction of New Kennel/Storage Building Including Parking Area. The number of kennels totalled 42, and a condition of the planning permission restricted the number of dogs to a maximum of 40 (it was understood at the time that 2 kennels were not so used). It is those buildings and that condition that this application directly relates to.

A bungalow has recently been constructed on site for accommodation for the site owners (planning permission ref: 2012/0251, allowed on appeal).

Access to the site is gained via Gib Hill Lane off Goodshaw Lane. A number of public footpaths are surround/cross the site.

To the south of the site is Willows Farm, which comprises a stone and slate dwelling with a large agricultural building to its north side (nearest to the application site) which has recently obtained planning permission for the change of use of part of agricultural building to a motorcycle workshop and garaging of a motor home. The property has two access points, the most commonly used being a private access rising upwards from Goodshaw Lane, which also serves one other property to the south (Ta Top Farm), and the other, an unadopted track further to the north which serves other properties along its length, most particularly Gibb Hill Stables and Willows, Wags and Whiskers. Willows Farm has also recently had permission for the construction of a domestic garage with an office for domestic use at first floor level. This building is to be located between Willows Farm House and the kennel buildings of Willows, Wags and Whiskers.

3. **RELEVANT PLANNING HISTORY**

2007/283 Change of use of agricultural buildings to livery, indoor arena, cattery and kennels and construction of external run
Allowed on Appeal

2010/0618 Retention of Existing Kennel Building & Construction of New Kennel/Storage Building including Parking Area
Condition 4 of this approval states:

“Not more than 40 dogs shall be kept at the premises at any time
Reason: *To define the permission and to protect the amenities of neighbours, most particularly residential neighbours from unacceptable noise disturbance, in accordance with Policy DCI of the adopted Rossendale District Local Plan*”.

2012/0251 Erection of dwelling and removal of existing residential caravan
Allowed on Appeal

4. **PROPOSAL**

At peak times (holiday seasons), due to the success of the business the current number of kennels is often full and business has had to be turned away. As the kennels are of a size to accommodate two dogs the applicants seek to remove condition four of planning permission 2010/0618 which currently limits the number of dogs that can be housed at any one time to 40.

This theoretically therefore could double the maximum number of dogs. However, the applicant's advise that only dogs from the same family would be kennelled together, and therefore it is unlikely that all kennels would contain two dogs. In accordance with their submission the likely maximum number of dogs in the peak period would be about 60. They also state that the number of dogs off peak is likely to stay at the current levels of about 30 dogs.

In support of their application the applicant's state:

"The kennels as they are now have been in operation since Easter 2011. During the period since then there have only been two complaints about noise from the site and these were at a period when the kennels was not operating at full capacity. There have been no complaints since 2012. Dogs bark in response to being disturbed. As the site is in a quiet location away from traffic and people there is no unexpected stimulus for the dogs to react to particularly at night. Naturally dogs might bark when they are being checked in or in anticipation of being fed or taken for a walk but the occasions when this happens are being effectively managed at the present time and there is nothing to suggest that an increase in numbers of dogs would hamper this effective management. The very low level of complaints suggests that and increase in the numbers of dogs is unlikely to result in a higher number of complaints... The Council has alternative powers to control noise under Environmental Health legislation in the unlikely event that this should change."

5. **POLICY CONTEXT**

National

National Planning Policy Framework (2012)

- Section 1 Building a Strong Competitive Economy
- Section 3 Supporting a Prosperous and Rural Economy
- Section 4 Promoting Sustainable Transport
- Section 7 Requiring Good Design
- Section 10 Meeting the Challenges of Climate Change, Flooding, etc
- Section 11 Conserving and Enhancing the Natural Environment

Development Plan Policies

Rossendale Core Strategy DPD (2011)

- AVP 4 Goodshaw and Loveclough
- Policy 1 General Development Locations and Principles
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 21 Supporting the Rural Economy and its Communities
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

Other Material Planning Considerations

National Planning Practice Guidance (2014)

6. **CONSULTATION RESPONSES**

RBC (Environmental Health)

Theoretically removing the condition could double the number of dogs but that would assume every kennel has two dogs. Doubling the dogs would potentially double the noise.

We have not had any complaint against this premises in 3 years and so would not have evidence to back up any objection.

If approved the applicant cannot increase numbers until the license is reviewed as that says forty dogs and is independent of the planning application.

We could put a clause in the conditions to the effect:

"The council reserves the right to review the licence should such information come to light which suggests that the welfare of the animals may be affected or the environment of the surrounding area is being significantly adversely affected"

I have reviewed the noise report from the previous application and suggest that given the absence of complaints the proposal may not result in a significant change in the current position. The original condition was based on an unknown to a degree and was there to protect amenity. There have been no complaints to suggest that the amenity is being threatened.

The Case Officer has provided the Council's Environmental Health Section the objections received in respect of this application. They maintain that they have no objection to the scheme.

LCC (Highways)

I can confirm that there are no highway objections to the proposal. The proposal may generate a small increase in the number of vehicles accessing the site however this will not be of detriment to highway safety

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a site notice was posted on 29/07/2014 and 5 letters were sent to neighbours.

Four letters of objection have been received as summarised below:

- Noise levels are already too high and disturbing
- There haven't been objections direct to RBC Env Health as the owner of Willows Farm (Immediately adjacent the site) has lost faith
- We are often awoken early in the morning by the dogs barking and our toddler is sometimes kept awake at night by the barking too. An increase in the number of dogs onsite would mean that it would be even noisier than at the present time
- Visitors to the kennels often speed up and down the single track lane and it is a hazard for anyone walking on the lane especially with children or pets.
- The report to committee in respect of the previous application contains the advice of the Environmental Health officer as follows: *"The kennels have been licensed for up to 40 since June 2009 and it is considered that more dogs than this will have a detrimental effect on the amenity of the neighbours in relation to noise. Accordingly, it recommends that the number of dogs on the site is limited to a maximum of 40."*
- The Committee report regarding the proposed increase of kennelling to 40 dogs (2010/618) summarises objections at that time from 7 individuals. They are pertinent to the current application in so far as noise is concerned:-

Noise from the existing kennels continues to be excessive and is an unacceptable nuisance. To increase dog numbers still further will make the current unacceptable situation even worse.

The noise and disturbance created by customers and their cars also adds to that of the dogs and would be increased further by extra kennels.

The application is in fact misleading in that it suggests that there would be an increase from 12 to 26 kennels when in reality it would be from 30 to 44.

The applicants have breached the permitted opening hours on many occasions as dogs have been brought to the establishment as early as 6.30am.

The report regarding noise levels is not a true representation of the total problems, based upon findings of a survey carried out during the winter months (when all windows and doors are closed, and not an ordinary week in the holiday/summer season).

The proposal would result in the loss of amenity to the adjacent residents. The increase in traffic associated with this business has certainly contributed to the deterioration of Goodshaw Lane and Goodshaw Avenue.

- The application documents relating to the current application make it clear that approval for 40 dogs is more than adequate for the vast majority of the time
- The kennels are busiest in the summer months when neighbours need to open windows, and when they spend time gardening or sitting outside.
- The daughter of the owners of Ta Top Farm has a bedroom window facing towards the site. Their daughter has been disturbed at night on many occasions because of unhappy dogs; they are quite often distressed to be away from their owners. In fact the dogs whine or howl at all times of the day and night.
- The removal of the condition, allowing a potential increase in the number of dogs, will just make the situation much worse

8. **ASSESSMENT**

The main considerations of the application are:

1) Principle; 2) Neighbour Amenity; & 4) Access/Parking.

Principle

There is no objection in principle to the removal of the condition and both local and national planning policy is supportive of suitable forms of economic development in rural areas.

Neighbour Amenity

The main concern in relation to neighbour amenity is the resulting noise impacts.

With this in mind I note that there have been no reported complaints to the Council's Environmental Health Section in relation to the existing kennels in the last 3 years but objections have been received from three neighbours as a result of neighbour consultation regarding this proposal. Those objections have raised issues regarding noise from the

business as now operating and one objector has stated complaints had not previously been made to Environmental Health as the neighbour 'has lost faith'.

I concur with both the Council's Environmental Health Officer and the applicant that it is unlikely that the removal of condition four would result in a doubling in the number of dogs at the premises for any significant period of time. The applicant's consider that the number of dogs during holiday seasons could increase to sixty, but outside of these times would still be less than the currently permitted maximum of forty.

With this in mind and in particular with no objection from the Council's Environmental Health Section it would be difficult for me to arrive at the conclusion that there is likely to be a significant change to noise levels emanating from the site that would materially affect the acoustic character of the area and therefore I do not consider that the scheme would be detrimental to neighbour amenity.

The Council's Environmental Health Section has advised that should planning permission be granted the applicant's would still need to vary their current license, which the Council would retain the right to review should information be provided to them that suggest the environment of the surrounding area is being significantly adversely affected.

Access / Parking

The removal of the condition would be unlikely to give rise to a significant increase in traffic movements as it is most likely that should two dogs be housed in one kennel they would arrive at the same time/in the same vehicle. There has been no objection from the Highway Authority.

9. Summary Reason For Approval

The scheme is considered acceptable in principle and it is considered that the removal of condition four of planning permission 2010/0618 which currently restricts the maximum number of dogs to at the site to 40, would not result in materially greater amount of noise to neighbouring properties or traffic impacts than currently, having regard to the National Planning Policy Framework (2012) and Policies 1 / 8 / 9 / 11 / 14 / 17 / 18 / 23 / 24 of the Council's adopted Core Strategy DPD (2011).

10. RECOMMENDATION

That the application be Approved to remove condition 4 of planning permission 2010/0618.