

Item No. 1

Planning and EP Committee

Application Ref: 19/00307/FUL

Proposal: Proposed two-year temporary continuation of use of land and siting of mobile home in connection with, and use of, land, kennels and associated fencing as licenced establishment for breeding dogs

Site: Buffingham Kennels, Waterworks Lane, Glinton, Peterborough

Applicant: T/A Buffingham Miniature Schnauzers
Agent: Barker Storey Matthews

Referred by: Head of Development and Construction
Reason for Call In: Level of public interest

Site visit: 29.03.2019

Case officer: Mr M A Thomson
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Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site and Surroundings

The application site extends to approximately 0.11 ha and is located on the south side of Waterworks Lane, Glinton, directly south of Woodcroft Grange Boarding Kennels. The site is accessed some 150m to the west of the side of Woodcroft Villas, however there is a pedestrian gate to the immediate east of Woodcroft Grange linking the application site to the public highway.

The site is outside both the urban area and village settlement boundary, and is therefore land defined as within the open countryside.

There is a dwelling directly to the north of the site, associated with the Woodcroft Grange Boarding Kennels, and two dwellings fronting Waterworks Lane approximately 150m to the west (Woodcroft Villas). The nearest dwelling to the east, 'Birch Trees', is some 190m from the application site. Other than these dwellings, the site is isolated in character and surrounded by agricultural land. There is a high hedgerow on the south side of Waterworks Lane which precludes direct views of the site. The Gas Compressor site lies approximately 140m to the south.

A high pressure gas pipeline (HPP) runs on a north/south axis to the west of the application site and the Boarding Kennels.

The site is operating as a dog breeding business; breeding miniature schnauzers, and trading under the name of 'Buffingham Miniature Schnauzers'.

Pre-Amble

It is understood that the Applicant previously operated the Woodcroft Grange boarding kennels directly to the north of the site. The site has now been sold and is no longer within the Applicant's control.

In 2017, a temporary and personal planning permission was permitted under App Ref:

17/00022/FUL for the 'change of use of the site to dog breeding business, including retention of residential mobile home, timber outbuildings, associated infrastructure and fencing'

This permission included the following:

- Two timber whelping kennels on the western side of the site of 33sqm and 25sqm. The sheds are single storey to a maximum ridge height of 3m;
- A mobile home (caravan) located on the eastern side of the site of approximately 16sqm;
- Two small sheds housing a w/c and generator; and
- Division of the site into sections defining dog runs, garden, etc.

Condition 1 of this 2017 permission required that the permitted dog breeding use to cease on or before 17th March 2019, with associated structures removed. However, at the time of writing this report, the business is still operating in situ.

The information in support of this 2017 application stated that there would be up to 12 litters of puppies per year, with an average of 5 pups per litter. Therefore it was accepted that there was a functional need for a worker to be present on site for the majority of the time due to the welfare of the dogs, and for security reasons. The Applicant is fully employed at Buffingham.

The reason for allowing a temporary planning permission was to '... establish whether the business is financially viable...' and to '... allow the LPA to monitor the use of the site and its compatibility with neighbouring uses'.

Since this permission was granted, an additional caravan has been introduced to the site without the benefit of planning permission, which was until recently occupied by a family member.

Proposal

The application seeks planning permission for the 'continued use of land and siting of mobile home in connection with, and use of, land, kennels and associated fencing as licenced establishment for breeding dogs'. The application seeks this continuation for a further temporary period of two years.

Amended plans have been received which propose a satellite parking area to the west. This is discussed in further detail below.

2 Planning History

| Reference | Proposal | Decision | Date |
|------------------|---|------------------------|-------------|
| 16/01600/FUL | Proposed siting of mobile home in connection with use of land, kennels and associated fencing as licensed establishment for breeding dogs (retrospective) | Withdrawn by Applicant | 17/10/2016 |
| 17/00022/FUL | Change of use of the site to dog breeding business, including retention of residential mobile home, timber outbuildings, associated infrastructure and fencing (Retrospective) - Resubmission | Permitted | 13/03/2017 |

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Peterborough Local Plan 2016 to 2036 (Submission)

LP02 - The Settle Hierarchy and the Countryside

The location/scale of new development should accord with the settlement hierarchy. Proposals within village envelopes will be supported in principle, subject to them being of an appropriate scale. Development in the open countryside will be permitted only where key criteria are met.

LP03 - Spatial Strategy for the Location of Residential Development

Provision will be made for an additional 21,315 dwellings from April 2016 to March 2036 in the urban area, strategic areas/allocations.

LP11 - Development in the Countryside

Part C: Mobile Homes/Temporary Dwellings in the Countryside- Applications will be considered in the same way as permanent dwellings.

Part D: New Dwellings in the Countryside- Permission for a permanent dwelling in the countryside for an agricultural worker will only be granted to support existing agricultural activities on a well-established agricultural unit subject to demonstration of a functional need which cannot be met by an existing dwelling or conversion.

Part E: The Rural Economy- Development involving the expansion or conversion of an existing employment use/building or use for tourism/leisure will be supported provided it is an appropriate scale, would not adversely affect the local community/services and would not cause harm to the character of the area and would be accessible.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

LP27 - Landscape Character

New development in and adjoining the countryside should be located and designed in a way that is sensitive to its landscaping setting, retaining and enhancing the landscape character.

LP32 - Flood and Water Management

Proposals should adopt a sequential approach to flood risk management in line with the NPPF and council's Flood and Water Management SPD. Sustainable drainage systems should be used where appropriate. Development proposals should also protect the water environment.

LP33 - Development on Land Affected by Contamination

Development must take into account the potential environmental impacts arising from the development itself and any former use of the site. If it cannot be established that the site can be safely developed with no significant future impacts on users or ground/surface waters, permission will be refused.

4 Consultations/Representations

Glinton Parish Council

Objection - Parish council noted that the application arises as the current temporary planning permission is coming to an end and that the Applicant is seeking to make the present arrangements permanent. We are opposed to granting approval on a permanent basis, but would not oppose a further temporary extension providing that any further temporary permission is personal to the applicant.

Health & Safety Executive

No objection - Does not advise against the granting of planning permission.

National Grid & Cadent Gas

No objection – Further to the provision of the satellite parking area to the west, National Grid withdraw their objection. Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

PCC Peterborough Highways Services

No objection - Subject to a condition being attached with respect to the provision and retention of the satellite parking and turning area.

PCC Pollution Team

No objection – It is understood that during winter, a generator is running 24hrs per day, which can clearly be heard at night. Details of any plant should be submitted to the LPA for assessment.

PCC Waste Management

No objection.

Environment Agency

No objection - The siting of the mobile home, kennels and fencing are within Flood Zone 1.

Part of the access road for the site is located within Flood Zones 2 and 3. Your Authority may therefore wish to ensure that a Flood Warning and Evacuation Plan is obtained prior to determining the application and that your Emergency Planning staff are consulted on its contents.

Welland & Deeping Internal Drainage Board

No objection.

Local Residents/Interested Parties

Initial consultations: 6

Total number of responses: 5 (including the Parish Council)

Total number of objections: 5

Total number in support: 0

3no. letters of objection have been received from two addresses raising the following concerns:

- Cars park in a passing place on the public highway;
- Highway safety;
- There is no street lights or footpath;
- Noise from generator;
- A second caravan has been placed on site;
- There are additional family members living on site;
- A new gated entrance has been provided along a field margin, adjacent to the passing place;
- The site no longer purely breeds Schnauzers;
- The site is in an unsustainable location; and
- The off-road parking area would disturb neighbours due to noise and illumination, i.e. coming and going of vehicles and visitors, as well as occupiers of the site.

Councillor Holdich has also objected to the application on the basis of the following:

Noise

Noise from the steel gates and chain being dragged opened and closed at all hours of the day and night. This can be heard from the front room and the bedrooms (Woodcroft Villas). Headlights from the vehicles shine through the front room and bedrooms. Access to either end of the site will aggravate the neighbours dogs which bark at anything that moves and already cause a nuisance.

Access

The Applicant has submitted his application on the basis of requiring access to the rear and side of our property to drive on and park; however, since he received planning approval from Peterborough City Council (reference 17/00022/FUL dated 9/1/17), he has only ever used the highway passing lane along Waterworks Lane and not the access he had originally been granted. This access was used for approximately 6 weeks. This has caused untold issues with the traffic; businesses and residential alike, especially during peak times, since he and his wife insist on parking their individual cars plus those of their customers. Further to this, the applicant has failed to mention to the council that there is currently an associate/friend of his living in a caravan with his van on the access point (driveway) he is applying for. This is blocking the very same access point he claims he requires for his business use.

Mr. Glen More, who works for the Council, visited to enquire about the occupant of the caravan on the site. Since we know very little about him, on a personal level, he went to visit him. The occupant advised Mr. More that he was living on the land in order to help clear it up and that the caravan was a wood and tool shed. We can confirm that he has been living in the caravan as his permanent residence and has not been 'employed' to help clear the site as stated since nothing has been done.

The Applicant has also created his own path to his residence and kennels down the side of the farmer's field margin by cutting a hole through the farmer's hedgerow in order to create a walkway. This has disturbed the habitat corridor for the flora, fauna, vertebrates and invertebrates that live in this part of the countryside.

Emergency service access

Since the applicant lives in a caravan in a field, emergency access for him and his potential customers is restricted especially as he keeps all gates padlocked. In the event of an emergency,

access could be denied. There are 2 main gas pipes situated in the field that the applicant occupies. In order for any vehicles to traverse this land, some sort of bridge or support to protect the pipework would have to be erected.

Gas pipes

There are main gas supply pipes running across the field where the applicant lives. Potentially, any vehicles, particularly a fire tender, if able to gain access, would only be able to only go as far as the pipes due to the risk of them fracturing.

Dangers and hazards

Any potential customer's requiring wheelchair access would find it very difficult to use their vehicle along the habitat corridor the applicant has created. If approval for original access was granted, due to there not being any form of proper hard standing, those with balance issues would find this especially difficult. Also, further to this along the side of this house, there are a number of scrap vehicles, glass, bricks, general rubble, sharp metal, disused farm machinery, disused containers and trailers, metals and contaminants marring the site. This is where any customers would have to walk and is where he applied to use.

Greenhow Paddock

The applicant previously owned two horses. Since they escaped on numerous occasions, the applicant sold them on, therefore the Greenhow paddock is no longer required.

Business

The applicant has stated that he is breeding miniature Schnauzers. It has been brought to my attention that this is possibly no longer the case and that he is looking to start breeding Cocker Spaniels. Due to the overall condition of the site, any potential customers run the risk of injury through trips, slips and falls en route to see the animals.

Miscellaneous

The applicant has identified his 'green credentials' by stating that he is environmentally aware and conscious of his responsibilities. However, running a petrol generator up to 24 hours a day throughout the winter, which will entail fumes, gases and noise, will potentially nullify any carbon neutrality he hopes to gain from the 2 solar panels he uses to run it.

When reviewing the original Barker Storey Matthews conclusion, there is some new information to bring to your attention:

- 1) When this application was originally submitted, the Applicant was renting the kennels next to the site and was not "an existing local business" located within the countryside etc,
- 2) As per the original application (12-047/jsd/jh) the applicant applied for permanent residence for himself, his wife and his grandson to live in a caravan on this site. Since this application, the applicant's grandson has not been living on site for at least 10 months. Further to this, the applicant drove his grandson to and from school and he was not walked or cycled there with the applicant's wife, as stated on his application.
- 3) According to application for planning permission (17/00022/FUL), it states clearly that the applicant, should he wish to change the scheme in any way, must adhere to the approved plans or advise the council of any changes. This has been contravened since he has: added another an extra caravan to the site and he uses the passing lane on Waterworks Lane to park his, his wife and visitors vehicles. The applicant has also reduced the length of his property by placing the orchard, garden/vegetable garden on the outside of the existing 1m picket fence line.

5 Assessment of the planning issues

The main considerations are:

- a) Principle of development

- b) Flood risk
- c) Access and parking
- d) Existing and future occupier amenity
- e) Gas Compressor site
- f) Personal circumstances
- g) Other matters

a) Principle of Development

The 2017 application identified that the proposed dog breeding business was an appropriate use in a rural location. Whilst the planning policy context has changed in the intervening period, with the adoption of the Peterborough Local Plan 2016-2036, Officers do not consider that there are any material changes such that a different conclusion should be reached in this regard.

Notwithstanding this, the development included structures and a residential caravan, and in light of this, a temporary consent was granted in accordance with Policy PP7 (now replaced by LP11) to enable the Applicant to demonstrate that the business was financially viable, a policy requirement.

The current proposal seeks a continuation of the previous temporary permission, for a further two year period.

Policy LP11 (Part D) is of key note, as this relates to residential dwellings within the open countryside. It advises that permanent new dwellings will not be permitted in relation to newly established enterprises however planning permission may be granted for temporary dwellings (up to a period of 3 years) if a functional need can be established, there is a clear intention to develop the business and that it has been planned on a sound financial basis. However of key note is the following: 'After the three year temporary permission has expired, permission will only be granted for a permanent dwelling if the above criteria have been met. A further temporary period will not be permitted'.

As the previous temporary permission has now lapsed, the current proposal, whilst seeking a further temporary period, must be considered against the policy criteria within LP11 for a permanent dwelling as a further temporary consent is strictly contrary to the policy.

Policy LP11 (Part D) refers to new dwellings in the countryside relating to agricultural workers, forestry and other enterprises where a countryside location is essential. Such proposals for permanent dwellings in the open countryside will only be supported for existing agricultural businesses on well-established agricultural units providing that: there is a functional need for a worker to be at the site for all or most of the time; there is a need for a full time worker; that the business has been running for 3 years and has been profitable for at least one of them; that the business is financially sound and is expected to remain so; and that there are no other buildings on site or near to the site that could be occupied.

At the time of writing this report, and despite the request of Officers, no financial information has been submitted in relation to the business use to support the application. Therefore, it is not possible to determine that the enterprise has been planned on a sound financial basis and has been profitable. As the business has been in place for more than three years and no financial information has been submitted, it is not possible to support a permanent consent..

It is noted that the 2017 decision only permitted a two year temporary consent, however it is understood that the business has been in situ since 2016 and has therefore had ample time in which to develop/establish and demonstrate long-term financial viability.

Further to this, it has not been demonstrated that the business supports a full time worker, and it has not been demonstrated that the functional need cannot be fulfilled by an existing dwelling, or the conversion of any existing building in the area, or any other existing accommodation in the area which is suitably and available for occupation by the worker concerned.

As such, the proposed development would fail to accord with Policy LP11, Part D (m, n and o) of

the Peterborough Local Plan (2019).

Letters of representation have advised that the Applicant breeds other dogs, and is no longer limited to Schnauzers. If this is the case, the business case would need to be updated to reflect this, however as no financial information has been submitted it is not possible to clarify whether this is indeed correct.

b) Flood Risk

The Environment Agency has raised no objections to the proposal, however have advised that, as the access is within Flood Zones 2 and 3, a Flood Warning and Evacuation Plan should be secured pre-determination. Given that the operation has been in situ since 2016 (aerial views) it is considered reasonable to secure this information by condition should planning permission be granted.

c) Access and Parking

Further to the receipt of amended plans, which has formally laid out the parking arrangement on land to the west referred to as the satellite parking area, the Local Highway Authority (LHA) has raised no objection to the proposal subject to the parking and area of turning being provided.

The LHA has advised that motorists parking within the passing place along Waterworks Lane should be avoided, and have sought that a suitably worded condition be appended to this effect. However, it is not possible to use planning conditions to prevent persons parking on the public highway where it would otherwise be safe and legal to do so. Highway enforcement would be the responsibility of the Police.

Subject to the provision of the satellite parking area, vehicles would not be parked on the public highway, therefore the proposed continued use would not result in a highway safety hazard and would be in accordance with Policy LP13 of the Peterborough Local Plan (2019).

d) Existing and Future Occupier Amenity

As set out within the submitted Supporting Statement (16-030/JSD/jh), the amount of activity associated with the business is not due to increase over and above the 2017 temporary consent. However, it is noted from letters of representation that the breed of dogs which are bred on site may change, which in turn may increase or indeed decrease the amount of activity on the application site.

However, a material change to the 2017 application is the resolved objection raised by National Grid to the use of the field for access due to the presence of a high pressure gas pipeline (HPP). To resolve this issue Officers advised, in good faith, that it may be possible to overcome this issue by forming a dedicated parking area to the west. Amended plans have been secured to reflect this.

However, this parking area would result in a future amenity issue as the owner/occupier of the breeding business, friends and family, and customers, would park in this location which is in close proximity to two unrelated residential dwellings. In this part of the City, residents would largely have very good levels of privacy, peace and amenity, notwithstanding the coming and going of vehicles travelling to the Water Works at the end of the Lane. The formalisation of parking in this location for use by the business would result in unacceptable levels of noise and general disturbance to neighbouring occupiers, particularly given visitors could arrive at any time of the day, at any time of the week.

Further, there are concerns that visitors may be forced to walk along Waterworks Lane if the field became waterlogged. Waterworks Lane is a 60mph road, it is unlit and is not served by a pedestrian footpath. Therefore, whilst there is no highway safety objections, Officers consider that access along Waterworks Lane would pose an unacceptable danger to persons accessing the application site.

The proposal would result in unacceptable levels of noise and disturbance to residents adjacent to the proposed car parking area, and the site would provide a safe place of access for future occupiers and visitors. As such the proposal is considered to be contrary to Policy LP17 of the Peterborough Local Plan (2019).

With respect to comments received from the Council's Pollution Control Officer, and letters of representation, it is understood that the site is served by a generator that operates throughout the day and night, particularly during winter months. If planning permission were granted, conditions could be attached to secure details of a generator that could ensure it operated within acceptable noise limitations such that harm to neighbour amenity did not arise.

e) Gas Compressor Site

The Health and Safety Executive (HSE) are a statutory consultee for certain developments within the consultation distance of major hazard sites/pipelines. The HSE have been consulted on the application and do not advise against the granting permission for the development.

National Grid and Cadent originally objected to the proposal, advising that the proposed access road was located over a high pressure gas pipeline (HPP). However, further to the receipt of amended plans, which has formalised a parking arrangement to the west and would prevent persons from driving across the field, National Grid and Cadent have withdrawn their objection.

f) Personal Circumstances

The Applicant has not supplied any supporting information pertaining to their personal circumstances. As no evidence has been provided, it is not possible to substantiate whether the Applicant has any overriding personal circumstances such that the harm identified may be outweighed.

The human rights impact has been considered, with particular reference to Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention. The recommendation is considered appropriate in upholding the council's adopted and emerging policies and is not outweighed by any engaged rights, including the Public Sector Equality Duty.

g) Other Matters

The following matters have been raised within letters of representation that are not addressed above:

- A second caravan has been placed on site & there are additional members of family living on site.

Officer Response: It is understood that a second caravan has been introduced to the site, and was being lived in by a family member. However this is no longer the case and the Applicant has sought this be retained for additional storage. This however does not form part of this application, and if sought to be retained as such would need to be applied for under a separate planning application. The current application cannot consider unauthorised development that has or may take place.

- A new gated entrance has been provided along a field margin, adjacent to the passing place.

Officer Response: This does not require planning permission nor does it constitute a change of use.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below. No overriding public benefit has been identified such that the harm arising from the development would be outweighed.

7 Recommendation

The Case Officer recommends that Planning Permission is **REFUSED** for the following reasons:

- R 1 As a temporary planning permission has already been granted for the development, the residential caravan element must be considered as a permanent dwelling within the open countryside. Insufficient evidence has been provided to demonstrate that: the enterprise has been planned on a sound financial basis; the need relates to a full-time worker; and the functional need cannot be fulfilled by an existing dwelling, or the conversion of an existing building in the area, or any other existing accommodation in the area which is suitable and available by the worker concerned. As such, the proposal is unacceptable in principle and contrary to Policy LP11, Part D (m, n and o) of the Peterborough Local Plan (2019).
- R 2 Due to the proximity of the proposed satellite parking area to neighbouring dwellings and the associated coming and going of vehicles and persons in connection with the residential and business uses of the application site, unacceptably harmful levels of noise and disturbance to neighbouring residents would result. As such, the proposal would result in undue harm to neighbour amenity and is contrary to Policy LP17 of the Peterborough Local Plan (2019).
- R 3 In the event that the field between the proposed satellite car park and application site become impassable through flooding (being situated within Flood Zones 2 and 3), persons in connection with the residential and business uses of the application site would be forced to use Waterworks Lane, a road subject to the national speed limit with no dedicated footway and unlit. As such, the development proposed would not provide a safe route from the satellite car park to the application site, and is therefore contrary to Policies LP13 and LP17 of the Peterborough Local Plan (2019).

Copies to Councillors

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