

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 22 August 2018

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APPLICATION REF. NO:	18/00420/CU
STATUTORY DECISION DATE:	25 August 201822
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE
LOCATION:	Castle Farm, Walworth Road, Walworth
DESCRIPTION:	Change of Use of ground floor of existing domestic garage to Commercial Kennels for up to 8 dogs (Use Class Sui Generis) and creation of parking area for 4 No. vehicles and new vehicular access from Walworth Road (amended plans and additional information received 19 June 2018, 21 June 2018 and 25 July 2018)
APPLICANT:	Ms J Emmerson

APPLICATION AND SITE DESCRIPTION

The application site is part of a former working farm, comprising the main dwelling and a range of former farm buildings located on the north side of the C39, Walworth Road, approximately 0.5km to the south west of Walworth Village. Paddocks to the north and west of the site, together with an area of woodland to the northeast known as Tomtit Wood, are in the ownership of the applicant. Two Public Rights of Way (Footpaths Nos 2 and 3 respectively) pass through and around the farm buildings. A group of former farm buildings, now in residential use, are located on the opposite side of the road and some of them are Grade II listed buildings.

In 2014 (see Planning History) planning permission was granted by the Members of the Planning Applications Committee for some extensions to the main dwelling, a cattery (for personal use) and the erection of a detached triple garage/workshop. This planning application is seeking planning permission for a change of use of the ground floor of the garage to commercial dog kennels, with an enclosed outdoor area, a parking area for up to four vehicles and a new separate access onto the C39. A length of hedgerow (approximately 25m) would be removed to facilitate the access point.

The approved garage is a stone built structure to house two vehicles and plant and machinery on the ground floor with a workshop in the roof space accessed from an external flight of steps on the eastern end. The approved plans also show a timber carport on the west end of the garage to provide a third covered parking space. The garage has been partially completed.

The proposal involves very limited external alterations to the building, namely inserting glazing into the garage door openings. Internally, the building would have a secure lobby area; eight

compartments for the keeping of the animals and a welfare area with a wc. There would be no extensions to the building and the carport would be retained and used as an external storage area. Immediately to the north of the building there would be a patio and artificial grass exercise area which would be enclosed by a 1.2m high mesh and post fence.

A footpath would link this area to parking spaces for four cars and a new 4.2m wide road constructed from crushed compacted stone would lead from the parking area through the paddock to the west of the buildings and to a new separate access point into the C39. A section of hedgerow would need to be removed to facilitate the access, a set of vertical boarded gates would be erected and a tarmac access would be constructed over the grass verge that runs alongside the carriageway.

The proposed kennels would operate between 07:30 to 19:30 Monday to Saturday only. The kennels would be closed on Sundays and Bank Holidays.

Application documents including Planning Statement, Design and Access statement, detailed plans, consultation responses, representations received and other background papers are available on the Darlington Borough Council website.

PLANNING HISTORY

The most recent planning entries for the application site and the associated farm buildings are:

14/00590/FUL In November 2014 planning permission was GRANTED for a change of use and alterations to existing agricultural building to domestic use and erection of a timber cattery building, together with erection of two storey side extension and single storey rear extension to dwelling and detached triple garage with workshop in the roof space

15/00543/ATH In September 2015 an application seeking the prior approval of the Local Planning Authority to convert an agricultural building to a dwelling was APPROVED. (This building has been demolished and therefore this approval cannot be implemented)

15/00670/FUL In September 2015 planning permission was GRANTED for the erection of a single storey extension to the side

18/00402/FUL In July 2018 planning permission was GRANTED for the erection of a two storey side extension, single storey rear extension and detached triple garage

PLANNING POLICY BACKGROUND

The following policies are relevant to the proposed development:

Borough of Darlington Local Plan 1997

E2 - Development Limits

E5 - Change of use of Buildings in the Countryside

E12 - Trees and Development

Darlington Core Strategy Development Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy

CS2 - Achieving High Quality Sustainable Design

CS14 - Promoting Local Character and Distinctiveness

CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2018

RESULTS OF CONSULTATION AND PUBLICITY

Five letters of objection have been received from four households and the comments can be summarised as follows:

Highway Safety

- *Our property (The Farmhouse) is a listed building and it within a conservation area opposite the existing access to Castle Farm. All entrances to the developments have extremely poor visibility splays. Walworth Road is a “rat run” used by all types of HGV vehicles and is used extensively by individual cyclists and cyclist clubs*
- *The increased new vehicle movements that the kennels will bring can only increase the risk to existing road users and pedestrians as there are no footpaths*
- *The access is on a bend and this will cause road safety issues for people turning into and out of the proposed area as it is on a bend with a small dip that restricts visibility on a 60mph road*
- *There is a concern over the impact of this development on the drainage ditches to ensure that flooding of the roads and the homes opposite does not occur again*

Amenity

- *The proposed development will result in substantial noise with dogs barking in the vicinity spoiling the existing peaceful environment*
- *The existing dogs can be heard at the Walworth Hotel*
- *There has been numerous occasions when dogs from Castle Farm have escaped and made their way up to Walworth Hotel*
- *This will lead to an increase in noise pollution. Existing dogs in the area, including Castle Farm are currently a nuisance*
- *I do not believe the proposed use will be meet the advisory measures from Environmental Health on noise pollution from barking dogs*
- *The parking area will be adjacent to gardens causing noise and pollution at all times of the day and night.*
- *If approved the kennels would be located closer to the neighbouring dwellings than the Castle Farm farmhouse and there is no mention of any acoustic attenuation.*
- *The cattery was conditioned as personal use in the interests of highway safety*

Impact on Public Right of Way

- *The outside area for the dogs will create a noise issue when walkers pass by as the dogs will bark and intimidate walkers and dissuade walkers from using the countryside*
- *The Public Right of Way should be kept open at all costs*

Heritage Assets

- *The listed buildings and conservation area will be spoilt by the kennels*

Drainage

- *Existing drainage in the area is inadequate and the proposal will lead to an increase in flooding*

Non planning Matters

- *There are other kennels in the area and I would question the need for additional facilities*
- *We are concerned that the proposal will lead to an increase in the number of dogs taken for a walk around the grounds of Walworth Hotel which is private property*

- *Officers should take account of dog kennel license and legislation requirements*

Consultee Responses

The **Council's Highways Engineer** has raised no objections

The **Council's Environmental Health Manager (Commercial)** has raised no objections subject to the imposition of conditions that secure the hours of operation and that no dogs are kept overnight

The **Council's Heritage Officer** has raised no objections

The **Council's Public Rights of Way Officer** has raised no objections

Walworth Parish Meeting has objected to the planning application on the following grounds:

- *Concerns about the new entrance onto Walworth Road. Dog owners dropping off at peak traffic times on dangerous stretch which is very busy at commuter times.*
- *Concerns about noise from kennels for all neighbours*
- *Concerns about expansion to larger business later. Eight dogs is probably not a sustainable business so this could be a stepping stone to a larger and more questionable business plan*
- *Concerns as cats and dogs escape frequently and it could get worse*

PLANNING ISSUES

The main issues to be considered here are whether or not the proposal is acceptable in the following terms:

- Planning Policy
- Residential Amenity
- Visual Appearance and Character of the Area
- Highway and Parking Matters
- Impact on Listed Buildings
- Impact on Public Rights of Way
- Impact on Trees
- Drainage

Planning Policy

The site lies outside of development limits as defined by the Proposals Map of the Borough of Darlington Local Plan 1997. Saved policy E2 of the Local Plan states that outside development limits, agricultural and forestry operations, small scale development beneficial to the rural economy or rural community, developments by service providers, and countryside related recreation and sport development may be permitted outside of development limits provided that harm to the character and appearance of the rural area is avoided.

Policy CS1 of the Darlington Core Strategy Development Plan Document 2011 states that outside development limits, development will be limited to that required to meet identified rural needs.

Saved policy E4 of the Local Plan states that the change of use of existing buildings in the countryside will be permitted where the structure is sound and capable of conversion without significant rebuild and extension and also provided that the use does not create unacceptable traffic, amenity and disturbance problems. The supporting text for this policy explains that there is no reason why existing buildings cannot be converted to uses which may help to diversify the

rural economy. The change of use of buildings in the countryside could support the rural economy.

The proposal involves the conversion of a new domestic garage to a commercial use within the countryside. Arguably, the use of the building as a dog kennel may not be considered a use that would support or meet an identified rural enterprise or need and therefore the proposal could be considered contrary to local development plan policy even though some customers may be from the surrounding rural area and the scheme would accord with the requirements of Policy E4 of the Local Plan.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990).

If dog kennels are not considered to meet Saved policy E2 and policy CS1, this report will highlight the material planning considerations that Officers consider would support setting aside the local development plan policies and recommending approval in accordance with the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Residential Amenity

The scale of the proposed business is considered to be relatively small and the dogs would be housed within the building with the doors on the north west facing elevation (facing away from the dwellings on the opposite side of Walworth Road) and the outdoor area is to the north of the building which is further away from the neighbouring dwellings and this should help reduce some noise that would be generated by any animals on the site.

The new access point is located further south of the residential properties and therefore, the occupants should not be adversely affected by the comings and goings of vehicles at this point.

The parking area will be screened from the neighbouring dwellings by the existing hedgerow.

The Council's Environmental Health Manager (Commercial) has raised no objections to the proposal subject to the imposition of conditions to control the hours of operation and that no dogs are kept overnight. It is also appropriate to control the number of dogs, associated with the business that are on site.

Visual Appearance and Character of the Area

When considering the planning application for the garage in 2014, the design of the building was amended to make it more appropriate in terms of scale and appearance in this rural setting.

The external alterations to the garage would involve the insertion of glazing and a doorway within the existing garage door openings. The frames would be woodgrain UPVC but precise details can be secured via a planning condition. The alterations would not be visible from the Walworth Road but they would be visible via the Public Footpath that runs through the farm buildings. The external alterations would not harm the character of this new build garage subject to the use of appropriate planning conditions. There are no other alterations to the garage from the previous approval.

The parking area and access road would be located within a maintained grass paddock area. There would still be a large amount of paddock area retained within the wider site and these hard standing areas and any vehicles using them would not be highly visible from Walworth Road due to existing hedgerow that bounds the site and runs along the highway edge.

The mesh and post fencing to enclose the outdoor area for the dogs is appropriate for its rural setting.

The crossing within the highway verge and the removal of a section of the hedgerow would not harm the appearance of the country road. Precise details of the design of the gates can be secured by a planning condition.

It is considered that the proposed development would not harm the visual appearance of the area and a commercial business of the scale that is being proposed would not adversely harm its character.

Highway and Parking Matters

It is unlikely that the proposal will generate a significant increase in traffic due to the relatively small scale nature of the business. The proposed access arrangements are located in a suitable point on Walworth Road in order to maximise visibility in both directions. Plans have been submitted to show visibility splays appropriate to the speed limit to the south of the proposed access, with visibility requirements suitable for a 50mph speed limit located to the north of the access. Actual travelling speeds are lower due to the bend acting as a speed reducing feature and this is considered to be acceptable. This also offers significant betterment over the existing access arrangements to the farm house and buildings.

The access would be constructed in a sealed material from the carriageway edge to the highway boundary to prevent loose material being dragged onto the highway. Any access gate installed would need to be located within land owned by the applicant and should not open outwards over the highway. The gates need to be set far enough back to allow a car to pull off the carriageway should the gate be closed and the submitted plans show that this can be achieved.

The internal drive and turning facility is sufficient in terms of parking provision and will allow for vehicles to enter and exit in forward gear.

Any works within the highway will need to be to adoptable standard to ensure road safety and that the road access is sufficiently robust. The access is located at a point where a drainage ditch is located and as such the access must be constructed in such a way as to maintain this function, as large diameter pipes or culvert will be needed and this can be agreed as part of the S184 process.

The Council's Highways Engineer has raised no objections to the proposed development.

Impact on Listed Buildings

There are Grade II listed buildings on the opposite side of Walworth Road. They are a group of former farm buildings that have been converted into dwellings. The building that is on the roadside, closest to the application site is not a listed building but the properties behind are designated heritage assets.

It is considered that the proposal would not harm the setting of the listed buildings.

For clarification, the site and the dwellings opposite are not within a Conservation Area.

Impact on Public Rights of Way

Footpath Number 3 in the Parish of Walworth runs through the farm on close proximity to the garage. This Footpath needs to remain safe and accessible during the construction phase of the development and also following completion. A management plan would be secured by the imposition of a planning condition.

An Informative can be attached to any approval to make the applicant aware that a Temporary Traffic Regulation Order would be required to close the Footpath during the construction phase.

In response to the objections, the Council's Public Right of Way Officer has acknowledged that users of the Footpath may experience noise from dogs barking but this would be short lived as users pass through the farm. The outdoor exercise area for the dogs is enclosed by a 1.2m high fence and it would be the responsibility of the applicant to ensure that users do not feel intimidated by any dogs and to ensure any dogs are confined within the kennels or the outdoor area. The submitted plans show that there is no direct access to the kennels or the outdoor area from the Footpath.

Footpath No 2 runs to the east of the farm, further away from the application site would be an alternative route for users to join the wider Footpath network.

Impact on Trees

There are two trees within the hedgerow that runs along the highway verge. The root protection areas of these trees would not be affected by the proposed development and protective hedges fencing would be erected to protect them during the construction phase. A Tree Protection Plan has been submitted in support of the planning application and the measures would be secured by a planning condition

Drainage

Foul water would be disposed of via the existing private drainage system and surface water would be disposed of via a soakaway. As previously stated, the access is located at a point where a drainage ditch is located and as such the access must be constructed in such a way as to maintain this function, as large diameter pipes or culvert will be needed and this can be agreed as part of the S184 process.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

Applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance, it could be argued that the conversion of the garage to commercial dog kennels would be contrary to local development plan, but Officers consider that the small scale nature of the use is a material planning consideration that would support setting aside the local development plan. The proposal would not adversely affect the amenities of the residential dwellings on the opposite side of the road, subject to the imposition of appropriate planning conditions and the application does not raise

any visual amenity or highway safety concerns. The proposal would not harm the setting of the listed buildings on the opposite side of the road and appropriate planning conditions can ensure the retention of the trees within the hedgerow.

It is considered that the proposed change of use and associated works are acceptable in this rural location.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 - Implementation Limit (Three Years)
2. B4 - Details of Materials
3. Prior to the commencement of the use, precise details of the, height, design, location and materials of the access gate shall be to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details
REASON: In the interests of the visual appearance of the area
4. Prior to the commencement of the development, a Public Right of Way Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details as to how Footpath Number 3 in the Parish of Walworth will remain safe and accessible during the construction phase and following the completion of the proposed development. The development shall not be carried out otherwise than in complete accordance with the approved details
REASON: To ensure that the Public Footpath can continue to be used.
5. Notwithstanding condition 3, the approved access gate shall not open outwards over the public highway
REASON: In the interests of highway safety
6. The business hereby approved shall not operate outside the hours of 07:30 to 19:30 Monday to Saturday only. The kennels and associated access shall be closed on Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority
REASON: In the interests of residential amenity
7. The business hereby approved shall be for no more than eight dogs unless otherwise agreed in writing by the Local Planning Authority
REASON: In the interests of residential amenity
8. No dogs associated with the business hereby approved shall be kept in the kennels or external areas overnight unless otherwise agreed in writing by the Local Planning Authority
REASON: In the interests of residential amenity
9. The proposed development shall not be carried out otherwise than in complete accordance with the document entitled "Tree Protection Plan and Method Statement" produced by Wardman Brown unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the visual appearance of the area and to ensure the retain of existing trees during the construction phase of the approved development.

10. The development hereby approved shall be carried out in complete accordance with the approved plans listed below:

- a) L017114-012 Rev A Proposed Plans and Elevations
- b) L017114-014 Rev B Proposed Site Layout Plan
- c) L017114-015 - Overall Site Layout Plan
- d) L017114-016 - Visibility Splays

REASON: To ensure the development is carried out in accordance with the planning permission.

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

Borough of Darlington Local Plan 1997

E2 - Development Limits

E5 - Change of use of Buildings in the Countryside

E12 - Trees and Development

Darlington Core Strategy Development Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy

CS2 - Achieving High Quality Sustainable Design

CS14 - Promoting Local Character and Distinctiveness

CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2018

INFORMATIVES

Highways

The applicant is advised that works are required within the public highway to construct a new vehicle crossing and contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs Lisa Woods - 01325 406702) to arrange for works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works

Environmental Health

Notwithstanding the permission, the applicant must ensure that the development accords with the requirements of The Animal Welfare Act 2006, The Animal Boarding Establishment Acts 1963 and the Model License Conditions and Guidance for Dog Boarding Establishments published by The Chartered Institute of Environmental Health (May 2016)

Public Rights of Way

The applicant is advised that a Temporary Traffic Regulation Order would be required to close Footpath No 3 in the Parish of Walworth during the construction phase of the development. Contact must be made with the Council's Public Rights of Way Officer (Mr Steve Petch - 01325 406640) to discuss the matter.