

- 5f 3/10/2154/FP – Change of use of land and extension and alterations to existing building to provide 30 no. kennels, new isolation block and parking at Birch Farm Kennels, White Stubbs Lane, EN10 7QA for Mr M Ferraro**
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Date of Receipt: 07.12.2010

Type: Full - Minor

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION:

That planning permission be **REFUSED** for the following reasons:

1. Within MGB – EHLP (R021)
2. Insufficient information has been submitted to demonstrate that the building does not require complete or substantial reconstruction before adaptation to the new use, and the proposed conversion includes substantial extensions and physical alterations that would be unsympathetic to the character and appearance of this simple rural building, and intrude into the openness of the Green Belt. The proposal is therefore contrary to policies GBC1 and GBC9 of the East Herts Local Plan Second Review April 2007.
3. The proposed development would be likely to result in harm to neighbour amenity by way of noise disturbance, contrary to policy ENV24 of the East Herts Local Plan Second Review April 2007.
4. Insufficient information has been submitted on anticipated vehicular movements and staff numbers to properly determine the impact of the development on the rural highway network, disturbance to adjacent neighbouring property, and the associated on-site parking provision. The proposal is therefore contrary to policies TR7 and TR20 of the East Herts Local Plan Second Review April 2007.

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1.0 Background:

- 1.1 The application site is shown on the attached OS extract and comprises the former Enfield Chase hunt kennels building with associated paddock land, totaling some 0.55ha. The site is located in the Metropolitan Green Belt on the south side of White Stubbs Lane and accessed through the former Birch Farm Equestrian Centre. Notice has been served on the owner of this access.

- 1.2 The applicant resides in The Cottage to the north of the site. To the north, east and south of the site is the Birch Farm Equestrian Centre, recently granted outline consent for a residential development of 3 no. units (3/10/0512/OP), and to the west lies the neighbouring residential property, Barnes Hall Manor.
- 1.3 This application proposes to extend and alter an existing building on site to provide 30 no. boarding dog kennels, along with the construction of a new isolation block of 4 further kennels, and associated parking. It is noted that the Design and Access Statement makes several references to residential development, but no residential development is proposed in the submitted drawings or application form.

2.0 Site History:

- 2.1 The site was originally used as hunt kennels for the Enfield Chase hunt, but has been used as stabling in connection with The Cottage following cessation of the hunt in 2004. A planning application to convert the existing building to a live/work unit was refused in March 2010 (reference 3/09/1995/FP) on the grounds that insufficient information had been submitted to prove that the building was capable of conversion without substantial reconstruction, and that a residential use was not considered to be the only possible means to secure retention of the building contrary to policies GBC1 and GBC9. An earlier application had also been withdrawn (3/08/1882/FP).
- 2.2 Members will recall that outline permission was granted at Committee on 9th February 2011 for a residential development of 3 no. units on the neighbouring Birch Farm Equestrian Centre site (3/10/0512/OP). The kennels land had originally formed part of that application but was removed from the site area following discussions between the relevant landowners.

3.0 Consultation Responses:

- 3.1 County Highways do not wish to restrict the grant of permission.
- 3.2 The County Archaeology Officer makes no comment; the proposal is unlikely to have an impact upon significant heritage assets.
- 3.3 Environmental Health raise no objection subject to conditions on construction hours of working, no loudspeakers, bonfires, no external lighting, contaminated land and refuse disposal facilities. Further consultation has been carried out in relation to noise, contaminated

land, and drainage provision.

- 3.4 They comment that due to the proximity to the residential development granted permission under reference 3/10/0512/OP, it is likely that noise from the kennels will give rise to nuisance complaints, and the proposed wire fencing would not provide adequate sound attenuation. In order to prevent a nuisance, all buildings within the development should be built of solid construction with the units fully enclosed, but windows should be provided for the well-being of the animals with reference to the 'Model Licence Conditions and Guidance for Dog Boarding Establishments.' A noise assessment should therefore be undertaken. A condition for unsuspected contamination is also recommended, and they comment that they are currently investigating existing drainage problems at the site, and the septic tank system will be inadequate to cope with additional load from the kennels.

- 3.5 No response has been received from Environmental Services.

4.0 Parish Council Representations:

- 4.1 Brickendon Liberty Parish Council have no objection to the application.

5.0 Other Representations:

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

- 5.2 3 letters of objection have been received from Barnes Hall Manor, White Stubbs Manor and Silver Birches, which can be summarised as follows:

- Discrepancies and inaccuracies in the information provided;
- Application fails to address existing problems of contamination and how waste will be handled;
- No information provided on when the kennels will be open to customers, as arrivals and departures are likely to generate barking;
- Concern over lack of facilities for storage and preparation of food. And the potential for rodents;
- Concern that submitted statements refer to residential development; no residential accommodation is shown but dogs require 24/7 supervision;
- Query whether veterinary practice would be ancillary, or open to the public;
- No indication of land to be used for exercising the dogs;

- The building does not appear to have been designed to comply with the Model License Conditions for Boarding Dogs;
- Building would undergo considerable extension and alteration and not comply with policy GBC9 or GBC1/PPG2;
- Dog kennels are not listed as appropriate development in GBC1 or PPG2 and no very special circumstances have been demonstrated;
- Impact on amenities of neighbouring occupiers by noise disturbance from barking, traffic movements, and smells;
- Concern over insufficient parking on site, and the potential for parking on White Stubbs Lane.

6.0 Policy:

6.1 The relevant saved Local Plan policies in this application include the following:

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| GBC1 | Appropriate Development in the Green Belt |
| GBC9 | Adaptation and Re-use of Rural Buildings |
| GBC14 | Landscape Character |
| TR2 | Access to New Developments |
| TR7 | Car Parking – Standards |
| TR20 | Development Generating Traffic on Rural Roads |
| ENV1 | Design and Environmental Quality |
| ENV2 | Landscaping |
| ENV23 | Light Pollution and Floodlighting |
| ENV24 | Noise Generating Development |
| BH1 | Archaeology and New Development |

6.2 In addition to the above it is considered that the following planning guidance notes are also considerations in determining this application:

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| PPS1 | Delivering Sustainable Development |
| PPG2 | Green Belts |
| PPS7 | Sustainable Development in Rural Areas |
| PPG13 | Transport |
| PPS23 | Planning and Pollution Control |
| PPG24 | Planning and Noise |

7.0 Considerations:

Principle of Development

7.1 The site lies in the Metropolitan Green Belt wherein inappropriate development will not be permitted. This application is being determined

as a change of use of the land as well as extensions and alterations to the existing building. Although the site was previously used as kennels, this was in connection with the hunt. The proposal for commercial boarding kennels, along with an intensification of the number of kennels, amounts to a material change of use of the land.

- 7.2 Policy GCB1 sets out appropriate forms of development and uses for the Green Belt, as does Government guidance in PPG2, and the proposed boarding kennels do not fall within any those purposes. However, policy GBC9 does allow for the re-use of rural buildings for alternative uses subject to a number of criteria.
- 7.3 First, the building should be of a form, bulk, general design and materials that is in-keeping with its surroundings. In this case the building is run-down and in need of extensive repair, but its overall form and bulk is considered to be appropriate to the surrounding rural area.
- 7.4 Second, the building should be permanent and soundly constructed not requiring complete or substantial reconstruction before adaptation to a new use. In this case no information, in the form of a structural survey, has been submitted to demonstrate that the building is soundly constructed. The building is clearly in poor condition and extensive repair would be required, but no survey has been undertaken or submitted. The proposed plans show a brick plinth with timber weatherboarding above, and the roof is to be completely reconstructed. The application form states that the existing building is formed of timber weatherboarding and a slate tiled roof, whereas in fact it is formed of poor quality render panels and a corrugated asbestos roof. None of these materials are proposed to be re-used and therefore very little, if any, of the existing building would appear to remain. Officers are therefore not satisfied that the existing building is capable of conversion without complete or substantial reconstruction. This was also a reason for refusing the previous live/work scheme.
- 7.5 Third, the proposed use should be sympathetic to the building and not require anything other than minor extensions to accommodate the new use. In this case, substantial extensions and alterations are proposed to the building, including a large link extension to the south, an extension to the east, and a raising of the roof by some 1.3m. The floorspace would increase from 177m² to approximately 284m² (including yard space), and the design has not made good use of existing openings. Officers consider that so little of the original building would remain that the works would necessitate a new structure, and the development would therefore conflict with this criteria of GBC9. A separate building is also proposed as an isolation block and this amounts to new build

development in the Green Belt, contrary to policy GBC1.

- 7.6 The final criteria of GBC9 requires that the proposed use would not prejudice town or village vitality, would not result in visually intrusive hard-standings or outdoor storage, and would mitigate against any works to listed buildings. I consider the proposal to comply with these sub-sections, subject to a condition on hard landscaping. The building is not listed.
- 7.7 Overall, however, Officers consider the proposed development to conflict with policy GBC9(I)(b) and (c), and it therefore amounts to inappropriate development in the Green Belt contrary to policy GBC1 and national guidance PPG2. Very special circumstances must therefore be demonstrated that clearly outweigh the harm by reason of inappropriateness, and any other harm.
- 7.8 In terms of very special circumstances, no specific reasons have been put forward by the applicant as they suggest that the development complies with Green Belt policy. It is suggested that the building has been advertised for alternative uses and cannot be converted to any other use, but only a single advertisement has been submitted. Nonetheless, this would not justify the proposed extensions to the building. It is acknowledged that the extensions may be required to make the project financially viable, but this would not represent a very special circumstance for development in the Green Belt.
- 7.9 It is also acknowledged that kennels tend to be located in rural locations as they are rarely acceptable in built-up areas due to the proximity to neighbouring property. However, the applicant has not put forward any justification as to why the kennels cannot be accommodated in any other location, or why they may be a necessary facility in this case. It is noted that the proposal would provide for local employment opportunities; however Officers do not consider that this would override the harm caused to the Green Belt.
- 7.10 Concerns have been raised that there is no residential accommodation on site to provide 24 hour supervision for the dogs. The applicant lives in The Cottage to the north of the site, but it is proposed that the kennels will be operated by a separate company, and the dwelling has not been included in the site boundary. Having checked the Model License Conditions for Boarding Dogs and liaised with Environmental Health, Officers note that it is not a requirement for someone to be resident on site; this only applies to commercial breeding establishments. The model requirement is only that "a fit and proper person must always be present to exercise supervision and deal with

emergencies whenever dogs are boarded at the premises". This need could be fulfilled by shift workers and there would therefore be no justification for any subsequent application for new residential development in the Green Belt.

- 7.11 Concerns have also been raised over the provision of a vet/consultation room and whether this would be open to the general public. The Design and Access Statement makes reference to the provision of other services, including dog grooming, dog training, and a veterinary practice. It would be important to control such ancillary services by way of planning condition to minimise impact and pressure on the Green Belt, and additional associated traffic movements.

Scale, Design and Layout

- 7.12 The overall layout of the scheme is considered to be generally acceptable with the development consolidated to minimise encroachment into the countryside. Parking spaces are proposed adjacent to the right of way access, with the surrounding land to the south and west to be landscaped.
- 7.13 A new isolation block is proposed to the north, but this must be positioned at some distance from the main kennels to minimise the spread of any infectious diseases. An existing building is also shown on the plans to the south of the isolation block but no details have been submitted on the proposed use of this building, or reasons why this cannot be converted to an isolation block and override the need for new build development in the Green Belt.
- 7.14 In terms of scale, it is proposed to raise the existing roof by some 1.3m and build a substantial extension to the south, connected by a reduced height link, with a further extension to the west. In itself I consider the scale and design of the building to be acceptable, and formed of appropriate materials of construction in-keeping with the rural character of the area. A number of rooflights are proposed, but these will be positioned to the south of the building to minimise their visual impact. Solar photovoltaic panels are proposed on the roof, but are shown on the north elevation where they will do very little in terms of electricity generation. It is also proposed to utilise rainwater harvesting techniques, and a ground source heat pump; however no details have been provided.
- 7.15 Overall, however, given the proposed extensions to the main building, and increase in height, along with the proposed new isolation block, I consider that the development would impact on the openness of the

surrounding Green Belt. PPG2 states that openness is the greatest attribute of the Green Belt and should be protected through planning proposals. The proposal therefore conflicts with this policy objective.

Neighbour Impact

- 7.16 The site lies in close proximity to the applicant's property, The Cottage, which is located approximately 40m north of the site and 47m away from the nearest kennels. There is also a neighbouring property, Barnes Hall Manor, located at a distance of 25m from the western boundary of the site, and approximately 60m away from the nearest kennels.
- 7.17 Members will be aware that permission was recently granted for 3 further residential units on the former Birch Farm equestrian site. Plot A would be positioned near the entrance to White Stubbs Lane, at a distance of some 30m northeast of the isolation block. Plot B would be sited only 5m north of the isolation block and 35m north of the main kennels building, and Plot C would be positioned approximately 13m east of the isolation block and 25m north of the main kennels building.
- 7.18 Given the very close proximity of this site to residential property (both existing and consented), I consider that noise arising from barking dogs is a major concern, and Environmental Health comment that it is likely that noise from the kennels will give rise to nuisance complaints. No information has been submitted on background noise levels, or the expected noise levels resulting from the development or any mitigating noise attenuation measures. Further, no information has been submitted on the expected frequency of visits or opening hours to establish how frequently the dogs may be disturbed and commence barking.
- 7.19 Officers note that kennels are inevitably noisy establishments, and that barking is more likely to occur when dogs are placed in unfamiliar surroundings. Previous case law has not identified any specific distance that may be considered acceptable between kennels and residential property, as it depends on the individual case, but an appeal in Montgomeryshire (052-099-600) previously accepted a distance of a quarter of a mile as acceptable. Development Control Guidance Practice notes state that "noise caused by barking dogs is the most common reason for the failure of planning applications and appeals related to kennels, particularly those used for boarding rather than breeding." In this case, given the number of kennels, and the very close proximity of residential dwellings, Officers do not consider that the submission of any further evidence could satisfactorily address this

issue, or mitigate against harmful disturbance. The proposal therefore conflicts with policy ENV24 of the Local Plan.

- 7.20 It is noted that soundproofing could be provided within the building, but this would not mitigate against noise from external areas. Environmental Health suggest that the building would have to be fully enclosed and sound proofed, and that windows could be provided for the welfare of the dogs. This would require a re-design and re-consideration of the entire scheme. Conditions could also be attached to control visiting hours, and management of the kennels, but Officers do not consider that this would be sufficient to prevent harmful disturbance to the amenities of both The Cottage and Barnes Hall Manor, and the recently approved adjacent residential units. It is unclear whether the large landscaped area to the south and west of the buildings would also be used for exercising the dogs, but I nonetheless consider the harm likely to arise from the kennels buildings and enclosed yards would be sufficient a reason to refuse this application.
- 7.21 Concerns have been raised over odour arising from the kennels, and waste storage and disposal. Some odour may be inevitable, but I do not consider this would be harmful to neighbouring amenity. It would be a requirement for the licence for the kennels to be regularly cleaned and well maintained, and for facilities to be provided for the proper storage and disposal of all waste. A condition would be reasonable to require further details of waste storage and disposal.

Landscaping and Trees

- 7.22 The application drawings refer to existing trees to the west of the main building but no such trees exist. There is in fact very little planting across the entire site. In terms of landscaping, a large landscaped area is proposed to the west and south of the site and it is assumed that this will be used for the exercising of dogs, although this is not specified in the application documents. No boundary planting is proposed but should permission be granted for this development then boundary screening would be essential, not just to help mitigate against noise disturbance to neighbours, but to mitigate against the visual impact of the development in the Green Belt.

Parking, Access and Highway Impacts

- 7.23 There is an existing access to the north of the site, owned by the Birch Farm Equestrian Centre, onto White Stubbs Lane. This is a wide access with sufficient visibility and therefore no objection has been raised by County Highways. In terms of vehicular movements, no figures have been provided on the anticipated frequency or spread of

movements to enable Officers to properly consider potential impacts on the surrounding rural highway network, having regard to policy TR20, and potential impacts on neighbour amenity. It is noted that a commercial operator, Clarkes 4 Pest Control, has shown an interest in running the site, and therefore should be in a position to provide further information in this respect. Ancillary services such as vets, grooming and training would also generate additional traffic movements, and a condition should therefore be applied to restrict these additional uses of the site.

- 7.24 In terms of parking, 3 no. spaces are indicated on the drawings. The Council has no adopted parking standard for boarding kennels, and therefore an individual assessment needs to be made. However, on the basis of a lack of information on anticipated visitor numbers and associated vehicular movements, Officers are not able to properly assess the need for on-site parking provision. Further, no information has been provided on expected staff numbers, and given the location of the site away from public transport links, Officers considers that 1 no. space should be available for each member of staff. It is therefore not possible to take a view on the acceptability of the parking provision, and the associated visual impact of hard-standing in the Green Belt.

Land Contamination and Drainage

- 7.25 Concerns have been raised over existing land contamination across the kennels site; however following consultation with Environmental Health, no further conditions have been recommended. The responsibility for safe development and secure occupancy of the site lies with the developer. Environmental Health do comment that the existing septic tank would not be capable of dealing with the additional load from the kennels. A condition would therefore be necessary to require further details of the proposed drainage provision.

8.0 Conclusion:

- 8.1 Overall, Officers are not satisfied that the existing building is capable of conversion without complete or substantial reconstruction, nor that the proposed extensions and alterations can reasonably be considered to be minor. The proposal therefore fails to comply with policy GBC9 and represents inappropriate development in the Green Belt contrary to policy GBC1 and national guidance PPG2. The construction of a new isolation block and the change of use of the surrounding land for kennels use also amount to inappropriate development in the Green Belt, and no very special circumstances have been demonstrated that clearly outweigh this harm.

- 8.2 The proposed development would also result in harm to neighbouring amenity by way of noise disturbance from barking dogs given the very close proximity of both existing and consented residential properties to the kennels.
- 8.3 Further, insufficient information has been submitted on anticipated vehicular movements and staffing numbers to properly assess impacts on the rural highway network, and the associated parking provision.
- 8.4 The application is therefore recommended for refusal for the reasons set out above.