

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA 30 March 2006

Item No: 02
Address: Three Oaks Boarding Kennels And Cattery Botley Road Bishops
Waltham Southampton Hampshire SO32 1DR

Parish/Ward Bishops Waltham

Proposal Description: Building to provide waiting and staff room, grooming parlour, office
and store

Applicants Name Mr C Stoneman

Case No: 05/02939/FUL

W No: W00913/32

Case Officer: Mrs Julie Pinnock

Date Valid: 21 December 2005

Delegated or Committee: Committee Decision

Reason for Committee: Parish Council submitted representations contrary to officer
recommendation

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Site Description

- Three Oaks is situated on the west side of Botley Road.
- It comprises a detached residential dwelling and dog boarding kennel.
- The site has historically been in a mixed use with one vehicular access from Botley Road, although a recent approval has established the residential curtilage from the business use.
- To the front of the dwelling is a large area of loose stone, for parking for both the dwelling and the dog boarding kennels.
- To the north of the site are the existing dog kennels along with an exercise area and caravan.
- To the south of the site is a series of buildings and portacabins.

Relevant Planning History

- W00913 - Erection of 3 quarantine kennels - Application Permitted - 28/04/1975
- W00913/01 - Use of land as site for caravan - Application Refused - 06/06/1975
- W00913/02 - Conversion of existing building for light industrial use - 10/11/1975
- W00913/03 - Erection of dwelling - Application Refused - 08/04/1976
- W00913/04 - Use of land for whippet racing - Application Refused - 14/07/1976
- W00913/05 - Erection of extension to provide additions to lounge, bedroom and kitchen - Application Refused - 13/01/1977
- W00913/06 - Use of land as site for caravan - Application Permitted - 09/02/1978
- W00913/07 - Erection of double garage, car port and screen wall - Application Permitted - 23/03/1982
- W00913/08 - Erection of two houses - Application Refused - 08/06/1983
- W00913/09 - Erection of boundary wall - Application Permitted - 05/04/1984
- W00913/10 - Erection of 2 storey side extension - Application Refused - 01/06/1984
- W00913/11 - Erection of 2 storey side extension - Application Refused - 14/08/1984
- W00913/12 - Erection of swimming pool cover and changing rooms - Application Permitted - 04/12/1984
- W00913/13 - Erection of porch and canopy - Application Refused - 04/12/1984
- W00913/14 - Change of use from greyhound track to vehicle storage - Application Refused - 22/12/1986
- W00913/15 – Industrial units with associated parking and landscaping – Application Refused – 21.02.1992 – Appeal dismissed 07.01.1993
- W00913/16 - Industrial units with associated parking and landscaping - Application Refused - 21/01/1992
- W00913/18 - Change of use from residential to offices and alterations to access - Application Refused - 16/06/1992
- W00913/19 - Change of use from greyhound stabling to dog boarding kennels - Application Permitted - 10/07/1995
- W00913/20 - Change of use from greyhound stabling to cattery - Application Permitted - 14/08/1995
- W00913/21 - 2 no: non-illuminated free standing signs - Application Withdrawn - 06/02/1995
- W00913/22 - Two storey side extension, first floor extension over swimming pool, two storey front extension, quadruple garage with workshop and rooms over – Application Refused 15.12.1998
- W00913/23 - Two storey side extension, first floor extension over swimming pool, two storey front extension, double garage with storage room over – Application Refused 13.05.1999
- W00913/24 - Two storey side and first floor rear extensions, hip roof to flat roof at side - Application Refused - 20/08/1999 – Appeal dismissed 01.12.1999
- W00913/25 – (AMENDED DESCRIPTION) First floor side extension, single storey side extension and two storey front extension - Application Permitted - 07/09/2000
- W00913/26 - Relocation of kennels/hardstanding and quarantine enclosure

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- (RETROSPECTIVE) – Application Permitted – 09.05.2001
- W00913/27 - (AMENDED DESCRIPTION) Two storey side extension (Revision to planning permission W00913/25) – Application Permitted – 28.06.2001
 - W00913/28 - Use of 3 No Portacabins as office use (RETROSPECTIVE) - Application Refused - 31/07/2002
 - W00913/29 - (AMENDED DESCRIPTION) Provision of chalet style building for dog care, vet and administrative offices and revised vehicle access – Application Refused 23.10.2002
 - W00913/30 - Single storey flat roofed rear extension and relocation of access - Application Refused - 19/09/2003
 - W00913/31 - Single storey flat roofed rear extension and relocation of access - Application Refused - 26/11/2003
 - ENF02/34 – Enforcement Notice - Without planning permission the material change of use of the land from dog boarding kennels to a mixed use which further includes training of guard dogs and use of portacabins for offices, storage and residential use – dismissed on appeal subject to corrections and variations to the enforcement notice – 30th March 2004
 - W00913/32 – current application
 - W00913/33 – Establishment of residential curtilage within a mixed use site – Application Permitted – Application Permitted 07/03/2006

Proposal

- As per Proposal Description
- The applicant has submitted a letter in support of his application which advises that the grooming parlour will not generate additional traffic as it will only be for the use of the dogs who are boarded at the kennels.
- It also advises that the room will be used for veterinary purposes, and that the store room will allow the storage of dog food brought in bulk which will reduce traffic movement as less delivery vans
- And further advises that the building allows a more professional waiting area for customers booking dogs into the boarding kennels.
- The covering letter also advises that the existing caravan on site will be removed.

Consultations

Engineers:Highways:

- The highway engineer initially raised a highway objection to the application on the basis that the proposed grooming parlour would result in increased use of the existing access which has sub-standard visibility splays in each direction at its junction with Botley Road
- The highway engineer was re-consulted following receipt of the applicant's supporting letter advising that the grooming parlour would only be used by dogs boarding at the kennels
- Subject to a suitably worded condition restricting the use of the grooming parlour to dogs that are boarded at the kennels he raises no highway objection

Environmental Health:

- No adverse comment to make although suggest two informatives to deal with construction hours and no burning on site.

Arboriculture:

- Concern about the proximity of the proposed building to a line of trees which form a hedge and screen the site
- Recommend development is pulled away from the trees

Environment Agency:

- No objection in principle – advice to applicant is that any construction or demolition activities should be carried out in accordance with the Pollution Prevent Guideline (no. 6)

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Representations:

Bishops Waltham Parish Council

- “The committee considers that this constitutes a change of use and therefore a change of use application should be submitted. The proposal represents an addition for which there is no overriding justification to the development outside the designated commercial use area of Bishops Waltham.”
- They request the application be considered by the Committee for these reasons.

Letters of representations have been received from 4 Neighbours who all object to the proposal for the following reasons:-

- Site subject to unapproved developments, retrospective planning approvals and complaints to Environmental Health about noise
- As a result the Local Government Ombudsman found maladministration resulting in injustice due to lack of communication between planning and environmental health
- Not all near neighbours notified – request further neighbour notification and extension of notification period
- Applicant has consistently tried to extend use of the site to other more industrial uses without planning consent
- Any permission must only be limited to the current authorised activities or ancillary activities
- Site offers dog food for sale
- Contrary to C.1, C.2, C.9, C.12 and EN.5 of adopted local plan
- Represent an undesirable development within an area of countryside
- Represent an undesirable consolidation of a temporary building
- Represent the establishment of a new commercial activity (dog grooming) unrelated to the needs of the rural economy
- Represent potential for noise nuisance
- Introduce a new build in the countryside
- The design and layout of the proposed building is more appropriate for residential purposes and inappropriate for the proposed use
- If Council minded to approve should be ancillary to authorised use, should seek removal of existing portacabins both adjacent to kennels and on south side of site; limit opening hours of new commercial activity and noise condition should be imposed and monitored
- Proposal for dog grooming represents a change of use
- If there is a need for this type of activity in the area this could be accommodated within the commercial areas already designated
- Development as proposed would generate a great deal more traffic onto the busy road
- Outstanding enforcement matters – these should be addressed before consideration is given to subsequent applications

Relevant Planning Policy:

Hampshire County Structure Plan Review:

- C1, C2, UB3

Winchester District Local Plan

- C.1, C.2, C.6, EN.5, T.9

Winchester District Local Plan Review Deposit and Revised Deposit:

- C.1, C.6, DP.3,T.4

Planning Guidance:

- Movement, Access, Streets and Spaces
- Parking Standards 2002

National Planning Policy Guidance/Statements:

- PPS 1 Delivering Sustainable Development
- PPS 7 Sustainable Development in Rural Areas
- PPG 18 Enforcing Planning Control

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- PPG 24 Planning and Noise

Planning Considerations

The main considerations in respect of this application are:

- Principle of development
- Highways
- Impact on character of the area
- Comments on representations

Principle of development

- The site is situated in the countryside, Policy C.1 and C.2 of the adopted local plan and C.1 of the emerging local seeks to protect and enhance the character of the countryside and only allow essential new development
- A public inquiry was held on 17th and 18th April 2004 into an enforcement notice issued by the Council against the unlawful use of the land for dog training and office, which the Appeal Inspector upheld subject to correction and variation in his decision issued on 30th March 2004.
- The Inspector accepted the mixed use of the site saying "... the lawful use of this unit was a mixed use as a dwelling house and for dog boarding kennels."
- Therefore whilst this site should be assessed against countryside proposals of the adopted and emerging local plan, regard must be had to the lawful use of the site as a dog boarding kennel and residential dwelling.
- The proposal seeks to replace an existing temporary caravan with a more permanent building to provide a staff room and toilet facilities, store and office along with a waiting room, dog bath and grooming parlour.
- Officers initially had concerns over the proposed grooming parlour which would introduce a new use at the site, however the applicant has confirmed that the grooming parlour would be an ancillary use to the dog boarding kennel, and only those dogs boarding would be groomed at the site.
- Currently if owners wish their dogs to be groomed, a mobile groomer comes to the site collects the dog and takes it away for grooming, and then returns the dog to the site.
- The site is established, and dog boarding is not limited to the existing kennels, this was the Inspectors findings in his appeal, where he stated "The boarding kennel use may now be largely limited to the kennels and adjoining pens in the northern part of the site. But the application plans show kennels near the southern boundary of the site and the western half of the site is described as 'exercise area', and these areas could be lawfully used as part of the dog boarding use."
- The main issue is whether the principle of a new building at the site is acceptable, there are no specific policies which relate to this type of activity in the countryside, policy C.6 of the adopted local plan, and C.5 of the emerging local plan allow the development of essential facilities and services to serve local communities, provided that (i) the location on a particular site in the countryside is essential for operation reasons: or there are no suitable alternative sites for the proposed development within the defined built up area of the settlement: or (iii) an acceptable landscape scheme is submitted as part of the application
- Dog boarding by its nature is a use suited to a rural location, and could reasonably be considered to be an essential facility and service by those people who board dogs at the site
- Officers consider that the provision of a waiting room, and some ancillary facilities are acceptable, and that the design and siting of the proposed building do not detract from the character of the countryside location

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Highways

- The highway engineer initially raised a highway objection to the proposal as no supporting information was submitted with the application to explain the proposed grooming parlour, and therefore was considered a new use
- The applicant subsequently submitted supporting information to confirm that the dog grooming would be an ancillary use to the authorised use, and that only dogs boarded at the kennels would be groomed within the building.
- On this basis the highway engineer has removed his objection subject to a condition restricting the use of the grooming parlour to dogs that are boarded at the kennels

Impact on the character of the area

- The Arboricultural Officer has concerns regarding the siting of the proposed building in relation to a group of trees to the east of the site
- He does comment that they are not of high amenity value, although they do provide a screen from the main road
- He would not wish to defend an Appeal on this as a reason for refusal, and therefore recommends that appropriate foundations, tree protection and replacement for any lost trees is controlled by condition.

Comment on representations

- Local residents and the Parish Council have raised a number of objections to the proposal, the principle of development and the dog grooming has been dealt with above.
- Local residents have complained that they had not been notified of the application.
- The closest residential dwellings are approx 60m away from the northern boundary of the site, and these neighbours were notified when the original application was submitted and a site notice was posted at the entrance to the site.
- The complaint was received from neighbours north of this approx 180m from the northern boundary of the application site, officers did informally agree to extend the deadline to enable residents to make representations, but subsequently formally wrote to those residents that had been omitted from the initial notification process and provided a further 14 days for comment.
- There is concern regarding noise, however the existing use is established, and it is not considered that in allowing the proposed development would be likely to result in a material increase in noise levels.
- Environmental Health has confirmed that there are no current noise investigations, and no recent complaints have been received.
- Local residents are concerned that the proposed building could be used for residential purposes; however such a use would require planning permission.
- One resident has suggested that the opening hours should be restricted, however given that this is an existing use, it would not be possible to now impose a condition limiting the hours of use, and could be considered unreasonable.
- A resident has suggested that any outstanding enforcement matters should be dealt with before determining this application; it is not reasonable to delay the determination of this planning application pending enforcement investigations.
- There is only one outstanding enforcement investigation at the site, which relates to the use of one of the buildings within the site which is outside the established residential curtilage.
- With respect to the concern that dog food is being sold from the site, this would be unlawful, and would require planning permission. The Council's Enforcement team have been notified of this complaint.

Recommendation

APPROVE - subject to the following condition(s): Conditions/Reasons

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

01 Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

02 Prior to the commencement of development the existing mobile caravan shall be permanently removed from the land, and shall not be re-sited within the red-line or blue-line site.

02 Reason: As the development hereby permitted replaces the uses currently being undertaken in the caravan and in the interests of the visual amenity of the area.

03 The dog grooming parlour within the building hereby permitted shall be used ancillary to the primary use of the site as a dog boarding kennels, and only dogs boarding at the kennels shall be groomed within the building.

03 Reason: In the interest of highway safety.

04 Details of the design of building foundations and the layout, with positions, dimensions and levels of service trenches, ditches, drains and other excavations on site, insofar as they affect trees and hedgerows on or adjoining the site, shall be submitted to and approved in writing by the Local Planning Authority before any works on the site are commenced.

04 Reason: To ensure the protection of trees and hedgerows to be retained and in particular to avoid unnecessary damage to their root system.

05 The existing trees to the east of the proposed building between the points marked x-x on the approved plan shall not be lopped, topped, felled or uprooted without the prior written approval of the Local Planning Authority. These trees shall be protected during building operations by the erection of fencing in accordance with BS 5837.

If within a period of five years following the substantial completion of the development any tree is removed, dies or becomes, in the opinion of the local planning authority, seriously damaged, defective or diseased another tree of an appropriate size and species to be first agreed in writing shall be planted at the same place, within the next planting season, unless the local planning authority gives its written consent to any variation.

05 Reason: To ensure the retention and maintenance of existing trees and their replacement if they die or are damaged as a result of the proposed development as these trees form an important of the amenity of the area.

Informatives

01. This permission is granted for the following reasons:
The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

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02. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Hampshire County Structure Plan Review: C1, C2, UB3

Winchester District Local Plan Proposals: C.1, C.2, C.6, EN.5, T.9

Emerging Development Plan- WDLP Review Deposit and Revised Deposit: C.1, C.6, DP.3,T.4

03. All works including demolition and construction should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or Bank Holidays. Where allegations of noise from such works are substantiated by the Health and Housing Service, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

04. No materials should be burnt on site. Where the Health and Housing Service substantiate allegations of statutory nuisance, an abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through burning of materials is a direct offence under The Clean Air Act 1993.