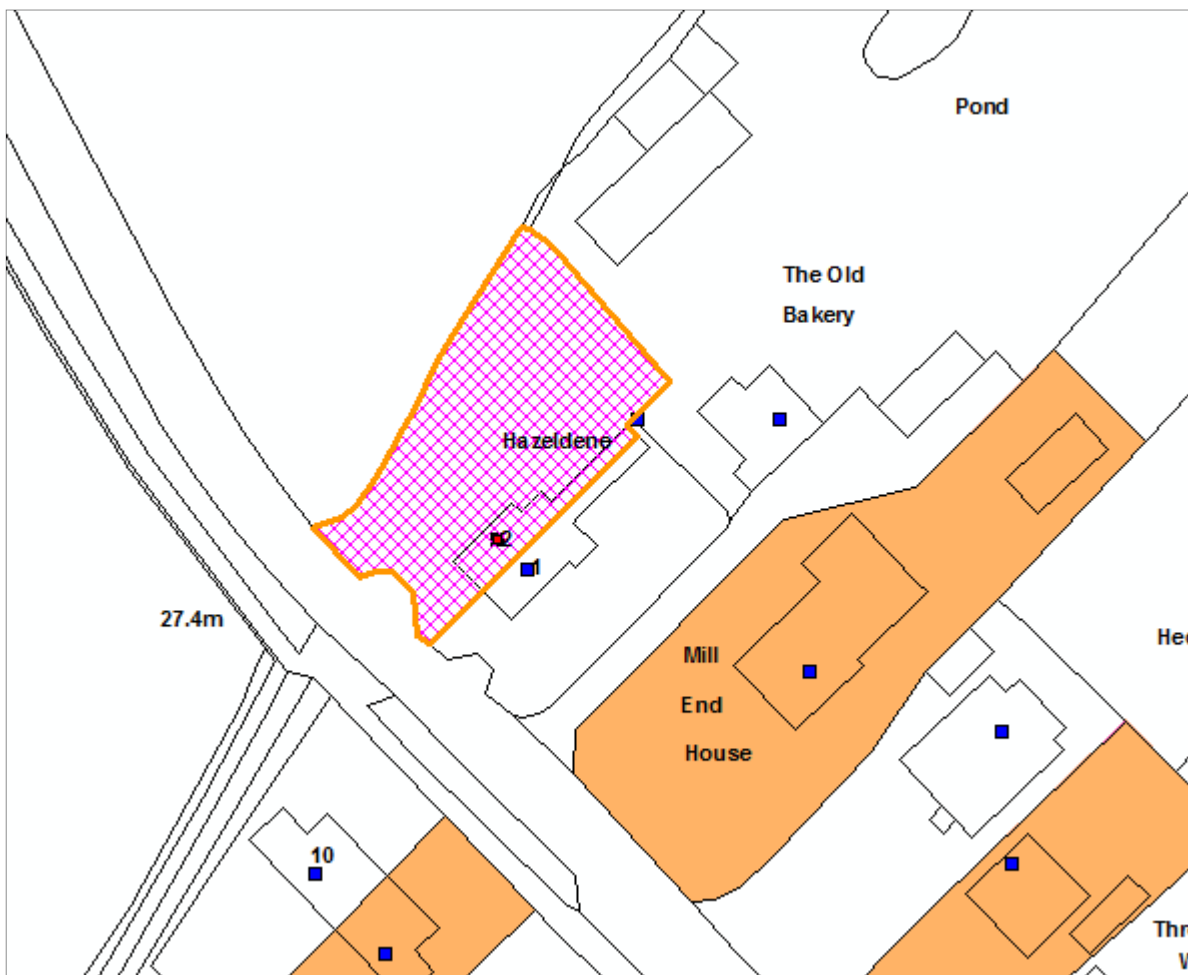


WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 18/01086/FUL
Proposal Description: Change of use from C3 (Dwellinghouse) to a mixed use of C3 (Dwellinghouse) and Sui Generis, for the breeding of dogs.
Address: 2 Hazeldene Parsonage Lane Durley Southampton Hampshire
Parish, or Ward if within Winchester City: Durley
Applicants Name: Mrs Emma Southwell
Case Officer: Robert Green
Date Valid: 4 June 2018

Recommendation: Application Permitted



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General Comments

<https://planningapps.winchester.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P81L34BP0VY00>

The application is reported to Committee at the request of Durley Parish Council, whose first request and subsequent communication has been included as an appendix to this report.

During the course of the application, amended plans were received following alterations made by the applicant in response to the Council Highway Engineer's comments. These were received on 16th July 2018. Although communicated to the Parish Council, the alterations did not require a further publicity period.

The use of residential land and associated infrastructure for dog breeding purposes is usually completed as an incidental use to a residential property, in a similar fashion to those who operate a small business from their residential premises.

However the view taken in this case was that due to the number of dogs proposed for breeding and the structures which have been erected in the garden space of the property, the dog breeding use was more than incidental and the use represented a material change of use from residential to a mixed land use.

Site Description

2 Hazeldene is a rural semi-detached property set at the end of a cluster of dwellings which form the Durley settlement.

Open countryside sits to the north-west, the residential garden of The Old Bakery is to the north-east and 1 Hazeldene runs along the length of the south-eastern boundary. The site widens from the roadway and extends in length toward the boundary of The Old Bakery.

The dwelling is traditional in appearance and reads as a rural cottage. Currently parking facilities and a small garden lie between the dwelling and the roadway, with a tall fence being set back from the roadway.

Both 1 & 2 Hazeldene have elongated outshoots which extend to the rear of their plots which previously provided storage for the dwellings.

Proposal

The proposal is to change the use of 2 Hazeldene from a C3 (Residential Dwelling) to a mixed C3 and sui generis use for the breeding of dogs.

Caging has been added to the north-western elevation to provide outdoor space for the dogs and a hard surface laid with associated drainage provision.

The extended outshoot has been internally converted to a kennel facility. As an unlisted building, this conversion would not require planning consent and is not assessed as part
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of this application.

Relevant Planning History

No relevant planning history.

Consultations

Engineers: Highways:

- The Engineer originally objected to the scheme as inadequate visibility splays are provided at the junction of the access with Parsonage Lane.
- Following alterations to the scheme involving the removal of front hedgerow and extension of car parking area, the Engineer noted that the changes had been made and acknowledged a convex mirror opposite the application site.
- As a result, the objection was withdrawn.

Head of Environmental Protection:

- The property already houses dogs and these dogs use the current facilities so a significant increase in noise is not envisaged.
- A breeding licence can limit the number of dogs at the premises but issues of noise cannot be controlled by the licence conditions.
- No objections raised.

Southern Water:

- No objections to the proposal.
- Requests a condition regarding the protection of public sewers.

Representations:

Durley Parish Council

Initial response received 14th June 2018

- Unsuitable location for this sort of business.
- Car Parking unsuitable
- Road regularly floods
- Residential area

Response to email sent 10th September 2018 updating Parish on application following comments from Highways and Southern Water

- Affects resident's way of life
- Need to make Southern Water aware

4 letters received objecting to the application for the following reasons:

- Noise from dogs
- Additional traffic

Reasons aside not material to planning and therefore not addressed in this report

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- Reported legal right of access into drainage on land

Relevant Planning Policy:

Winchester Local Plan Part 1 – Joint Core Strategy

MTRA4 – Development in the Countryside
CP8 – Economic Growth and Diversification
CP20 – Heritage and Landscape Character

Winchester Local Plan Part 2 – Development Management and Site Allocations

DM1 – Location of New Development
DM15 – Local Distinctiveness
DM16 – Site Design Criteria
DM17 – Site Development Principle
DM18 – Access and Parking
DM20 – Development and Noise
DM23 – Rural Character

National Planning Policy Guidance/Statements:

National Planning Policy Framework 2018

Planning Considerations

Principle of development

The development site is outside of a defined settlement boundary and is therefore within the countryside.

In this area, policy MTRA4 of the Local Plan Part 1 only allows development which has an essential or operational need for a countryside location.

The policy sets out a number of criteria to be met in order to allow certain development in the countryside and also covers the impact of development on the character and landscape of the area or neighbouring uses and impacts from noise/light and traffic generation.

Criterion 3 of policy MTRA4 is relevant to the consideration of the proposed development and allows the expansion of existing buildings to facilitate the expansion of on-site established businesses.

Although small in scale, the dog breeding currently undertaken on the site is a business enterprise for the applicant operated from their dwelling house. As the business is existing and established, this application would allow the further expansion of the business and therefore the development would accord with the terms of the countryside employment policy criteria of policy MTRA4.

Whilst a dog breeding business does not essentially require a rural location in all cases, the policy does not specify this under this criterion point and instead seeks to allow

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expansion of established businesses in the countryside.

In addition, the National Planning Policy Framework (2018) notes that decisions should recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements. In such circumstances the guidance seeks to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and, where possible, uses previously developed land.

Therefore, the proposal is considered to comply with policy MTRA4 and guidance provided by the National Planning Policy Framework and is supported in principle.

Design/layout

The physical alterations visible as a consequence of this development are the hard standing and cages which have been constructed.

This area is attached to the existing outshoot which extends from the rear of the property, which has been converted internally to provide a single room for the business.

The resulting appearance is expected of such an enterprise and consists of fencing just short of 2m in height which fully encloses the hard surfaced space. This does not alter the appearance of the property and is considered acceptable from a visual amenity perspective.

During the course of the application, the applicant has also extended the driveway area to the front of the property under permitted development rights. This allows additional parking space which is addressed below under the highways section.

Whilst this did involve the removal of hedgerow along the road, an additional site visit was undertaken and this alteration does not negatively impact the character of the area.

Impact on character of area and neighbouring property

The surrounding area is rural in nature comprising sporadic residential development. The physical alterations associated with the development are located toward the rear of the site and are not readily visible from the public realm. As a result, the alterations do not adversely effect the rural character of the area.

In regards to the use of this land for a mixed dwelling/dog breeding purpose, a key consideration is the *tranquillity* section of policy DM23 (Rural Character – LPP2).

The Environmental Health Officer notes that there is a potential for increased noise from dogs barking at the premises if dog breeding is carried out. However, the property already houses dogs and these dogs use the facilities that would be used in the extended dog breeding business. As a result, a significant and material increase in noise is not envisaged as a consequence of this application. In addition, the application provides an opportunity to control the amount of dogs which are bred at the premises, and condition 02 has been included for this purpose limiting the number of dogs to 5.

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Based upon this assessment the development is not considered to have an adverse impact on the rural tranquillity of the area.

The property is attached to 1 Hazeldene. This property is identical to 2 Hazeldene (with the exception of a side conservatory) and has a matching outshoot extension which is used as a utility area and storage.

The Old Bakery is a detached property within a large plot set to the north-east. The property is located in the far southern corner of the site and the rear garden of 2 Hazeldene runs parallel to the rear garden space of The Old Bakery for around half of its length. The converted outshoot and dog run cage sits approximately 10m to the side elevation of the property at its closest distance.

The Environmental Health officer notes that a material increase in noise from the existing situation, which has not required planning permission, is not adversely harmful and no objection has been raised on these grounds.

It is, however, acknowledged that approval of a mixed use could result in the presence of additional dogs on site. In response to this, a condition has been included which restricts the number of breeding dogs the applicant can host to 5. In addition, condition 03 has been included restricting the applicant to 1 booking at a time for the purchase of dogs to ensure that the dog breeding business does not adversely conflict with surrounding residential uses.

Based upon the above assessment it is not considered that the proposed development would adversely effect the residential amenity of the neighbouring properties.

Highways/Parking

The Highway Engineer originally objected to the proposal as the access to the parking area is located on the inside of a bend with tall vegetation forming the boundary treatment and a reason for refusal was offered on these grounds.

In response to this, the vegetation on the front boundary was removed and the parking area extended using permitted development rights.

The Highway Engineer revisited the site and observed the work which had been undertaken which improved the available visibility splay. The Engineer also noted a convex mirror opposite the site which aids visibility for emerging motorists.

The Engineer also notes that such a use could be undertaken from the premises (albeit with a smaller number of breeding dogs) which would result in the uncontrolled use of the parking area.

As the planning application provides the opportunity to impose conditions, condition 03 has been included to ensure that the premises is only visited by 1 booking at a time.

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This is in the interests of both highway safety (allowing for controlled use of the parking and access arrangements) and in the interest of surrounding residential amenity.

Other Matters

The property has completed hardstanding and associated drainage prior to the submission of the application to cater for the breeding use operated. This connects to a public sewer and a formal connection is required which the applicant is in the process of applying for.

Concern has been raised regarding flooding and connection to the existing public sewer and Southern Water were consulted. Southern Water raised no objection to the application and requested the inclusion of a condition seeking details of the measures which will be taken to protect the public sewers. Details are required to be submitted prior to the use of the site for the amount of dog breeding this permission would allow and Southern Water would be further consulted at that stage to ensure the drainage infrastructure is appropriate. This would include confirmation of the connection to the sewer alongside any further measures taken to ensure its protection. Equally, the applicant has been made aware that a formal connection to the sewer is required for their works and this process is underway.

Recommendation

Permitted subject to the following condition(s):

Conditions

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

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

NOTE: In this instance, 'the development hereby permitted' refers to the material increase of breeding dogs on the site above the existing use.

2. The number of breeding bitches must not exceed 5.

Reason: In the interests of the residential characteristics of the area.

3. The dog breeding business must only be visited by 1 booking at any single time.

Reason: In the interests of the residential characteristics of the area.

4. Prior to the commencement of development details of the measures to be undertaken to connect and protect the public sewers shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure the development is safely and efficiently drained.

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NOTE: In this instance, 'the commencement of development' refers to the material increase of breeding dogs on the site above the existing use.

Informatives:

1.

In accordance with paragraph 38 of the NPPF (July 2018) , Winchester City Council (WCC) take a positive and proactive approach to development proposals, working with applicants and agents to achieve the best solution. To this end WCC:

- offer a pre-application advice service and,
- update applicants/agents of any issues that may arise in the processing of their application, where possible suggesting alternative solutions.

In this instance a site meeting was carried out with the applicant.

2.

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

Local Plan Part 1 - Joint Core Strategy: MTRA4, CP8, CP20

Local Plan Part 2 – Development Management and Site Allocations: DM1, DM15, DM16, DM17, DM18, DM20, DM23

3.

This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out above, 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.

4.

All building works including demolition, construction and machinery or plant operation 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 recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

5.

During Construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.

6.

Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or private roads. Any damage to these areas should be remediated as soon as is practically possible.

For further advice, please refer to the Construction Code of Practise

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<http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>

7.

Please be advised that Building Regulations approval may be required for this development. Please contact WCC Building Control Department for more information (T: 01962 848176, E: buildingcontrol@winchester.gov.uk)

8.

The applicant is advised that one or more of the Conditions attached to this permission need to be formally discharged by the Local Planning Authority before works can commence on site. Details, plans or samples required by Conditions should be submitted to the Council at least 8 weeks in advance of the start date of works to give adequate time for these to be dealt with. If works commence on site before all of the pre-commencement Conditions are discharged then this would constitute commencement of development without the benefit of planning permission and could result in Enforcement action being taken by the Council.

The submitted details should be clearly marked with the following information:

- The name of the planning officer who dealt with application
- The application case number
- Your contact details
- The appropriate fee.

Further information, application forms and guidance can be found on the Council's website - www.winchester.gov.uk.

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Appendix 1 – Original Parish Council Comment

From: **Durley Parish Council**

Case No: 18/01086/FUL

Closing Date for comments: 2nd July, 2018

Location: 2 Hazeldene, Parsonage Lane, Durley

Proposal: Change of use from C3 (dwelling house) to a mixed use of C3 (dwelling house) and Sui Generis, for the breeding of dogs.

Comments: It was agreed that Durley Parish Council would send an objection to this application as this is an unsuitable location for this sort of business. The car park is unsuitable in this location as it would lead onto a dangerous section of road, which is highlighted by the owner as he needs a mirror opposite his property to see what is coming along Parsonage Lane. Also, this section of road regularly floods outside of this property. Cars parking on the roadside in this location is very dangerous and has been a safety concern for some time. This is also a residential area and not the right location for a business which will have dogs barking. It was felt that a site visit should be made to view the road, along with the location of the property to residential properties in the area. HCC as well as WCC should be consulted on the highways issues raised.

Request for application to be considered by Committee:

(NB: Case Officer to forward form to Head of Planning Management if this section completed)

Signed: Anne Collins (Mrs)
Clerk to Durley Parish Council

Date: 14th June, 2018

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Appendix 2 - Email received from Durley Parish Council on 3rd July 2018 :

Dear Rob,

In fairness to the residents who live near to the application site and as there are objections by residents Durley Parish Council would like to request that this particular Application go to the Planning Committee.

Many thanks.

Anne

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**Appendix C – Email from Officer to Parish and Parish Council response received
12th September 2018.**

Morning Rob,

Durley Parish Council, along with residents who live near to the application site discussed your e-mail at our Parish Council Meeting last evening. I read out the content in full so that they fully understood the situation, however they still have grave concerns over this application and would still like it to be heard at a Planning Committee as it will affect many residents quality of life who live near to the site. We also need to be assured that Southern Water are well aware of the connections made to the water and sewer systems and that all the regulations are complied with. If this is not so, then problems will arise. Please could you gain assurance from Southern Water that the connections have been inspected and do comply with all regulations.

Best wishes,

Anne

From: RGreen@winchester.gov.uk <RGreen@winchester.gov.uk>
Sent: 10 September 2018 09:15
To: durleypc@homecall.co.uk
Subject: 18/01086/FUL (2 Hazeldene) - Update

Good Morning Anne,

Thank you for all of your correspondence during the course of this application, including the Highways and Southern Water concerns. I wanted to provide an update on recent developments to keep you informed.

As you will be aware, the Winchester Highway Engineer originally objected to the proposal. Since then, the applicant has made alterations to the driveway area of the property which the Highway Engineer re-assessed by a further site visit. I also discussed the potential conditions which could be imposed on the consent to support the Highway Engineer's argument. Following this, their objection was withdrawn.

We have also been discussing the mirror opposite the driveway and you kindly sent me correspondence you have had with Hampshire Highways. This mirror is outside of the application site and is therefore beyond its control, it is also covered by separate legislation. I did, however, discuss the mirror with the applicant who in turn contacted Hampshire Highways to check all was in place. They have received a response requesting a smaller mirror and have been told of the process which the Highways Department can follow. As mentioned this is outside of planning but I thought it would be useful for you to know.

We also discussed Southern Waters role in the application, and they were consulted. I have now received a reply raising no objection to the proposal.

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I am now in a position where all consultees find the application acceptable and there is insufficient justification for an application to be refused with reasons strong enough to stand up at appeal.

I am, however, mindful of your concerns but wanted to let you know of a unique circumstance of this case.

The department were approached by WCC licensing to discuss the case, asking whether such a use would require planning permission. In the majority of cases, dog breeding can take place in somebody's residence without planning permission, similar to those who permanently work from home. The key assessment is whether the main use of the dwelling is as a residence. In this case, we took a judgement call that due to the number of dogs, this house was 'on the edge' and so an assessment would be required (via planning permission). It is possible, however, for the applicant to remove 1 dog from their breeding programme to move them back into the other direction where planning permission would be not be required.

As we have taken a judgement call to say that permission is required in this case, this provides an opportunity for the use to be controlled by conditions which otherwise could not be enforced. This includes ensuring that only one visitor books an appointment at the same time (in the interests of highway safety), this also means that if there is any material change then further applications would be required.

I do understand the Council's concerns and have considered these alongside the 4 objections received. However, in this case the 'fallback position' mentioned above is an important consideration and it is in the interests of those concerned to have the application approved to allow control. If the application is refused, the applicant has the option to appeal or make small changes to bring the use below the threshold where it does not require any planning consent and is therefore beyond the control of the planning system.

In light of the above, please could you let me know if you wish to withdraw the Council's request for this case to be heard at Planning Committee? The case has been considerably delayed due to the additional consultation required and I hope I have outlined my concerns above if the application were to be refused contrary to an officer's recommendation.

Happy to discuss further with yourself or the Chairman.

Thank you.

Kind Regards,
Rob

Robert Green
Senior Planning Officer

Winchester City Council
Colebrook Street
Winchester
SO23 9LJ

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