

Item No. 11**SCHEDULE B**

APPLICATION NUMBER	CB/11/01842/VOC
LOCATION	Whistlebrook Stud, Sewell Lane, Sewell, Dunstable, LU6 1RP
PROPOSAL	Variation of Condition: Variation of condition 4 to enable the additional D2 use, of dog agility training.
PARISH	Houghton Regis
WARD	Houghton Hall
WARD COUNCILLORS	Cllrs Mrs Goodchild & Jones
CASE OFFICER	Abel Bunu
DATE REGISTERED	25 May 2011
EXPIRY DATE	20 July 2011
APPLICANT	Miss Stephanie Cook
AGENT	Dunstable Riding School
REASON FOR COMMITTEE TO DETERMINE	Member Call-in by Councillor Jones having regard to the objection from the Town Council and local residents
RECOMMENDED DECISION	Variation of Condition - Granted

Site Location:

The application site is in the hamlet of Sewell, a group of mainly residential properties located to the north west of Dunstable. The application site comprises stables with an outdoor riding school and 4 hectares of land. The site is washed over by the Green Belt and adjoins the Sewell Conservation Area on the south western boundary. The site is well screened on the northern and southern boundaries with mature conifers. There are open countryside views to the east and the land falls towards the north west.

The Application:

Seeks permission to vary condition 4 of planning permission reference, **SB/TP/96/0586** to enable an additional use within the D2 use class for dog agility training.

The condition to which this application refers states that :

Notwithstanding the provisions of Article 3 (1) of the Town and Country (General Permitted Development) Order 1995, no part of the site shall be used for any purpose other than as a riding school or for private recreation and the grazing of horses belonging to the applicant or her household, or for events solely to enable pupils of the riding school to compete against each other.

REASON: To protect the amenities of nearby residential properties.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPG2 - Green Belts
PPS7 - Sustainable Development in Rural Areas
PPS1 - Delivering Sustainable Development
PPG 24 - Planning and Noise
PPG13 - Transport

Regional Spatial Strategy

East of England Plan (May 2008)

ENV7 - Quality in the Built Environment

Bedfordshire Structure Plan 2011

None saved.

South Bedfordshire Local Plan Review Policies

BE8 - Design Considerations
T10 - Parking - New Development

Planning History

- CB/09/055211 - Permission. Erection of two storey extension and roof extension to provide observation and training facility at first floor level. Erection of fire escape and roof lights (Amended design to planning permission SB/TP/04/1044).
- SB/TP/04/1044 - Appeal allowed for erection of two storey extension, roof extension to provide observation and training facility at first floor level and alterations to elevations.(re-submission of SB/TP/04/0088).
- SB/TP/04/0088 - Appeal dismissed for erection of two storey extension, roof extension to provide observation and training facility at first floor level and alterations to elevations.
- CED/02/0001 - Refusal for use of land for the retention of a portable toilet.
- SB/TP/00/441 - Permission for removal of condition 3 of permission SB/TP/98/0499 to allow retention of toilet.
- SB/TP/00/663 - Refusal for removal of condition 3 and siting of a mobile home. Appeal Dismissed.
- SB/TP/98/796 - Refusal for retention of floodlit riding arena.
- SB/TP/98/499 - Permission for Retention of portable toilet and erection of single storey extension to stables.
- SB/TP/97/704 - Permission for construction of floodlit riding arena.
- SB/TP/96/586 - Permission for erection of hay storage barn and use of land for riding school.
- SB/TP/92/336 - Permission for erection of 5 stables, tack room and field shelter.
- SB/TP/88/588 - Refusal for residential development (outline).

Representations:

(Parish & Neighbours)

Town Council

Objection

- Noise levels created by dog agility training are unacceptable

- There are also concerns regarding the potential increase in traffic on the narrow roads
- The reasons for imposing condition 4 are still valid

Neighbours -
Meadowbank; 2
Cowslip Crescent;
Heartease, Sewell;
Honeysuckle Cottage,
Sewell Lane; Lane
Farm, Sewell; Sewell
Manor; Hillside, Sewell;
12 Greenfinch Close,
Berkshire.

Objections

- Noise intrusion to adjoining residential properties from barking dogs and people shouting during dog training classes
- Noise accentuated by the proximity of the arena to residential properties and the fact that dog training is carried out in the open air close to the boundaries of the adjoining residential properties
- Noise can be heard from the neighbouring gardens, patio areas and even from the houses when doors are closed and with televisions switched on
- No appropriate condition can be imposed to mitigate the noise from barking dogs and people shouting and cheering the dogs on
- Noise from the horse related activities already affects the amenities of the adjoining property occupiers
- General disturbance due to cars arriving and leaving the site
- An alternative dog training facility exists at Warehill Equestrian Centre, Eaton Bray and this is considered more appropriate than the application site
- Sewell is a narrow lane which cannot take the additional volume of traffic generated by the development
- Variation of the condition would be contrary to the spirit behind the original permission
- Approving the application would contradict the Environmental Health Department's earlier views that the proposal would not be supported
- The use of the property for dog training is totally out of character in this area
- Those supporting the application do not live close to the site and as such are not affected by the noise and disturbance
- Recommendation for approval made by the Environmental Health Officer not acceptable.
- Even one day a week is not acceptable
- Users of the facility are inconsiderate of the local residents' desire to live in a quiet location

Interested parties
79 Tring Road; 57
Warneford Way;
Lindum, Potten End; 10
Hazelwood Close,
Buckinghamshire;31
Kirton Way, Houghton
Regis; 177 Wavell

Support

- No evidence that the dog barking recorded on Mondays during dog training classes are from the application site
- There are many dogs in the area
- Dog training differs very little from riding tuition
- No dog fights have been recorded on site

Close, Bedfordshire; 3 Sandpitt Hill Cottages, Herts;

- Classes never run till 9.15pm. They always end at 8.50pm and gates are locked at 9.15pm.
- The dog trainers are professional people who have a good understanding of dog behaviour
- Initial barking of dogs when the classes start might be heard, but this is not continuous.
- The facility provides a safe environment that is easily accessible
- Dog training is a lot quieter than horse training
- Cars are parked clear of the highway
- The lane is two way up to the Riding School beyond which it narrows down to one lane
- Some dogs bark out of excitement but not all dogs bark when taking part in the training
- Barking is not for the duration of the training
- Dog training is beneficial to society
- Dog training occurs on a Monday when horses are resting
- The business at Whistlebrook Stud would be put at financial risk if dog training stopped
- Dog training went on unnoticed for about six months proving that the classes are low key. Complaints only started when the floodlights were used.
- The use provides fun to all age groups
- Each class is limited to 6 dogs

Consultations/Publicity responses

Environmental Health Officer No objection subject to a condition limiting the dog training classes to one occasion per week. Any increase in the number of occasions would be detrimental to residential amenity. The dog training classes should be undertaken in accordance with the details submitted by the applicants.

Rights of Way Officer No objections

Determining Issues

The main considerations of the application are:

1. Impact on residential amenity
2. Parking and Highway Safety
3. Other matters

Considerations

1. Residential amenity

The application site is located close to residential properties and has permission to operate as a riding school for horses. However, Condition 4 places restrictions on the operation of any other uses within the same use class. After carrying out investigations, the Environmental Health Officer raises no objection to the proposed development subject to a condition limiting the dog training classes to

one occasion per week. The officer notes that any increase in the number of occasions would be detrimental to residential amenity and hence, the dog training classes should be undertaken in accordance with the details submitted by the applicants. Whilst it is recognised that there is substantial landscaping around the site, it can be concluded from observations made on site that this does not provide adequate mitigation against the noise that is generated during training. These observations point more towards the need to put adequate safeguards to protect residential amenity than to a total rejection of the application. Whilst the statutory nuisance regulations and planning controls are independent of each other and capable of different resolutions, it is considered that evidence gathered by the Environmental Health Service constitutes a material planning consideration. It is therefore considered that with suitably worded conditions, the proposed variation of condition to include dog training as proposed, would not be detrimental to residential amenities.

2. Parking and highway safety

Given that the proposed development does not amount to a material intensification in the use of the site, it is considered that no parking or highway safety problems would result from dog training. The site offers ample space for parking and turning to avoid cars leaving in reverse gear.

3. Other matters

The applicants have responded to the objections as follows :

- Dog agility lessons commenced in May 2010 and the first complaint was raised in November.
- Classes are conducted every Monday evening between 7 and 9 o'clock
- Barking is intermittent and cannot be considered excessive
- No dogs are allowed to run around loose
- Dog agility classes are held instead of horse riding lessons and not in addition to. There is therefore no intensification of the use of Sewell Lane arising from the dog classes.
- Traffic generated is not different from that generated on any other day of the week.
- There is adequate parking on site.
- More than 50% of local residents have not objected, ie eight properties and many have given verbal support
- Occupiers of four properties at the start of Sewell Lane have not objected
- In total, twelve occupiers of properties on the Lane have not objected
- The Highways Agency has no objection
- Dog training complements horse riding and no change is required to the existing facilities. In planning terms, the two activities are in fact in the same use class, (D2-E)
- Noise from barking dogs has been blown out of proportion. The barking that has been logged could quite easily have been from any dogs in the Lane of which there are fifteen known to the applicant
- Difficult to attribute barking noise to the agility training
- Barking noise from the training classes is no different from any that might come from dogs in the locality
- Dog training differs very little from riding tuition
- Activity is beneficial to varied age groups

Conclusion

Having taken into account both sides of the argument, it can be concluded that, as a matter of fact and degree, on balance, whilst the introduction of dog training in the horse riding arena would constitute an additional source of noise that would impact on the amenities of the adjoining residential property occupiers, it is considered that controlling the use in the manner proposed would ensure that the development would not result in detrimental harm to residential amenities. This conclusion takes into account the following considerations:

- The proximity of the application site to noise sensitive residential properties and the attendant noise complaints that have been reported to the Council.
- The social and economic benefits to be had from the development through diversification of use of the property.
- Whether or not dog training classes are noisier than horse riding classes remains open to debate but from the evidence available it is clear that both activities generate noise. There is however no conclusive evidence to suggest that dog training classes generate more intrusive noise than horse tuition.
- Dog training classes are run on Mondays when horses are taking a rest. The use of the arena for dog agility training therefore does not amount to an intensification of use because the alternative would be horse training on the same day. It is also not accepted that dog training is associated with more traffic movements to and from the site than would be the case with the current permitted use of the property. However, disturbance from cars entering or leaving the site is expected to last for a very short period of time.
- The conditions attached to the original permission are recommended to be retained in so far as they are still relevant.
- The decision to grant planning permission therefore seeks to balance the need to preserve residential amenity and the need to run a sustainable business operation.

Recommendation

That Planning Permission be **GRANTED** subject to the following:

- 1 The development shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Horse riding tuition shall not take place at the site or based at the site except between the hours of 08.00 and 21.00 on any day.

Reason: To protect the amenities of nearby residential properties.
(Policy BE8, S.B.L.P.R).

- 3 Notwithstanding the provisions of Article 3 (1) of the Town and Country (General Permitted Development) Order 1995, no part of the site shall be used for any purpose other than as a riding school or for private recreation or dog agility training and the grazing of horses belonging to the applicant or her household, or for events solely to enable pupils of the riding school to compete against each other.

Reason: To protect the amenities of nearby residential properties.
(Policy BE8, S.B.L.P.R).

- 4 Pursuant to Condition 3 above, the dog agility training tuition hereby approved shall be conducted only once a week and for not more than four hours between the hours of 0800 and 2100 hours when horse riding classes are not being carried out.

Reason: To protect residential amenity.
(Policy BE8, S.B.L.P.R).

- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers CBC/001 and the operational details contained in the document titled 'AGILITY FLYERS -RULES'.

Reason: For the avoidance of doubt.

Reasons for Granting

The proposed variation of condition to include dog training on the application site would not, subject to the imposition of appropriate conditions, be detrimental to residential amenity and result in highway safety hazards thereby complying with the development plan policies comprising Policy ENV7 of the East of England Plan and Policy BE8 of the South Bedfordshire Local Plan Review and national advice contained in Planning Policy Statements 1 & 7 and Planning Policy Guidance 2, 13 & 24 and the supplementary planning guidance, 'Design in Central Bedfordshire, A Guide for Development', 2010.

Notes to Applicant

1. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the Council hereby certify that the proposal as hereby approved conforms with the relevant policies of the Development Plan comprising of the Regional Spatial Strategy for the East of England (the East of England Plan and the Milton Keynes and South Midlands Sub-Regional Strategy), Bedfordshire Structure Plan 2011 and the South Bedfordshire Local Plan Review and material considerations do not indicate otherwise. The policies which refer are as follows:

Regional Spatial Strategy
East of England Plan (May 2008)
ENV7 Quality in the Built Environment

South Bedfordshire Local Plan Review
BE8 Design Considerations
T10 Parking - New Developments

2. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the reason for any condition above relates to the Policies as referred to in the Regional Spatial Strategy (RSS), Bedfordshire Structure Plan 2011 (BSP) and the South Bedfordshire Local Plan Review (SBLPR).

3. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
4. Please note that the unnumbered drawings submitted in connection with this application have been given unique numbers by the Local Planning Authority. The numbers can be sourced by examining the plans on the View a Planning Application pages of the Council's website www.centralbedfordshire.gov.uk.

DECISION

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