

## PLANNING COMMITTEE – 3 DECEMBER 2019

<b>Application No:</b>	<b>18/02175/FUL</b>		
<b>Proposal:</b>	<b>Change of use of property to run a pet sitting service and erection of dog shed building.</b>		
<b>Location:</b>	<b>6 Barkstone Close, Balderton, Newark on Trent</b>		
<b>Applicant:</b>	<b>Mr Shelley Frost</b>		
<b>Registered:</b>	<b>29.05.2019</b>	<b>Target Date:</b>	<b>24.07.2019</b>
<b>Link to application</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=PILC37LB04M00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=PILC37LB04M00</a>		

**This application is being referred to the Planning Committee for determination by the local ward member (Cllr L Hurst) who supports the originally proposed position of the dog shed within the paddock area.**

### The Site

The application site relates to a semi-detached bungalow located at the an end of a cul-de-sac, within (albeit at the edge of) the urban area of Balderton. To the south is a paddock area, with open countryside beyond and the strategic urban area to the land south of Newark would lie beyond that. The closest residential properties are the adjoining bungalow at no. 4 Barkstone Close as well as no. 5 Barkstone Close to the east and no. 3 Denton Close, to the north-west.

The site is relatively level in nature, although there is a banked area of land running along the southern boundary of the site with the paddock. There are a number of small fruit trees within the associated garden area as well as 2 no small outbuildings. Panel fencing at a height of c1.8m runs along the rear boundary of the site and open post and wire fencing runs along the boundary with the paddock.

The majority of the site is located within flood zone 1, although the area close to the southern boundary is located within flood zone 2 and 3.

### Relevant Planning History

0377928 - Conservatory and store shed to existing dwelling bungalow – Approved 13.12.1977

19/00445/FULM - Flood defense maintenance and improvements works involving; excavation, re-grading and compaction of the existing flood embankment to achieve required safe maintenance standards and creation of approximately 60m of new embankment to tie a low spot of defence into high ground. Approved 23.05.2019.

## The Proposal

The proposal seeks planning permission for the erection of a dog shed and enclosure in connection with the applicants business which relates to dog boarding and exercising. While there have been discussions on the potential location of the dog shed including a position within the extended curtilage of the property, the applicant has reverted back to the originally proposed siting for the dog shed, which is within agricultural/paddock land associated with the property, approximately 22m to the south-west of the main property 6 Barkstone Close. Given the use of land, the proposal would also include a change of use of the land to accommodate the intended business use.

The proposed dog shed building would measure 6m in depth and 5m in width. The roof design would be dual pitched with a 3m maximum ridge height. The external finish would be timber cladding on the elevations and a felt finish on the roof. There would be a paved surfaced immediately adjacent to the dog sheds main entrance which would be utilised as an exercise/open area for use by the dogs. The land to the south of the shed would be fenced off with 1.8m close boarded fence and 1m high post and wire fencing to create an exercise area for the dogs.

The proposal also includes the change of use of the existing property (6 Barkstone Close) to a dual use for both a dog boarding business and a residential property.

The applicants have confirmed that the dog boarding and exercising business would operate between the hours of 1100 and 1600 on weekdays only, with a maximum number of dogs at the site at any one time being set at 20. There would be no dogs boarding overnight or at all during the weekend. Collection of the dogs would be made by the applicant in one vehicle trip and returned in one vehicle trip. There are to be no drop offs to be made by dog owners.

The submitted plans also show the erection of a new 1.5m high gate at the vehicular entrance to the site on Barkstone Close. This would be a 5 bar of traditional timber construction.

## Public Advertisement Procedure

Occupiers of twelve properties have been individually notified by letter.

## Planning Policy Framework

### The Development Plan

#### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 3 – Rural Areas

Core Policy 6 – Shaping our Employment Profile

Core Policy 9 -Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

#### **Allocations & Development Management DPD**

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM8 – Development in the Open Countryside  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance

### **Consultations**

**Balderton Parish Council** – Supports Proposal.

**Environment Agency** - *I refer to the above application which was received on the 26 September 2019.*

#### ***Environment Agency position***

*We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance. We recommend that planning permission is refused on this basis.*

#### ***Reason***

*The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. We have received confirmation from Newark and Sherwood District Council that this site lies within Flood Zone 3b functional floodplain, which is land defined by the PPG as having a high probability of flooding. We consider the development is classed as Less Vulnerable in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.*

#### ***Overcoming our objection***

*As the above is a policy objection, we recommend that you contact the Local Planning Authority to confirm that the development is inadequate to the Flood Zone. We ask that the LPA consult the EA if they were minded to approve the application as the development is situated in a high flood risk area and any development in this location may result in significant flooding to, and from, the site.*

#### ***Advice to applicant: Flood Defences***

*Please note the Environment Agency has just undertaken flood defence improvements in the area. The asset runs through the centre of the site. The FRA has not provided details of this asset and confirmation that there will be no development on or within 8m of the toe of the flood defence structure.*

**Environmental Health Services** – ‘I refer to the above application. I understand that the applicants run a similar business elsewhere without complaint. Assuming that the premises is licenced as required I would have no objections to make.’

**Trent Valley Internal Drainage Board** – No objections.

**Representations have been received from 7 local residents/interested parties which can be summarised as follows:**

- Concerns over the noise from barking dogs throughout the day.
- Lack of notification over the application.
- Object to a commercial business in a residential area.
- Concerns over treatment of dog excrement.
- This is a quiet residential area, the proposal will increase the volume of traffic and range of visitors to a small street.
- The commercial venture will create a precedent for further similar development.
- Highway safety concerns.
- The business could expand further in the future due to the size of the paddock.
- Questions raised over the nature and extent of the business.
- Impact on the landscape.
- Potential flood risk issues.

### Comments of the Business Manager

#### Principle of Development

It is considered that the proposal is split into two distinct elements, albeit very tightly linked; the first element being the dual use of the main property as a residential dwelling as a dog sitting business and the second being the erection of a dog shed in the paddock area adjacent to the main property. I will comment on these two elements separately due to the differing policy guidance that relate to each element.

The application dwelling and the associated residential curtilage is considered to be within the established urban area of Newark which acts as the sub-regional centre as identified within Spatial Policy 1 of the Amended Core Strategy. Spatial Policy 1 advises that the function of the sub-regional centre is to be the focus for housing and employment growth.

Given the above, it is considered that the principle of the proposed dual use of the existing property at the site is acceptable, however the proposal is required to be assessed under a number of site specific considerations which are discussed in detail below.

In regards to the proposed dog shed, the proposed location of this shed lies within a paddock area outside of the established urban area of Newark and is therefore, as a matter of fact, within the open countryside.

Policy DM8 dictates that in accordance with the requirements of Spatial Policy 3, development away from the main built up areas of villages, in the open countryside, will be strictly controlled and limited to certain types of development. Similarly Spatial Policy 3 states that development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting such as Agriculture and Forestry.

The erection of commercial buildings or structures would not fall within the list of appropriate development within the open countryside. The proposed dog shed and associated exercising area represents expansion of commercial use into the open countryside. Whilst the footprint of the kennels is in itself small (and a structure of this type for agricultural use may be appropriate) even small unnecessary encroachments into the countryside can be, in my submission, harmful as a matter of principle. They equally create a situation which could be too easily be repeated on other sites elsewhere. It is considered that the dog shed could be located within the existing residential

curtilage of the application property, which would then not result in a residential feature being imposed upon the open countryside unnecessarily.

### Flood Risk

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development necessary, making it safe for its lifetime without increasing flood risk elsewhere. It also states that applications for minor developments and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements of site specific flood risk assessments.

The proposed dog shed would be located within flood zone 3b (the functional flood plain) and the proposed dog shed building and associated exercise area would fall into a 'Less Vulnerable' category of use for flood risk purposes according to national policy. The Flood Risk Vulnerability Classification table within the NPPG advises that only essential infrastructure and water compatible uses are appropriate within the functional flood plain and that all other development categories should not be permitted.

I note that the Environment Agency have raised an objection to the proposal on the grounds described above and have also raised concerns over the submitted Flood Risk Assessment's lack of consideration of the position of the dog shed, which would be centrally located within an area where flood defense improvements are being carried out.

In light of the above, it is considered that the development would be an inappropriate form of development within an area of functional flood plain which serves as land where water has to flow or be stored in times of flood. Furthermore, the FRA has not successfully demonstrated that the development would be safe for its lifetime having not taken into account the flood defense work being carried out in the area. The proposal would therefore be contrary to Policy DM5, Core Policy 10 as well as Para 155 of the NPPF and the advice within the NPPG.

### Impact upon the Character of the Area

Core Policy 9 of the Core Strategy seeks to ensure that new development is of an appropriate form and scale to its context and complements the existing built and landscape environments. Core Policy 13 (Landscape Character) requires development proposals to positively address the implications of the Landscape Policy Zones and demonstrate that such development would contribute towards meeting Landscape Conservation and Enhancement aims for the area. Policy DM5 of the ADMDPD states in relation to Local Distinctiveness and Character that 'the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. In accordance with Core Policy 13, all development proposals will be considered against the assessments contained in the Landscape Character Assessment Supplementary Planning Document.

The application site is located within Landscape Policy Zone of SN PZ 07: Elston Village Farmlands (noting its position adjacent to Balderton), as identified by the Newark and Sherwood Landscape Character Assessment. This landscape condition is defined as moderate, with a moderate level of sensitivity. The overall landscape action for built features within this policy zone are to create new

development which reflects the local built vernacular and the conserve what remains of the rural landscape by concentrating the creation of new development around existing settlement.

I am mindful that the proposed siting of the proposed dog shed is located within a paddock area that is open nature and devoid of any built form. Therefore, while relatively modest in scale and of a utilitarian design, I am of the view that the development would be a somewhat alien form of development within the landscape. Furthermore, as the dog shed would be in fairly close proximity to Barkstone Close, the development would be visible from public vantage point. It is therefore considered that this element of the proposal would be somewhat out of character with the open and rural setting and result in an impact on the open countryside.

Given that the business would be effective during the hours of 11am through till 4pm on weekdays only, and that the property would continue to be used as a residential dwelling, I am satisfied that this proposed dual use of the property would not have a material impact on the character of the site and wider area.

### Residential Amenity

Policy DM5 seeks to ensure that new development does not have a detrimental impact on the amenities of neighbouring residential properties.

I note the concerns raised by local residents in relation to potential noise disturbance from the proposed business operating at the site and it is acknowledged that there is potential for dog barking at the site. However, having had regard to operating times of the business, I am mindful that this potential noise disturbance would not be during anti-social hours or at the weekend. I also note that the Environmental Health Officer has not raised an objection to the proposed scheme and I also aware of the powers under separate legislation in which the Environmental Health department could act on should there be any significant disturbance from the business on neighbouring residential amenity. As such, it is considered that the refusal of planning permission on the grounds of the potential impact on residential amenity could not be sustained at appeal.

In terms of the dual use of the property, I am mindful that Barkstone Close and the wider urban area is a predominately residential area and that the proposal would introduce a commercial use to the application site. However, having had regard to the nature of the proposed pet boarding business which operates by the applicants picking pets up from their respective owners properties and bringing them back to the application site, rather than the individual owners dropping off their pets at the site, I am mindful that the number of vehicle trips to and from the site are unlikely to be excessive or cause undue harm.

### Other Matters

In relation to the concerns raised by local residents, I would comment as follows;

While the proposal could see a number of dogs at the site at any one time, I am of the view that the concern raised over the amount of associated excrement is unlikely to result in a material impact upon neighbouring amenity, especially as a dedicated surfaced area within the site would be provided for this purpose. The applicants have confirmed that there are to be no pick up or drop offs made by dog owners at the application site, as such the increase in vehicular traffic at the site is unlikely to be significantly increased.

## Conclusion

The proposed dual use of the existing property as a commercial dog sitting business and residential dwelling is acceptable in principle. However, the proposed associated dog shed and exercise area within the adjacent paddock area is considered to result in an unnecessary and inappropriate encroachment into the open countryside with a commercial use that does not require a rural setting that is contrary to the aims of sustainable development.

Furthermore, the dog shed would be located within the functional flood plain, flood Zone 3b and would not fall into an appropriate development category. It has also not been demonstrated that the development would be safe for its lifetime having not taken into account the flood defense work being carried out in the area. The Environment Agency as statutory consultee have raised objection. Accordingly it is recommended that planning permission be refused.

## **RECOMMENDATION**

**That planning permission is refused for the following reasons:**

### Reasons

01

The proposed site of the dog shed is, as a matter of fact, located in the open countryside. In the opinion of the Local Planning Authority the change of use of land and construction of the commercial dog shed represents an inappropriate encroachment of commercial use and activity that does not require a rural setting into the open countryside contrary to the aims of sustainable development. The development is thereby contrary to Spatial Policy 3 (Rural Areas) of the Newark and Sherwood Amended Core Strategy (adopted March 2019) and Policy DM8 (Development in the Open Countryside) of the Newark and Sherwood Allocations and Development Management DPD (adopted July 2013). The development is also contrary to the NPPF and NPPG. There are no other material planning considerations that in view of the Council would outweigh such harm.

02

The proposed dog shed would be sited within flood zone 3b (the function flood zone) according to the Environment Agency flood risk maps and according to national planning policy therefore falls into an inappropriate development category. In the opinion of the Local Planning Authority and the Environment Agency this development should not be permitted as a matter of principle in the functional flood zone. The submitted flood risk assessment has not successfully demonstrated how the development would be made safe for its lifetime. The proposed development therefore represents an unacceptable increase in flood risk at the site and neighbouring sites contrary to Policy DM5, Core Policy 10 (Climate Change) of the Development Plan as well being contrary to the NPPF and the advice within the NPPG which are material planning considerations.

### Notes to Applicant

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has

been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date.

Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Gareth Elliott on ext 5836.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Lisa Hughes**  
**Business Manager – Growth and Regeneration**



Committee Plan - 18/02175/FUL

