

**Proposed change of use of dwellinghouse to a mixed use as a dwellinghouse and for the keeping and breeding of up to 20 dogs together with the retention of kennel buildings, a storage shed and open and closed runs**

**Report Item No  
A3**

**27 School Lane Newbold Coalville Leicestershire**

**Application Reference  
13/00291/RET**

**Applicant:  
Mr Rudi Mendel**

**Date Registered  
2 December 2013**

**Case Officer:  
Sarah Worrall**

**Target Decision Date  
27 January 2014**

**Recommendation:  
PERMIT**

**Site Location - (Plan for indicative purposes only)**



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## **Executive Summary**

### **Call In**

The application has been called in by Councillor Stevenson for consideration by Planning Committee, within time during the Delegated 1 process, on the grounds of local concern about noise and disturbance.

### **Proposal**

This is a full application which seeks retrospective permission for the retention of a business use within the curtilage of the existing dwelling, along with buildings which have been erected in relation to the business operation. These buildings comprise a wooden storage shed, an open run containing individual kennels, and a separate kennel block with open runs attached.

As part of the proposal, the applicant is seeking permission for a maximum of 20 breeding dogs to be kept at the premises and this number would exclude litters from the breeding dogs and their domestic pet dog. There are currently 15 breeding dogs at the site.

The dwelling would continue to have its main use as a residential dwelling for the applicant and family. The business would utilise rooms at the existing dwelling during immediate pre-birth, birth, whelping and weaning stages. All viewings by potential purchasers are undertaken within the house.

### **Consultations**

Members will note that neighbour representations have been made in relation to the proposal essentially on the grounds of noise, disturbance and highways concerns. No comments have been received from the Parish Council at the time of writing this report. The full representations made by neighbours are available to view on the working file. Statutory consultees have made observations on the proposal and are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition.

### **Planning Policy**

The application site lies within the Limits to Development of Newbold and would involve the operation of a business from an existing dwelling, along with ancillary buildings within the existing dwelling curtilage. As such, the operation and buildings would be acceptable, in principle, subject to design, amenity and highways considerations.

### **Conclusion**

The site lies within the Limits to Development of Newbold as defined in the North West Leicestershire Local Plan and at the edge of the main built form on School Lane and the principle of the proposal would be acceptable and in accordance with Policy S2 of the Adopted Local Plan and the provisions of the NPPF. The proposed development would have limited visual impact, would not result in undue disturbance to nearby residents, and would be acceptable in highway safety terms all in accordance with development plan policies and the provisions and intentions of the NPPF. It is, therefore, recommended that planning permission be granted.

### **RECOMMENDATION - PERMIT, SUBJECT TO CONDITIONS.**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides a full details of all consultation**

responses, planning policies, the Officer assessment and recommended conditions, and Members are advised that this summary should be read in conjunction with the detailed report.

## MAIN REPORT

### 1. Proposals and Background

This is a full application which seeks retrospective permission for the retention of a business use within the curtilage of the existing dwelling, along with buildings which have been erected in relation to the business operation. As such, permission is sought for the following elements:

- Using the premises as a residential dwelling, with ancillary dog breeding business operation at rear and visitor parking to the front of the dwelling;
- Retention of an open run constructed from galvanised steel mesh (some 5m wide x 5m long x 2m high) including partitions with individual wooden kennels, and proposed roofing of this structure should the application be approved;
- Retention of a wooden shed for storage purposes (some 3m wide x 3.5m long x 2.3m high);
- Retention of a kennel block comprising 4 kennels with storage, a covered mesh run section, and an uncovered mesh run section. This block is set on a base some 8.4m wide x 9.2m long, with the mesh sections covering an area within this of some 4m wide x 6.5m long, with a height of some 1.9m. The adjoining timber kennel and store section is some 4.2m wide x 8.1m long and has a monopitch roof which is some 2.5m at the ridge height which adjoins the mesh run sections, and drops to some 1.9m in height at eaves level at the rear of the building; and,
- Retention of close board timber fencing (1.8m) to separate the business operation from the remaining garden area associated with the dwelling.

As part of the proposal, the applicant is seeking permission for a maximum of 20 breeding dogs to be kept at the premises and this number would exclude litters from the breeding dogs and their domestic pet dog. There are currently 15 breeding dogs at the site, and the higher number would provide some flexibility for the future, for example if a pup had show potential and the applicant wished to keep it.

The dwelling would continue to have its main use as a residential dwelling for the applicant and family. The business would utilise rooms at the existing dwelling during immediate pre-birth, birth, whelping and weaning stages. At the weaning stage, puppies can leave the premises at 8 weeks. All viewings by potential purchasers are undertaken within the house.

The property is the southernmost dwelling on this section of School Lane and its boundary forms part of the Limits to Development of Newbold. The site slopes down to the east and south. A public footpath runs along the southern boundary of the application site, linking School Lane to the fields to the east of Newbold.

### Planning History

09/01106/FUL - Erection of two storey side extension and single storey side and rear extension - permitted

This retrospective application has been submitted as a result of an enforcement enquiry.

### 2. Publicity

3 No neighbours have been notified (date of last notification 11 December 2013)

Site Notice displayed 24 December 2013

### 3. Consultations

Clerk To Worthington Parish Council consulted 11 December 2013

County Highway Authority consulted 11 December 2013

Head of Environmental Protection consulted 11 December 2013

Planning Enforcement consulted 11 December 2013

WARD MEMBER (delegated)2 consulted

### 4. Summary of Representations Received

Worthington Parish Council - No comments received on the application

LCC (Highways) - No objection subject to conditions

Head of Environmental Protection - No objections based on the details contained within the application, and based on previous site visits which have indicated that the applicant has taken precautions to prevent noise being disruptive to neighbouring properties. No complaints have been received in relation to the premises in the last 12 months.

Five neighbour representations have been received, and the comments can be summarised as follows:

- The dog breeding out-buildings are clearly visible from our upstairs rooms;
- I live in the house directly behind the property concerned - we hear barking from the property now, even with a lesser number of dogs currently kept;
- The current noise from the pugs is irritating and compromises our enjoyment of our garden so we are concerned that the proposal is to include a larger number of beagles, a breed known to bark and howl when not stimulated and exercised - as these will not be family pets, this is likely to be exacerbated beyond the normal level;
- The use is totally inappropriate in the back garden of a house on a residential street;
- The site is not isolated, it has neighbours on all sides including a primary school opposite;
- I have been affected by noise and smell, especially in the hot weather, to an unacceptable level;
- We are affected by the odour, noise and light pollution;
- There are numerous security lights around the dwelling and outbuildings which pollute the locality with unnecessary light and the rear flood light affects us most;
- The odour has been so intense it has physically affected us - the cleaning out regime that has been implemented has not been sufficient enough to eradicate the problem;
- I was told that the building next to my boundary would not be used for dogs and it is not listed as a kennel on the application but is used for bitches and pups and is only 3.5m from my bungalow;
- How will the number of dogs be monitored? Kennels for 20 dogs could become kennels for 20 dogs plus puppies which could easily increase the number to 30 plus dogs;
- I believe the intention is to breed dogs for sale and additional cars visiting would cause a highway safety issue as the road is narrow and there is a school opposite. Visitors to the site tend to park on the road already so this will only become more problematic;
- I do not wish to object to the application but feel there should be strict controls on how the business is run within a quiet, domestic and close knit village community;
- The number of kennels should be limited and no other buildings related to this business can be added now or in the future;

- A maximum limit of the total number of dogs permitted at the property should be set, including puppies, otherwise the it will be a large business at a domestic dwelling and the noise would become a bigger issue;
- The breeds permitted at the premises should be limited to beagles and pugs only now and in the future - if other breeds were introduced this would only add to potential noise disturbance;
- I am aware of a similar business which is run near Griffydam and which has caused a number of ongoing issues for NWLDC and a number of Griffydam residents.

## **5. Relevant Planning Policy**

### **National Planning Policy Framework**

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

The NPPF (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Section 3 of the NPPF refers to supporting a prosperous rural economy and advocates that sustainable growth and expansion of all types of business and enterprise in rural areas should be supported in principle.

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

### **North West Leicestershire Adopted Local Plan**

Policy S2 sets out that development will be permitted within Limits to Development, subject to material considerations.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 requires new development to respect the character of its surroundings.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows.

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements.

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

### **Submission Core Strategy (April 2012)**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

## **6. Assessment**

### **Principle of Development**

The application site lies within the Limits to Development of Newbold and would involve the operation of a business from an existing dwelling, along with ancillary buildings within the existing dwelling curtilage. As such, the operation and buildings would be acceptable, in principle, subject to design, amenity and highways considerations.

### **Design Issues**

The kennel and store buildings and mesh runs were erected in 2013, along with close boarded fencing with gravel boards. As such, the visual impact of the development can be clearly assessed. The 1.8m timber fencing separates the kennels compound from the lawn area of the residential dwelling, and also from a separate grassed area adjacent to the boundary with No.25 School Lane which is used for housing the applicant's pet dog when there are visitors to the site.

The kennel and store buildings and mesh runs are of proportions not dissimilar to domestic curtilage buildings, and are not incongruous in their setting. The kennel compound area is also at the end of the garden associated with No.27 which is set at a lower level to that dwelling, and the adjacent dwelling at No.25 School Lane and dwellings north of that. Furthermore, the tops of the structures can be seen from the public footpath which adjoins the southern boundary of the curtilage of No.27 School Lane, but are not obtrusive and have no adverse impact on the visual amenities of the area.

It is noted that a local resident can see the buildings from their upstairs rooms but this would not be a reason which would warrant refusal of a proposal.

On this basis the existing buildings and structures within the kennel compound area are in scale and character with their surroundings and in accordance with the requirements of Policy E4 of the Adopted Local Plan.

### **Residential Amenity Issues**

Following on from the design issues set out above, the existing buildings and structures have no overbearing impact on neighbouring properties as a result of their scale, form and layout, and cause no overshadowing or overlooking of adjacent properties in accordance with the requirements of Policy E3.

The comments relating to light pollution are noted and it is evident that some security lighting has been installed at the premises. Should the application be approved, it is recommended that a condition regarding details of lighting to be submitted and agreed in writing. This would enable the applicant and the District Council to discuss a way forward with a lighting scheme which would provide minimum light spillage whilst maintaining sufficient security for the

premises in accordance with the requirements of Policy E3 of the Adopted Local Plan.

The concerns regarding odour from the site are also noted, as is the information submitted as part of the application. The application information submits that a cleaning regime is in place at the business, and all dog waste is double-bagged and removed from the site by a waste disposal company every two weeks in autumn and winter and weekly in spring and summer. It was evident during the officer site visit that the site was clean and tidy. The business also employs a part-time kennel hand to assist with cleaning and feeding duties, and the kennels are cleaned daily. Welfare standards and health and hygiene are dealt with under separate legislation to planning. However, based on the experience of the nature of the operation obtained during the officer site visit, and from information submitted with the application, whilst there may be some odour from the immediate kennels particularly in summer it would not be of such significance to warrant refusal of the application.

Objections have been received in respect of the application on the basis of noise disturbance from barking dogs. At present, the applicant has 15 breeding dogs at the site comprising 9 female beagles, 3 female pugs, 2 male beagles and 1 male pug. The applicant also has a family pet dog which is not used for breeding. The application submission states that no boarding of dogs takes place at the premises. The application submission advises that there is not a rapid turnover of dogs and due to the dogs being familiar with each other as they are kept within the kennel compound, other than during play and walk time, the incidence of barking and/or aggression is significantly less compared to a boarding kennel situation. The dogs are walked twice a week on local footpaths and play in the garden area of No.27 in groups of up to 6 dogs with supervision from the applicant or staff. It is expected that there may be more noise at certain times of the day, such as at feeding time but these occurrences would be intermittent and not constant.

Furthermore, the kennels have external wooden boarding and interior plywood sheeting with polystyrene infill which provides good sound and heat insulation and the kennel compound is enclosed on 3 sides by 2m high fencing which helps contain some noise. It is proposed to roof the open mesh structure containing kennels to provide additional shelter for the dogs and assist with reducing any noise impact and it is recommended that a condition relating to materials details of this be attached to a permission should the application be approved. In addition, the kennel compound is situated at the lowest point of the curtilage of No.27 School Lane and the buildings have been set out in a way which allows them to be screened from No.25 by close board fencing and face away from the dwellings on School Lane. There is a distance separation of some 75m between the application site and Railway Cottage to the south east of the site.

For clarification purposes the number of **breeding** dogs at the site would be 20 in number. This figure would not include litters or any domestic pet dog belonging to the applicant. In order to consider the potential impact of the likely situation at the premises, in terms of the nature of the use, further information was sought from the applicant on the breeding process.

The applicant has a breeder's licence which allows for the breeding of more than 5 litters every year. At present 7 litters are produced each year - 6 from beagles and 1 from the pugs - and each litter has an average of 6 pups which are advertised for sale and can leave the premises after the 8 week weaning period. As such, an increase of 5 further breeding dogs from that already kept at the site would not significantly increase the number of litters produced at the site.

The gestation period of a dog is 63 days and the pregnant female remains in the kennels until 5



days prior to birth when she is moved to a room in the dwelling to prepare and be monitored. Birthing will take place within the dwelling and the pups are transferred to a whelping pen in another room of the dwelling until some 5-6 weeks of age. After that they would be moved to a larger pen within the dwelling for weaning, and removal from the premises by new owners around 8 weeks of age. The applicant advises that they normally have one litter at a time but if they were to overlap slightly they would be in the main dwelling in any case. As such, any noise from litters of pups and mothers would be contained within the dwelling.

It is noted that a resident has requested that no further buildings should be allowed at the site now or in the future. Whilst the comments are noted such a condition would not be reasonable and would not meet the criteria for conditions as set out in the planning Circular 11/95. Any future application relating to the dwelling or business operation would have to be considered on its own merits at that time. It should also be noted that it would not be possible to limit dog breed or size by condition either by virtue of the requirements of Circular 11/95. Notwithstanding these points, in terms of the current proposal, the size of the dwelling and the kennel compound essentially limits the extent of the business operations that can take place at the site in planning terms.

During the officer site visit the inside of the smaller wooden shed outside the kennel compound within the main garden area of No.27 was viewed and was being used for storage of dog baskets, and domestic storage items. If the shed was to be used for housing breeding dogs permanently a separate application would be required to be made.

It is appreciated that the dog breeding business would cause some intermittent noise as a result of barking by the dogs but, on balance, the proposed number of breeding dogs would be unlikely to lead to such significant noise that would adversely impact on the residential amenities of neighbouring properties to such an extent that would warrant refusal of the application.

A further aspect to consider in relation to impact on residential amenities would be the comings and goings to and from the site as a result of the business, and the impact of these on neighbouring properties. The agent has set out average visitor numbers in relation to projected litters numbers and sizes over a 3 month timeframe within the supporting documents. The number of visitors to the site would not be significantly over and above those which could be expected with typical comings and goings to and from a residential dwelling. Since the pups and mother would be kept within the dwelling during birth, whelping and weaning visitors to view the pups would stay in the house and would not necessarily have to go out into the rear garden area to the kennel compound. As such, there would be no adverse impact on residential amenities as a result of comings and goings to and from the site.

The District Council's Environmental Protection team has been consulted on the proposals, and has no objections to the proposal. It has also confirmed that no complaints in relation to the business operations have been received during the last 12 months.

The reference to the dog breeding business at Griffydam is noted, and it is also noted that the scheme was allowed on appeal by the Planning Inspectorate.

### **Highway Safety**

The site is currently served by a vehicular access and drive onto School Lane. This access, drive and turning space at the front of the property would be used in relation to the dwelling and the business. Due to the likely numbers of business visitors expected at the premises, the

existing facilities would be adequate for the residential and business uses. The Highway Authority has no objection to the proposal subject to conditions.

### Summary

The site lies within the Limits to Development of Newbold as defined in the North West Leicestershire Local Plan and at the edge of the main built form on School Lane and the principle of the proposal would be acceptable and in accordance with Policy S2 of the Adopted Local Plan and the provisions of the NPPF. The proposed development would have limited visual impact, would not result in undue disturbance to nearby residents, and would be acceptable in highway safety terms all in accordance with development plan policies and the provisions and intentions of the NPPF. It is, therefore, recommended that planning permission be granted.

### RECOMMENDATION- PERMIT, subject to the following condition(s):

- 1 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
  - Site location plan (TWR/M2/P1); and,
  - Block plan (TWR/M2/P2)

*Reason - To determine the scope of this permission.*

- 2 Notwithstanding the submitted details, nor Condition 1 above, details of external lighting at the kennel compound and the roof for the separate galvanised steel mesh open run shall be submitted to and agreed in writing by the Local Planning Authority within 56 days from the date of this permission and shall be implemented and maintained as such.

*Reason - To preserve the amenities of the locality.*

- 3 The maximum number of breeding dogs accommodated on the site shall not exceed 20 at any one time.

*Reason - To determine the scope of this permission, in the interests of highway safety, and to preserve the amenities of the locality.*

- 4 The maximum number of litters produced on the site shall not exceed 10 in any one year.

*Reason - To determine the scope of this permission, in the interests of highway safety, and to preserve the amenities of the locality.*

- 5 No dogs other than those belonging to the occupiers of the dwelling shall be accommodated on site.

*Reason - To determine the scope of this permission, and in the interests of highway safety and residential amenity.*

- 6 The use of the site for dog breeding shall not be carried on at any time other than by occupiers of the dwelling.

*Reason - To define the scope of this permission, in the interests of the amenities of occupiers of the dwelling, and in the interests of highway safety.*

- 7 The car parking and turning facilities shown on the submitted plan shall be provided before first use of the development hereby permitted and shall thereafter permanently remain available for car parking and turning.

*Reason- To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

- 8 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with School Lane. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

*Reason- To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.*

- 9 Before first use of the development hereby permitted, the access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.

*Reason- To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)*

### **Notes to applicant**

- 1 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 2 A public footpath is adjacent to the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.
- 3 The maximum number of breeding dogs at the site excludes any family pet dog(s) and litters of pups.
- 4 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).