

**Application Number:** 18/10999 Full Planning Permission

**Site:** 31 HAMPTON LANE, BLACKFIELD, FAWLEY SO45 1ZA

**Development:** Part use of dwelling for dog breeding

**Applicant:** Mrs Gladstone

**Target Date:** 18/09/2018

**Extension Date:** 16/11/2018

<b>RECOMMENDATION:</b> Grant Temporary Permission
---------------------------------------------------

<b>Case Officer:</b> Jim Bennett
----------------------------------

**1 REASON FOR COMMITTEE CONSIDERATION**

Recommendation contrary to Parish Council view.

**2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS**

Built-up Area

**3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES**

**Core Strategy**

CS2: Design quality

CS17 Employment and economic development

**Local Plan Part 2 Sites and Development Management Development Plan Document**

None

**4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE**

Section 38 Development Plan

Planning and Compulsory Purchase Act 2004

National Planning Policy Framework

**5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

None

**6 RELEVANT PLANNING HISTORY**

6.1 92/NFDC/49285 - Single storey rear extension, front porch, new roof and garage - Granted March 1992

**7 PARISH / TOWN COUNCIL COMMENTS**

**Fawley Parish Council:** recommend refusal as this appears to be a business use within a residential area, with noise repercussions for adjoining neighbours

## **8 COUNCILLOR COMMENTS**

None

## **9 CONSULTEE COMMENTS**

9.1 Environmental Health (Pollution) - This application seeks permission for a Chihuahua breeding kennel at the premises. This is an activity that currently takes place at the premises and the need for the application has been raised during the process of applying for a licence under the new Animal Welfare Act which comes into force next month. It is possible that intensification of use will take place. Clearly this use has the potential to cause significant/adverse impact, particularly from dogs in the outside areas of the property if not suitably managed. Although this department has no history of complaints regarding noise from dogs at the premises, it is noted that several objections from neighbouring properties cite existing noise as a reason for objection. The applicant has offered a number of controls they have in place in order to control noise from the use and has provided a noise management plan in order to provide some controls. As the actual impact of this proposal is not clear, it is advised that the application is granted for a 2 year temporary period only in order to allow any adverse impact from noise to be assessed and, where necessary, allow alternative control measures to be considered prior to any further application being considered. This would also be subject to a condition being applied requiring the use to take place in accordance with the submitted Noise Management Plan. In addition, the LPA may wish to restrict the number of adult dogs residing at the premises at any one time. Environmental Health Officers have visited the area twice and not heard barking on these occasions.

## **10 REPRESENTATIONS RECEIVED**

Four representations have been received from neighbours, objecting to the proposal on grounds that:

- Business use is inappropriate in this residential area
- The noise nuisance caused by barking dogs

## **11 CRIME & DISORDER IMPLICATIONS**

None

## **12 LOCAL FINANCE CONSIDERATIONS**

Local financial considerations are not material to the decision on this application

## **13 WORKING WITH THE APPLICANT/AGENT**

In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case following submission of additional information in the form of a Noise Management Plan, the application was considered to be acceptable as amended and no specific further actions were required.

## **14 ASSESSMENT**

- 14.1 The site lies within the built-up area of Blackfield, outside any other designated area. This part of Blackfield is a residential area, characterised by detached bungalows of circa 1960 construction fronting Hampton Lane, with gardens extending to the west, where they bound the rear gardens of dwellings on Holly Road.
- 14.2 The application is made retrospectively for use of an existing outbuilding (detached garage approved in 1992) and garden curtilage to the rear of no. 31 Hampton Lane for the purpose of breeding Chihuahuas. The case officer has visited the site twice and on both occasions 7 adult dogs were present in the paved garden area immediately behind the house and 1 adult dog and a single litter of puppies were in one of three whelping boxes. The applicant explains that adult dog numbers are generally limited to 10 no. dogs, but is prepared to limit their number to those present on site during the course of determination of this application, ie seven bitches and one dog, which could be ensured by condition.
- 14.3 No external alterations are proposed to the premises, although the applicant has made efforts to contain dogs within certain areas of the outbuilding and garden, according levels of supervision, through the erection of fencing and gates, to keep the animals away from adjoining boundaries. The garage has been altered internally to facilitate the use applied for, through provision of 3 no. whelping boxes, heat lamps etc. The internal layout is indicated on the submitted internal plan.
- 14.4 The main consideration in assessing this application is the impact of the proposed use upon the residential amenity of adjoining occupiers. Policy CS17 of the Core Strategy offers support to this type of development where there is no adverse impact on residential amenities. Policy CS2 of the Core Strategy seeks to ensure that all new development is appropriate and sympathetic to its setting and shall not cause unacceptable effects to adjoining land uses. The area used for the housing of breeding animals is to the rear of the property and has a very close relationship to the garden areas of adjoining dwellings. The impact of the proposed use upon adjoining amenity would be dependent on the intensity of use of the premises for breeding purposes, adult dog numbers and working practices employed by the applicant to control noise (barking dogs), which some neighbours have drawn to the Council's attention.
- 14.5 The activity that currently takes place at the premises and the need for a planning application was raised during the process of applying for a licence under the new Animal Welfare Act. The necessity for a planning application is a grey area, as any homeowner can accommodate 8 adult dogs in a dwelling without a requirement for planning permission. However, the part use of the premises sought is on a commercial basis, so activity at the site in terms of dog numbers and impacts associated with commercial use of the site (in part) does require permission. It therefore needs to be considered whether the commercial use is adversely affecting the amenity of adjoining owners. While use of the premises for breeding purposes is not of a scale or intensity of say a

boarding kennel, neighbours have drawn the Council's attention to noise from barking dogs. While dogs are noisy when entering the back garden of the application property itself, the noise dies down quickly and during a visit to a neighbouring property, no significant noise from barking dogs was observed from the application property. The puppies themselves make negligible noise and are certainly not audible from outside the whelping room, where they are housed. During recent months the applicant has made efforts to contain dogs within certain areas of the outbuilding and garden, according levels of supervision, through the erection of fencing and gates, to keep the animals away from adjoining boundaries, as outlined in the submitted Noise Management Plan. For instance the western extent of the back garden has been fenced off by the applicant to restrict access for the dogs unless under supervision. The dogs are housed indoors between 22:00 and 06:00 and are restricted to certain areas of the outdoor curtilage during the day.

- 14.6 The Council's Environmental Health Section has visited the site and neighbouring properties and did not observe any undue noise from the site. They also note that it is possible that intensification of use could take place, which could cause significant adverse impact, particularly from dogs in the outside areas of the property, if not suitably managed. The Environmental Health Section has no history of complaints regarding noise from dogs at the premises and note that the applicant has a number of controls in place to control noise from the use and has provided a noise management plan in order to provide further control. As the actual impact of this proposal is not clear, Environmental Health advise that the application be granted for a 2 year temporary period only in order to allow any adverse impact from noise to be assessed and, where necessary, allow alternative control measures to be considered prior to any further application being considered. This should also be subject to a condition being applied requiring the use to take place in accordance with the submitted Noise Management Plan. It is also advised that the LPA restrict the number of adult dogs residing at the premises at any one time.
- 14.7 The suggestion of a temporary permission would be consistent with the advice offered by the National Planning Practice Guidance (NPPG), which states that a temporary permission may be appropriate where a trial run is needed in order to assess the effect of the development on the area.
- 14.8 In light of the above, the use sought is recommended for approval for a temporary period of two years in order to assess the impacts of the proposal upon adjoining occupiers, subject to conditions.
- 14.9 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

## **15. RECOMMENDATION**

### **Grant Temporary Permission**

#### **Proposed Conditions:**

1. The use shall cease on or before 14th November 2020, unless the prior written approval of the Local Planning Authority for continued use, has first been obtained.

Reason: The proposal is granted for a temporary period in order to properly assess the impacts of the proposal on existing uses nearby and to be sure of its affect on the character of the area, in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

2. The development permitted shall be carried out in strict accordance with the following approved plans and statements: 1:1250 Location Plan, 1:500 Block/Site Plan, Internal Floor Plan, Applicant's Statement, Noise Management Plan received on 20/09/18 and Site Plan received on 20/09/18

Reason: To ensure satisfactory provision of the development and to protect the amenity of adjoining occupiers in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

3. The number of adult dogs kept at the premises at any one time shall be restricted to a maximum of 8.

Reason: To ensure satisfactory provision of the development and to protect the amenity of adjoining occupiers in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

#### **Notes for inclusion on certificate:**

1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case following submission of additional information in the form of a Noise Management Plan, the application was considered to be acceptable as amended and no specific further actions were required.

#### **Further Information:**

Jim Bennett  
Telephone: 023 8028 5588



**New Forest**  
DISTRICT COUNCIL

Tel: 023 8028 5000  
www.newforest.gov.uk

David Groom  
Service Manager  
Planning and Building Control  
New Forest District Council  
Appletree Court  
Lyndhurst  
SO43 7PA

**Planning Development  
Control Committee  
November 2018**

**Item No:** 3c

31  
Hampton Lane  
Blackfield Fawley  
18/10999

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.

