

Planning Committee

A meeting of Planning Committee was held on Wednesday, 29th September, 2021.

Present: Cllr Norma Stephenson O.B.E(Chairman), Cllr Mick Stoker(Vice-Chair), Cllr Carol Clark, Cllr Dan Fagan, Cllr Lynn Hall, Cllr Eileen Johnson, Cllr Paul Kirton, Cllr Sally Ann Watson (Sub Cllr Steve Matthews), Cllr Tony Riordan, Cllr Andrew Sherris, Cllr Marilyn Surtees, Cllr Mrs Sylvia Walmsley, Cllr Bill Woodhead MBE

Officers: Julie Butcher, (HR, L&C), Hannah Bennison, Stephanie Landles (DA&H), Simon Grundy, Rachel Powell, Joanne Roberts (D o F,D&BS), Sarah Whaley (MD)

Also in attendance: Applicants, Agents and Members of the Public.

Apologies: Cllr Steve Matthews, Steve Walmsley,

P Evacuation Procedure

19/21

The Evacuation Procedure was noted.

P Declarations of Interest

20/21

There were no declarations of interest.

P Minutes of the Planning Committee meeting which were held on 21st May, 2nd June, 8th July and 9th August 2021

21/21

Consideration was given to the draft Planning Committee minutes from the meetings which were held on 21st May, 2nd June, 8th July and 9th August 2021 for approval and signature.

RESOLVED that the minutes be approved and signed by the Chair as a correct record.

P 21/0729/RET

22/21

342 Norton Road, Norton, TS20 2PN

Retrospective change of use application of former taxi base for breeding of dogs.

Consideration was given to planning application 21/0729/RET, 342 Norton Road, Norton, TS20 2PN. Retrospective change of use application of former taxi base for breeding dogs.

The application site was the location of a former taxi vehicle rental service and vehicle repair use, located to the rear of 342 Norton Road, Norton. The site was within the defined development limits, in an area consisting of a mix of commercial and residential properties.

The application sought retrospective planning consent for the change of use to a dog breeding business for 16 dogs. The site had been operational and licenced since 2016.

A total of seven neighbour letters of representation had been received, with six making objection comments and one letter of support. A further objection was

also received from the Ward Councillor. Those comments of objection received raised a number of amenity related concerns particularly in relation to noise, odour, light pollution, drainage and the control of waste and vermin, all of which were summarised within the main report.

The consultees that had been notified and the comments that had been received were detailed within the main report.

Neighbours were notified and the comments received were detailed within the main report.

The planning policies and material planning considerations that were relevant to the consideration of the application were contained within the main report.

The Planning Officers report concluded that it was recommended that the application be Approved with Conditions for the reasons as specified within the main report.

Objectors attended the meeting and given the opportunity to make representation their comments could be summarised as follows:

- The application did not conform with current Defra legislation in terms of the size of the dog kennels to number of dogs.
- Concerns were raised regarding an application submitted in 2018 relating to the conversion of a garage at the application site.
- Issues were highlighted around noise from dogs barking and playing throughout the day, the smell of dog excrement and the presence of vermin, preventing residents relaxing in and enjoying their gardens.
- Residents expressed they were not satisfied that the noise survey undertaken at the property fully complied with BS4142 which had recently been amended and was understood to not be used for the use of domestic animals.
- The sound survey had originally been carried out for 6 to 10 dogs not 16 therefore it was felt this needed to be revisited.
- Questions were raised relating to a condition concerning a 2 metre sound insulation barrier, of which there was already one, therefore clarity was sought as to whether there would be an additional 2 metre barrier on top of the current one.
- Some residents felt, should the application gain approval, their properties would be devalued.
- It was highlighted that residents near to the application site were experiencing a negative atmosphere, verbal threats and in some instances damage to their properties, some of which had been caught on video camera.
- It was claimed that the application site was currently up for sale as a boarding home and cattery.

The Applicants Agent attended the meeting and given the opportunity to make representation.

- The application site had been used as a dog breeding premise Since 2016, was regularly inspected by the animal welfare team and was licensed by Stockton on Tees Borough Council's Licensing Service which had awarded the Applicant a 5 star rating.

- The Applicant had modernised their standards of business to comply with new licensing requirements.

- Noise surveys undertaken, and the applicant's management plan was considered satisfactory and as the dog breeding business was next to a busy filling station, it was surprising that residents had highlighted noise from the application site when there was obvious noise from the filling station and the adjacent busy road.

- In terms of complaints about vermin, Licensing staff had never reported any issues relating to rats and mice, although there was a cycle path near the site which could generate vermin.

- It was reported that the applicant's CCTV system which had been installed to protect dogs from being stolen had caught neighbours throwing timber at the applicant's home. The Applicant was still considering whether to pass this onto the police for further investigation.

- There had been no objections from other responsible authorities and therefore the application should be supported.

- In terms of the claims made that the application site was currently for sale, this was not the case. The property which was up for sale was a neighbouring property to the application site.

- The welfare of dogs was regulated by the Licensing Service not the Planning Committee who could only consider the merits relating to land use.

- There had been no objections from highways in terms of residents' concerns relating to parking and garages. There was also some forecourt parking, and the use of a driveway.

- Property prices were not a material consideration.

- In terms of alleged property damage this was a police issue not a planning issue.

Officers were given the opportunity to respond to comments/issues raised. Their responses could be summarised as follows:-

- The Environmental Protection Team Manager informed the Committee that a total of 15 complaints had been received from 5 different locations relating to the property since 2016. Environmental Health had investigated all complaints which had not been made every year and not all at the same time, however 2019 had seen the biggest point of contact due to several issues being

reported, one of which had included Police attendance at the neighbouring filling station. The main incident was during a period when the applicant was away on holiday and a relative had been looking after the premise but did not follow the applicant's usual routine. Environmental Health Investigated every complaint and gathered evidence from neighbours.

- In terms of noise complaints, the Environmental Protection Team Manager informed Members that since 2020 during the COVID pandemic, Environmental Health had not been able to attend properties to place noise recording equipment into neighbouring residents' home to monitor noise, but had directly monitored from the road to the rear however given the evidence there was nothing Environmental Health had been able to action. There had also been several visits with planning officers, and it was concluded that the insulation, timetable, and development plan the premise had for the dogs during the day was appropriate. When managed properly there had been years when there had been no complaints made relating to noise. It was also noted that the applicant had always cooperated and worked well with environmental health.

- It was highlighted that the reason the application was being considered by the Planning Committee was due to a change in legislation and was not a true retrospective planning application. Had the change not come into force then there would be no application to be considered.

Members were given the opportunity to ask questions/make comments. These could be summarised as follows:-

- Concerns were raised relating to the proposed number of 16 dogs and that the type of dog had not been stipulated as it was felt there was a big difference between small and large breeds in terms of the impact of noise, smell etc. Questions were also raised as to the possibility of all 16 dogs having litters at once, if so, there was the potential of over 100 pups at the same time.

- Clarification was sought as to what was meant by the number of dogs, was it 16 dogs or 16 litters?

- The cages in which the dogs were to be kept looked inadequate.

- There was a difference between ambient traffic noise from neighbouring roads compared to barking dogs which could be irritating.

- Questions were raised as to why the noise survey had not been included in the committee report.

- Had the premise been operating legally prior to the change in legislation?

- The Chairman of the Licensing Committee who was also a member of the Planning Committee informed the Committee that the Licensing Department had visited the site with a vet and spent lots of time making sure the premise was up to standard, following which the premise was awarded 5 stars, therefore the Licensing Service were happy with how the premise was being operated.

- Reference was made regarding the comments raised by one of the objectors relating to Defra and whether Defra requirements had been waved.

- Clarity was sought as to whether the BS4142 noise assessment was appropriate in terms of the assessment of animal noise.
- Questions were raised as to how the 2018 application fit in with the change in legislation. Had planning permission ever been given for the garage.
- It was felt that the Councils Animal Welfare Service should have attended the meeting to answer questions relating to noise, smells, and other related issues.
- Animal welfare was looking into the premise's CCTV invading neighbouring properties privacy.
- Was the dog waste bin up to standard?
- It was appreciated that there was difficulty assessing noise during the COVID pandemic, and that it was undertaken from the street side, however it didn't seem to stack up that the quality of the noise assessment would be as accurate as that from the inside of a house.
- As detailed within the report it stated that noise insulation to walls had been installed. Questions were raised as to whether there had been any complaints since the installation in terms of noise.
- It was felt that the application site should never have been allowed to be a dog breeding premise due to its residential location.
- The Chair of the Planning Committee Councillor Norma Stephenson informed Members that she had made an unannounced visit to the application site and made it clear that she was not for or against the application, however wanted to understand how the operation worked. Councillor Stephenson explained that whilst inside the property she could not hear the dogs until she was outside. Cllr Stephenson looked around the breeding shed where she could see that the pens were connected allowing the dogs to run freely. There was also no evidence of smell when Councillor Stephenson went to the rear of property.

Officers were given the opportunity to respond to Member's comments/issues raised. Their responses could be summarised as follows:-

- The Planning Services Manager confirmed that in terms of the number of dogs the maximum number of adults dogs accommodated on the site would be 16 at any one time. This did not include the number in a litter as it was difficult to predict the number in a litter.
- The maximum number of 16 adult dogs was enough to protect neighbouring amenity.
- The noise survey was available online.
- In terms of the changes to Legislation around licensing and planning, permission from planning was now required as alerted by planning enforcement and on the back of the 2018 licensing application.

- Confirmation was given that the waste bin was a council waste bin, and there was also a waste management condition recommended within the application which had been included as a belt and braces job, to ensure it was adhered to going forward.
- In terms of the property history relating to the garage conversion approval, officers informed members they would need to seek clarity and circulate that information to members following the Planning Committee meeting.
- Complaints relating to CCTV and privacy issues to neighbouring properties would have to be investigated further.
- Where issues had been raised relating to the noise assessment being carried out to BS41412 the Environmental Protection Team Manager explained that as this was a residential / commercial mixed use the noise assessment undertaken to BS4142 was still relevant. In terms of the noise being monitored on the kerbside during the pandemic this was a worst case scenario compared to if equipment had been installed inside a building.
- Licensing Service had attended the property with the Animal Welfare Service and a vet resulting in the premise being awarded 5 stars.
- It was confirmed that the premise had been operating legally.
- The breed of the dogs was to be French Bulldogs which were considered a smaller breed. Officers would need to discuss with the applicant should they want to change the breed in the future.
- Environmental Health confirmed that there had been complaints relating from noise since the installation of noise insulation, however this was when the dogs were being exercised outside. The dogs were exercised on a rota basis managed by Environmental Health.
- It was also highlighted that condition 3 of the report addressed concerns about barking dogs, which were to be removed from the exercise area and not return within that 1 hour period.

A vote took place and application 21/0729/RET 342 Norton Road, Norton, TS20 2PN was refused.

RESOLVED that planning application 21/0729/RET be refused on the following grounds, that in the opinion of the Local Planning Authority, the proposed development by virtue of the scale of the operations and associated activities would result in significant noise and disturbance to the surrounding residential properties, adversely affecting the levels of residential amenity which could reasonably be expected to be enjoyed, contrary to policy SD8(1e) of the Stockton on Tees Local Plan.

**P
23/21**

1. Appeal - The Carrs Angling Lakes, Letch Lane, Carlton, Mr Thomas Andrew

20/2750/OUT - ALLOWED WITH CONDITIONS

**2. Appeal - The Barns, Cherry Cottage, Blakeston Lane, Stockton-On-Tees,
Mr J Corner**

20/2345/CPL - DISMISSED

3. Appeal - 9 Bridgewater, Leven Bank, Yarm, Mr David Whaite

21/0336/FUL - ALLOWED WITH CONDITIONS

COSTS - DISMISSED

The Appeals were noted.