

**Application Number**

P/2013/0990

**Site Address**Rear Of  
Tor Park Road Car Park  
Paignton  
Devon  
TQ4 7PL**Case Officer**

Matt Diamond

**Ward**

Blatchcombe

**Description**

Change of use from vacant storage yard (B8) to Dog Day Care Centre (sui generis), with associated buildings, pens and parking.

**Executive Summary/Key Outcomes**

The application is for a change of use from vacant storage yard (B8) to a dog day care centre (sui generis), with associated buildings, pens and parking. The centre is to house a maximum of 100 dogs.

The principle of the proposed use is considered to be acceptable and is a beneficial use of a brownfield site within an industrial estate, with the potential over time to create the full time equivalent of eight jobs.

There are adjoining residential properties on Borough Road, the closest of which is some 35 metres from the site. The living conditions of the occupiers of these dwellings are a significant material consideration given the potential noise impact of the scheme.

However, it is considered that any potential noise nuisance can be dealt with by a noise management plan which would be submitted to the Local Planning Authority prior to the use commencing and a contribution from the applicant could be sought to monitor its implementation and success.

On balance the proposal is deemed to be an acceptable development in planning terms.

**Recommendation**

Conditional approval

**Statutory Determination Period**

The eight week target date for the application was 21.12.2013. A site review meeting was undertaken on 16.01.2013 at which it was decided that the application should be put before the Development Management Committee. Due

to the requirement for a site review meeting the February Development Management Committee was the earliest date the application could be determined.

### **Site Details**

The application site is located in the first industrial plot to the rear of Borough Road on Tor Park Road. The land currently has a B8 storage use.

### **Detailed Proposals**

The application seeks permission for the change of use from a vacant storage yard (B8) to a dog daycare centre (sui generis) with a total of four buildings, parking and a turning area. The facility proposes to take a maximum of 100 dogs.

### **Summary Of Consultation Responses**

*Highways* No objection

*Environmental Health* No objection subject to appropriate conditions to minimise the impact of noise and nuisance caused by dog barking

*Drainage* No objection

*South West Water* No objection

*Arboricultural Officer* No objection

### **Summary Of Representations**

Eleven letters of representation have been received, 3 in objection and 8 in support. The material planning issues raised by the letters of objection relate to noise and the likely increase in traffic.

The letters of support cite the successful management of the existing business which operates from the applicant's home on a much smaller scale basis. The support letters say that the use does not create significant noise and is a valued service for its customers.

These representations have been reproduced and sent electronically for Members consideration.

### **Relevant Planning History**

ZP/2012/0314 Split decision 12.09.2012

### **Key Issues/Material Considerations**

The main issues are the principle of the change of use, the impact on neighbouring living conditions and highways implications.

## **Principle**

The principle of the proposed use is considered to be acceptable and is a beneficial use of a brownfield site within an industrial estate.

Although this use would be most suited to an industrial area and this is a brownfield site, some consideration should be given to the number of jobs the day care centre would contribute as opposed to another more intensified form of industrial activity. The day care centre is to employ a total of 7 full time equivalent staff to start with and bearing in mind the suitability of the site, the fact that it is vacant and brownfield, having previously been used for storage, the additional jobs the use would create are deemed to be sufficient in this instance. The previous storage use did not generate any significant employment on-site.

## **Impact on neighbouring living conditions**

The applicant states that the noise levels from the proposed use will not be significant as the dogs will be kept entertained and therefore will have no reason to bark. Dogs generally bark when they are bored, lonely, over excited, hungry, frightened or because they have learned that barking leads to certain responses.

Proper management of the facility, through agility, activity, socialising, dog walking, feeding and nurturing should lead to the actual noise levels being limited. However, this is somewhat of an unknown quantity, and is difficult to assess in comparison to more traditional industrial uses.

The Environmental Health officer has recommended that these issues could be dealt with by adding conditions relating to opening times and the submission of a noise management plan. There is potential, if members felt it necessary, to monitor the noise levels and a contribution could be sought from the applicant towards this. This would ensure that the noise management plan was working sufficiently and not causing undue harm to the amenity of the occupiers of neighbouring properties.

When weighing up these points and considering that this land is within an industrial estate which by its nature is noisy, it is deemed that a conditional approval with the submission of a noise management plan and control on opening hours would make the proposed change of use acceptable in planning terms.

## **Highways/traffic impact**

The Sustainable Transport officer has confirmed that a sustainable transport contribution will not be required in this case as the number of jobs created mitigates the number of additional vehicular movements.

The number of additional vehicle movements resulting from this development is somewhat unknown as there are no similar types of use in the area.

The proposal is to cater for up to 100 dogs and therefore in the worse case this may result in 100 additional trips to and from the site.

However, it is very likely that customers of the day care centre will be dropping off dogs as part of a journey to work or to shop and therefore not making an additional trip, rather a stop off. The nature of the use is likely to attract 'activity' based trips as opposed to new trips in the highway.

Given the likelihood of activity based trips, given that the road is heavily used by a number of cars and lorries visiting the industrial estate, and given the generation of employment on the site a sustainable transport contribution has not been requested in this instance.

The Highways Officer has advised that there is no intention to adopt the road, but recommend that the vegetation be cut back to improve visibility for all site users at the junction with Tor Park Road.

#### **S106/CIL -**

A Section 106 contribution is not required for this proposal (see above).

#### **Conclusions**

The proposed change of use is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

#### **Condition(s)/Reason(s)**

1. Prior to the commencement of the development a noise management scheme shall be submitted to and agreed in writing by the Local Planning Authority. The management scheme shall pay particular attention to the control of noise from barking, particularly in external areas. The scheme shall be implemented in full upon the first use of the site for Dog Day Care. The management scheme shall include a review mechanism and this shall provide for a review and (where necessary) an update of the noise management scheme on receipt of complaints substantiated by the Local Environmental Health Department or at least annually.

Reason: In the interests of the amenities of the area and in accordance with the requirements of policy EP4 of the saved adopted Torbay Local Plan 1995-2011

2. Dogs shall only be allowed on the premises between the hours of 07:00 to 19:00 Monday to Friday and 07:00 to 13:00 on Saturdays. No dogs shall be on the premises outside of these times or on Sundays or bank holidays.

Reason: In the interests of the amenities of the area and in accordance with the requirements of policy EP4 of the saved adopted Torbay Local Plan 1995-2011

3. Prior to the commencement of the development a detailed plan and methodology for the protection of trees around the perimeter of the site (include fencing of root protection areas) shall be submitted to and approved in writing by the Local Planning Authority. The tree protection shall then be implemented in accordance with the approved details and shall remain in situ at all times during the construction of the development.

Reason: In the interests of the amenities of the area and in order to comply with policy L2 of the saved adopted Torbay Local Plan 1995-2011

4. The recommendations in the approved Phase 1 Habitat and Protected Species Assessment, (received August 2013) shall be adhered to at all times.

Reason: In the interests of the amenities of the area and in order to comply with policies L2, NCS & NC5 of the saved adopted Torbay Local Plan 1995-2011

5. No development shall take place until details of the proposed drainage strategy have been submitted to and approved in writing by the Local Planning Authority. This should prioritise sustainable drainage systems. The development shall not be usefully occupied until the drainage system has been installed as approved. If the proposed drainage system includes soakaways, the following information must be submitted as part of these details:(1) Evidence that trial holes and infiltration tests have been carried out in the location(s) of the proposed soakaway(s) demonstrating that the ground conditions are suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of soakaways at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway and will not result in an increased risk of flooding to surrounding buildings, roads and land: (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.(3) Details of the surface water drainage system connecting the new buildings to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. If it is demonstrated

that the ground conditions are not suitable for soakaways and the only option to dispose of surface water is to the mains sewer, attenuation measures must be installed to limit surface water discharge to the existing surface water runoff rate or less. Only where it is demonstrated that soakaways and attenuation measures are not feasible due to site conditions will a direct connection to the mains sewer be allowed, subject to no objection from South West Water.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

### **Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- EP4 Noise
- ES Employment and local economy strategy
- E1 New employment on identified sites