

# PLANNING APPLICATION REPORT

**Case Officer:** Tom French

**Parish:** Sourton **Ward:** Bridestowe

**Application No:** 1433/17/VAR

**Agent/Applicant:**  
Mr Geoffrey Cawse  
20 Exeter Street  
North Tawton  
EX20 2HB

**Applicant:**  
Mr & Mrs Langman  
East Bowerland Farm  
Okehampton  
EX20 4LZ

**Site Address:** East Bowerland Farm, Okehampton, EX20 4LZ

**Development:** Application for removal of condition 7 (use restriction) following planning consent 00648/2013 (Erection of building over existing sand school for equestrian and dog training)

**Reason item is being put before Committee:** Referred by Cllr Mott to address concerns raised by objectors



## **Recommendation:** Conditional Approval

### **Conditions:**

Accord with plans

Building only for private equestrian/canine use

Hours of use restriction

No more than 11 dogs using the training arena at any time

No external lighting without consent

### **Key issues for consideration:**

Whether the removal or the condition results in unacceptable harm in respect of highways and environmental health concerns

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### **Site Description:**

East Bowerland Farm is a former agricultural holding that has holiday cottages and an associated dog training business. There is a farmhouse with attached barns that have been converted to holiday lets. The site is accessed via a long country lane that also services a nearby farm and a couple of dwellings. The nearest neighbouring property is approximately 60 metres to the south west of the building which accommodates the dog training arena

The application site lies within land designated as countryside.

### **The Proposal:**

Application 00648/2013 was for the "Erection of building over existing sand school for equestrian and dog training" and was given conditional consent. This application established the authorised dog training use on the site, condition No 7 required the use to ancillary or in conjunction with the occupiers of East Bowerland Farm and the holiday lets.

Condition 7 of 00648/2013 stated;

*The building hereby permitted shall be for ancillary use only in conjunction with the principle dwelling and/or holiday lets of East Bowerland Farm and not as an independent commercial use.*

*Reason: The establishment of an additional independent unit would give rise to an over-intensive use of the site.*

This application seeks to remove condition 7 of 00648/2013, when assessing Section 73 applications the local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue.

The site operates as 'Devon Dogs' and offers a range of classes over differing sites with East Bowerland Farm being the main base for the business. Classes taking place within the existing building at East Bowerland include; obedience training, agility and steeplechase.

The application seeks to regularise the current use for the dog training business, by removing condition 7 of 00648/2013.

### **Consultations:**

- County Highways Authority: No highways implications
- Environmental Health Section: Based on this noise impact assessment in regards to the retrospective application for Devon Dogs at East Bowerland Farm I have the following comments to make.

The assessment was carried out in accordance with BS4142:2014 which is a British Standard for assessing noise from commercial and industrial premises, whilst this is the most appropriate guidance as noise from dogs is likely to be very different depending on breed of dog and their excitement factor. The assessment is based on a class of 11 dogs and their handlers but the assessment states that typically no more than 6 dogs are trained at any one time, in my view a condition limiting the number of dogs to no more than 11 dogs would be appropriate and enforceable without being overtly unreasonable.

I believe there is already a restriction on hours of operation and believe this is also still appropriate to minimise disturbance to neighbouring residential amenity.

In regards to the treatment of the building previously we advised the applicant that timber cladding the internal structure of the proposed extension would be of benefit to the potential noise breakout, and I believe this is still the case and is what is proposed. I have previously suggested that acoustically treated roof lights would be of benefit but based on this noise assessment I do not believe we should insist on them nor retrofitting of timber panelling to the existing structure.

There were multiple openings on the existing buildings with no doors shown, at the time of my site visit I suggested close fitting doors to be fitted if the noise report should find a problem. In my view the doors that have been shown should still be installed as they will provide a means of controlling noise should a potentially noisy dog need to be trained at the facility in the future.

- Sourton Parish Council: Object - Sourton Parish Council objects to the removal of condition 7. The reason being to prevent the current ancillary business from becoming an additional independent commercial unit in the future.

The Parish Council wishes the current ancillary business to continue, but expects that it should not be permitted to cause unreasonable loss of quality of life to the neighbours.

### **Representations:**

Multiple comments received, objecting to the proposed scheme, summarised as;

#### Objection

- Impact on bridleway
- Highway safety issues

- Noise and disturbance
- Current unauthorised use on the site

### **Relevant Planning History**

Application 2456/16/FUL is under consideration by Planning and Licensing Committee.

The most recent application was for the Erection of building for use as dog exercise pool and health facilities, which was given consent under 00055/2015

A previous application for the erection of a building over the existing sand school for equestrian and dog training purposes was approved (application reference: 00648/2013).

Additionally, permission has previously been granted for the replacement of a building with a new indoor animal exercise area (application reference: 01356/2011).

Consent has also previously been granted for the change of use of the barns to holiday lets (application reference: 12066/2008/OKE)

### **ANALYSIS**

Principle of Development/Sustainability:

Policy ED16 states;

The development of employment generating enterprises will be permitted in or adjacent to rural settlements where:

(i) The size of the enterprise will be of a scale appropriate to the size of the settlement;

And there is no significant adverse impact on any of the following:

(ii) The rural character and appearance of the site, the settlement, its setting and the surrounding countryside;

(iii) Wildlife, landscape or historic interests;

(iv) The amenities of nearby residents or other land uses; and

(v) Travel, access and highway safety.

Whilst the site is not within or adjacent to a rural settlement it is well related to Okehampton being 4.5 kilometres southwest of Okehampton and 1.5 kilometres to the south of the Ashbury Golf and Hotel Complex. It is also nearby to the A30 and just off the A386, which is the primary highway connecting Tavistock and Okehampton as well as the wider West Devon Area. There is already an established business use on the site in the form of holiday cottages and dog training and equestrian arena. The use of the building for dog training classes outside the scope of the main dwelling and holiday lets is established and has been ongoing for some time, the issues relating to neighbour amenity and highway safety are discussed below, the existing use is considered to accord with clause (ii) of ED16.

Policy SP10 of the Core Strategy states;

Supporting the Growth of the Economy

Support will be given to:

i. Provision of business and employment land in the main towns;

ii. The development and expansion of small businesses;

iii. The diversification of the rural economy.

Policy SP11 of the Core Strategy states;

## Strategic Policy 11 Rural Regeneration

Support will be given to the social and economic needs of rural communities by encouraging:

- a. The development and expansion of small scale businesses in rural communities;
- b. The re-use of suitable rural buildings for employment generating uses;
- c. Diversification of the agricultural economy;
- d. Appropriate tourism related initiatives;
- e. Appropriate recreation uses for a countryside location;
- f. Small-scale renewable energy projects and businesses to serve the industry;
- g. Arts and crafts based industries and initiatives;
- h. Technological development needed to enable new ways of working in rural areas; and
- i. Improvement of public transport links to market towns and employment areas.

It is considered that the proposed use of the building for dog training classes accords with the aims of policies SP10 and SP11 as the proposal represents a diversification of the rural economy and supports the expansion of a small scale business in a rural community.

### Design/Landscape:

The existing building remains unchanged, and therefore the proposal has no impact on the wider landscape.

### Neighbour Amenity:

Environmental Health have reviewed the submitted information and have offered no objections subject to conditions. The conditions relating to hours of use imposed on approval 00648/2013 will be re-imposed on this planning application. Environmental Health have recommended a limit on the number of dogs using the premises at any time. A condition is recommended in respect of this.

The proposed doors on the openings for the barn form part of the plans for 2456/16/FUL, accordingly a condition requiring the doors to be installed is recommended as part of this application.

The red line area of the application site includes a small area to the front of the existing building, however it does not cover the field to the front of the building, therefore there is no express planning consent for the use of this land for dog training/events. A separate application would be required if this area is proposed to be used beyond the existing permitted development rights afforded to land under the 28 day rule.

### Highways/Access:

The County Highways Officer has offered no objections to the proposed removal of the condition, as highway safety has been raised in the comments received, the Highways Officer conducted a detailed site visit and offered the following comments;

*“The original condition was not imposed on the previous planning consent for highway safety reasons, but for planning reasons alone. There appears to be some confusion internally about whether or not it is therefore appropriate for the highway authority to make any comment about the application to remove it, but I am doing so whether or not it is legally appropriate. I visited the site for about an hour yesterday morning.*”

*The cul-de-sac lane serving the site is similar to countless others in the Borough and County and is generally single lane with passing places throughout its length. The junction at Bowerlands Cross forms a crossroads with the A386, a County Primary Route, derestricted at this location. Although the visibility available at the junction is not to contemporary highway design standards, the visibility available is reasonable having regard to the rural nature and the junction and road serving the site are considered adequate to serve any additional traffic that may be (or has been) generated by the proposed relaxation of the condition. This view is borne out by the Personal Injury Collision data which shows three personal injury collisions over recent years, none of which is attributable to vehicles exiting onto the main road from the side road.*

*For those reasons I can confirm that there is no evidence to substantiate an objection to the proposed relaxation of the condition on highway safety grounds and the condition previously imposed would not have been justified for those reasons either."*

As there is already a large area of hard standing for car parking, it is considered that the level of existing parking is sufficient.

Other Matters:

A condition relating to boundary treatments are recommended under application 2456/16/FUL.

The applicant has confirmed that foul drainage works have been undertaken at the site, it is understood that planning consent is not required if the works are to an existing underground system that does not discharge greater quantity of effluent than the trigger figures imposed by the environment agency. The applicant has confirmed that the works were signed off by Building Control.

Reference has been made to a planning application which was dismissed on appeal for a kennel and cattery not far from the application site and that this decision set a precedent. All planning applications are assessed on their own merits as sites differ in relation to topography, number and distance to adjacent occupiers as well as other matters. In addition, the appeal site related to a new use and this application refers to altering an existing use.

Planning Balance:

The proposed removal of the condition 7 of 00648/2013 is acceptable subject to the imposition of additional conditions, which protect the amenity of adjacent occupiers. The proposal supports the continued operation of a rural business, which both local plan policies and the advice contained within the national Planning Policy Framework seek to promote.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004***

## **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

### **West Devon Borough Council Core Strategy 2011**

SP1 – Sustainable Development

SP5 – Spatial Strategy

SP10 – Supporting the Growth of the Economy

SP11 – Rural Regeneration

SP17 – Landscape Character

SP20 – Promoting High Quality Design

### **West Devon Borough Council Local Plan Review 2005(as amended 2011)**

NE10 – Protection of the Countryside and Other Open Spaces

BE13 – Landscaping and Boundary Treatment

ED16 – Development for Employment in the Countryside

ED17 – Farm Diversification

ED21 – Rural Diversification

PS2 – Sustainable Urban Drainage Systems

### **Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

### **PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV15 Supporting the rural economy

DEV24 Landscape character

## **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

### **Proposed Conditions**

1. The development hereby permitted shall be carried out in accordance with the approved plans and documents to be listed on the decision notice.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

2. The building hereby permitted shall be used only for private equestrian or canine use.

Reason: In the interest of protecting the amenities of the site and locality.

3. The premises shall not be used outside the hours of 7am to 10.30pm.

Reason: To safeguard the residential amenities of adjoining residential properties.

4. There shall be no more than 11 dogs in the building at any time.

Reason: In the interests of public amenity and the living conditions of adjacent occupiers.

5. There shall be no floodlighting or other external lighting erected at the site, without the prior written consent of the LPA.

Reason: To safeguard the appearance and character of the area and in the interests of ecology.