

DERWENTSIDE DISTRICT COUNCIL
DEVELOPMENT CONTROL COMMITTEE

26th April 2007

REPORT OF THE DIRECTOR OF ENVIRONMENTAL SERVICES

APPEAL DECISION

Appeal against the refusal to grant full planning permission for the demolition of a detached garage and the erection of one detached dwelling at 33 Manor Road, Medomsley

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1. The Development Control Committee refused to grant full planning permission for the above development in April 2006. The reason for refusal was:-

‘Access to the site would be via a privately owned car park which is outside of the ownership or control of the applicant. Vehicular access to the site could be blocked by parked vehicles and access could be prevented by future owners of the site to the detriment of highway safety and contrary to Policy TR2 of the Local Plan.’
 2. The appeal was considered under the written representations procedure, and a copy of the Inspectors decision letter is attached. The Planning Inspector dismissed the appeal.
 3. The Inspector felt that the main issue to consider was whether the proposed access is acceptable. The inspector noted that the proposed access taken through the adjacent public house car park, would involve the removal of a number of defined parking spaces and would require those vehicles visiting the site to travel the full distance of the car park. The inspector commented that even if the access was defined on the ground it is likely that cars would restrict this access, with the potential for vehicular conflict that would result in harm to users of the car park, which would be increased by service and emergency vehicles seeking access to the site. The inspector therefore considered that a safe access and exit could not be provided.
 4. The inspector also noted that the loss of car parking spaces caused by the proposed access could also result in more vehicles parking on the main road. The inspector accepted that the owner of the car park had given permission for the applicant to use this in order to gain access to the appeal site. However, this would not prevent conflict with other users of the car park and was not legally binding in perpetuity if the land school change ownership in the future.
 5. The Inspector concluded that the proposal would conflict with adopted development plan policy TR2 in that it would fail to provide a clearly defined

and safe vehicle access and exit, together with adequate provision for service and emergency vehicles. Hence the proposed development is unacceptable and the appeal was dismissed.

Recommendation

6. The decision be noted.

Report Prepared by Mr Charlie Colling, Area Planning Officer

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DEVELOPMENT CONTROL COMMITTEE

26th APRIL

REPORT OF THE DIRECTOR OF ENVIRONMENTAL SERVICES

APPEAL DECISION

**Appeal against an Enforcement Notice issued by Derwentside District Council
in respect of the change of use of land west of Derwentcote Lodge,
Hamsterley, for the kennelling, training and exercising of dogs.**

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1. Planning permission was granted in 2003 for the erection of an agricultural building on the above land subject of conditions. The conditions attached to the permission permitted the use of the building for the keeping of up to ten horses and five dogs with the land to which the application site relates to be used for the training and grazing of horses and training of dogs and not for any other purpose. Conditions were attached which required the written permission of the Local Planning Authority before any caravans, portable buildings or other moveable structures could be brought onto the land. The written permission of the Local Planning Authority was also required before any enclosures, exercise arenas or compounds could be erected on the site. Planning permission reference 1/2003/1116/DM refers.
 2. Planning permission was refused in 2005 for a change of use of an existing non-agricultural building to kennel, erection of breeding kennel, enclosures associated with paddock pens, access road and car park (reference 1/2005/0638/DMFP).
 3. On the 31st August 2006 following continued complaints from local residents Members authorised planning enforcement action be taken regarding an unauthorised change of use of the land for the kennelling, training and exercise of dogs. A planning enforcement notice was issued on the 12th September 2006 which required the removal of all dogs from the land, a cessation of the use of the land for the kennelling, training and exercise of dogs, the removal of all kennels from the building, removal of all paddock pens and the container, a reduction in the area of hard standing so as not to exceed 265 square metres and the removal of the excess material brought onto the land for that purpose. The compliance period was three months.
 4. The Notice was subject of an appeal on the following grounds:
 - (f) The steps required to comply with the requirements of the notice were excessive, and lesser steps would overcome the objections.
 - (g) That the time given to comply with the notice was too short.

5. The appeal decision which was issued on the 28th March 2007 upheld the enforcement notice and directed that the requirements of the enforcement notice be varied and substituted by the following:
- (a) In respect of the kennelling, training and exercise of dogs, cease using the land and building other than in accordance with the terms and conditions of planning permission reference number: 1/2003/1116/DMFP dated 18th December 2003.
 - (b) Cease using the building for the keeping of more than five dogs;
 - (c) Remove all paddock pens and container;
 - (d) Reduce the area of hard standing to an area not exceeding 265 square metres;
 - (e) Remove all material brought onto the land for the purpose of creating a hard standing other than that required for (d) above.

The time for compliance was increased from three months to four months.

Comment

6. It had been the Council's case that the current use of the building and land was that which had been refused in the 2005 application and not that which had been approved in the 2003 permission. The Inspector took the view that, as the Council had not sought the removal of the building this had the effect of implementing the 2003 permission when the notice takes effect. He varied the requirements of the notice in order to comply with the conditions attached to that permission.
7. During the Inspectors visit the building was found to house 37 dogs as part of a licensed greyhound-training establishment. As the appeal was not contested on ground (a) that planning permission should be granted for what is alleged in the notice; the use of the building and land for such a purpose cannot continue following the period of compliance.
8. In varying the requirements of the notice to comply with the conditions of the 2003 permission, no more than five dogs can be kept in the building and the infrastructure on the land associated with its use in connection with the licensed greyhound-training establishment must be removed.

Recommendation

9. Members are asked to note the contents of this report.

Report prepared by A.M. Shepherd, Planning Enforcement Officer.