



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2011/0178/DM
FULL APPLICATION DESCRIPTION:	Part- retrospective application for the change of use from residential to a mixed use of residential and keeping of animals with associated hardstanding, fencing and outbuildings. Erection of lean-to extension to dwelling
NAME OF APPLICANT:	Mr Stephen Grinham
ADDRESS:	Oakwood, Redford, Hamsterley, Co Durham DL13 3NL
ELECTORAL DIVISION:	Hamsterley
CASE OFFICER:	Adam Williamson, Planning Officer 03000 260826 adam.williamson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The application site consists of a detached bungalow located within Hamsterley Forest, and is part of a small row of dwellings which previously housed Forestry Commission workers. The dwellings are accessed via a forest road, with a turning head at the end of the 'street'. To the north of the site, the neighbouring dwelling, 'Pikestone' is approximately 21 metres from the northern boundary of the site. To the south of the site, the neighbouring dwelling known as 'Brownlaw' is approximately 10 metres from the southern boundary of the site.
2. The dwellings at Redford are characterised by their large east facing rear gardens with the forest beyond.

The proposal

3. The applicants keep 16 Siberian Huskies, as well as 6 pet dogs, goats, miniature sheep, chickens, and various other smaller pets including ferrets and rabbits.
 4. The application seeks retrospective planning permission for the mixed use concrete hard standing, the kennels, the chicken houses and wooden sheds. Three sheds including the lean-to attached to the dwelling would also be demolished and a replacement lean-to extension to the dwelling provided to house goats. The proposed lean-to extension has not yet been constructed and as such planning permission is sought for this element.
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5. The proposed extension would measure 4.2 metres in width, 6 metres in length, and 2.5 metres to the highest point. The plans indicate that the proposed extension would be constructed from rendered blockwork with a steel sheet roof.
 6. The applicant has stated that the animals at the site are kept as a hobby, with the Siberian Huskies being raced and the chickens are showed.
 7. This application has been reported to the Committee at the request of Councillor Hugill.
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PLANNING HISTORY

8. The applicant has lived at the site since 14.07.2008. Since this time, both the Public Protection team and the Planning Enforcement Officer have been in discussions with the applicant in respect of disturbance and planning issues at the site. Following these discussions, this application has been submitted to regularise the site in its current form.
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PLANNING POLICY

NATIONAL POLICY

9. *Planning Policy Statement 1 (PPS1): Delivering Sustainable Development* – sets out the Governments overarching planning policies on the delivery of sustainable development through the planning system.
10. *Planning Policy Guidance 24 (PPG24): Planning and Noise* - outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

REGIONAL PLANNING POLICY

11. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008*, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
12. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies. The Localism Act has been passed, however Regional Spatial Strategies have not yet been revoked.
13. None of the policies are considered relevant;

LOCAL PLAN POLICY: (Teesdale District Local Plan)

14. *Policy GD1 General Development Criteria*- Sets out the General Development Criteria against which applications are determined.
15. *Policy ENV1 Protection of the Countryside* Seeks to protection of the countryside from inappropriate development.
16. *Policy ENV3 Areas of High Landscape Value* Seeks to protect areas of special landscape character.
17. *Policy H11 Residential Extensions* states extensions to residential properties should respect the amenity of adjoining properties and should not be detrimental to the character of the existing building or surrounding properties.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at www.durham.gov.uk

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

18. None requested.

INTERNAL CONSULTEE RESPONSES:

19. *Public Protection* recommend that the site is operated according to the Site Management Plan, produced by George F White, dated May 2011, in order to prevent potential impact upon nearby receptors. Any revision or amendment of this document shall be submitted for consideration.
20. With regard to noise issues from the site, Environment Protection currently have no on-going noise investigations relating to dog barking or noise from other animals that are present on the site. Previous noise complaints have been investigated by officers within the team and the existence of a statutory nuisance has not been established. It has been identified within the site management plan to control feeding times as this is the predominant time when dog barking can occur. Waste control is acceptable.

PUBLIC RESPONSES:

21. Occupiers of neighbouring properties have been notified in writing and a site notice was also posted.. 5 letters of objection have been received from neighbouring residents. These object to the dog barking, especially at meal times, which is said to detract from the tranquillity of country living they expect in this location. There are also concerns about the smell of dog waste, the effect of seepage into the fresh water spring which supplies water to all the properties at Redford, the capacity of the water supply to sustain the extra demand from the hydro pool, hosing down the kennels and supplying water to the animals, as well as an increase in vermin and flies associated with all the animals on the property. The small holding character of the property is also considered to be out of keeping with the other residential properties.

APPLICANTS STATEMENT:

22. The applicant's have 16 Siberian Huskies, as well as pet dogs, goats, miniature sheep, chickens and various smaller pets. They are all kept as a hobby; the Siberian Huskies are raced and the chickens are shown at competitions.
23. The application is to regularise the site in its current form, which would allow the Council to attach conditions that control future development. The use of the site is as a hobby and is not commercial in any way.
24. Following discussions with the Council, a Site Management Plan has been submitted with the application to mitigate against any potential amenity issues.
25. The development has been demonstrated to comply with the requirements of local policies as there is no adverse impact on the character of the area or residential amenity.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at. <http://teesdale.planning-register.co.uk/PlanAppDisp.asp?RecNum=20184> Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

26. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the impact upon the landscape, and the impact upon its surroundings.

Principle of development

27. The keeping of a small number of animals at a residential property for the personal enjoyment of the occupier would not normally constitute a material change of use of that property. Dogs are kept both in the house and a significant part of the rear garden. The dogs themselves are generally significant in size. At what point a material change of use takes place is a matter of fact and degree, and regard must be had to the size of the property and to whether a change in the character of the premises has occurred.
 28. However, in this case there are 16 Siberian Huskies, as well as pet dogs, goats, miniature sheep, chickens and smaller pets including ferrets and rabbits kept at the property, and it is considered that this exceeds the number of such animals that one might normally expect to be found at a residential property for the personal enjoyment of the occupier.
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29. Furthermore, the fact that such substantial buildings are needed to house the dogs and other animals on the site and that there have previously been complaints to Environmental Health Officers on the grounds of noise nuisance caused by the dogs barking, supports the view that this level of activity goes above and beyond what might be accepted as an everyday residential use. It is therefore considered that a material change of use of the property has occurred in this case. The acceptability of the development depends whether any potential impact on the amenity of occupiers of neighbouring properties can be controlled and whether the proposal is visually acceptable.

Impact upon the landscape

30. The application site lies within the open countryside in an area of High Landscape Value as identified under policy ENV3 of the Teesdale District Local Plan. Ordinarily, the structures that have been erected on the site to the rear of the property constitute permitted development, and therefore would not normally require planning consent. However in this instance, given the number of dogs kept on the site, the residential unit is considered not to hold any “incidental” rights, as it is now a mixed residential use in nature. As such they require planning consent.
31. The buildings at the property are well screened from any public vantage points, and are part screened from the highway by the existing boundary treatment. As the buildings are located within an enclosed garden, they are not visually detrimental to the setting or appearance of the open countryside, nor are they detrimental to the area of high landscape value. Visually, the character of the property is not so out of keeping with other neighbouring properties, that the degree of harm in this respect is significant. The proposed extension would be acceptable. This accords with policies GD1, ENV1 and ENV3 of the Teesdale District Local Plan.

Impact upon surroundings

32. Concerns have been raised from neighbouring residents in respect of the noise disturbance from the keeping of dogs on the site, although it appears this concern is mainly in respect of feeding times. This is a valid concern considering the current size of the husky pack (16 dogs) and size of the dogs themselves. However, significant weight must be given to the fact that the Council's Environment Protection team have advised that they currently have no on-going noise investigations for the site relating to dog barking, or noise from other animals that are present on the site. Previous noise complaints have been investigated by officers within that team and the existence of a statutory nuisance has not been established. The Public Protection Officer has confirmed that there have been no further complaints about the site since 11th October 2010.
33. It is noted that barking by the husky dogs at feeding times has been considered and identified within the submitted Site Management Plan, which seeks to control feeding times and supervision, as well as ensuring the Huskies follow a structured day in order to minimise any noise disturbance.
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34. The Site Management Plan has been drawn up following discussions with Environmental Protection Officers who are satisfied that providing the site is operated according to this document, there will be no harmful impact upon nearby residential receptors. Environment Protection are also satisfied with the waste disposal arrangements and that there are no unacceptable issues with smell or vermin. These are in any case matters that can be controlled by Environmental Protection outside the planning system if it ever became a problem.
35. Nevertheless, the number of dogs kept on this site, with neighbouring properties either side, is still considered to be more than one would normally expect on such a property and regard must be given to the isolation and otherwise tranquil nature of the area. This is something that has attracted many of the neighbouring residents to this area. Barking from such a large number of dogs could have some effect on the tranquillity of the area, even if infrequent.
36. The applicants are prepared to accept some level of control by the Local Planning Authority on the number of dogs to be kept on site. For them to carry on competing in husky racing they will require a minimum of 12 Huskies, which would be a reduction from 16. They are also prepared to reduce the number of house dogs from 6 to 2. All this would be achieved by natural wastage so that dogs would not have to be rehoused or destroyed. This should be achievable within only a few years. It is considered prudent to attach a condition to any granting of planning permission to this effect.
37. As previous noise complaints at the property have been investigated and found not to represent a statutory nuisance, the reduction over time in the number of dogs on the site would further help the situation with the neighbours, in addition to adherence to the Site management Plan. It is therefore considered that disturbance to the occupiers of neighbouring properties can be kept to an acceptable level and that subject to conditions the development would not undermine the objectives of policy GD1 of the Teesdale District Local Plan.

Other issues raised

38. Concerns have also been raised in respect of the impact on the private water supply. The use is already in existence and no evidence has been presented to suggest the use is having an impact on the quality and supply of water to the properties. The number of dogs is also going to be reduced. This is ultimately a private matter and little weight can be given to these concerns.

CONCLUSION

39. The Environment Protection team currently has no on-going noise concerns for the site relating to dog barking or noise from other animals that are present.
40. Previous noise complaints at the property have been investigated and found not to represent a statutory nuisance. It is considered that the implementation of the submitted Site Management Plan and some level of control by the Local Planning Authority on the number of dogs to be kept on site, would keep disturbance to the occupiers of neighbouring properties to an acceptable level.

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41. The structures on the site are well concealed and do not cause harm to the character or appearance of the surrounding area. The proposed extension would also be acceptable.
42. Regard has been given to the objections raised, however it is considered that these are not sufficient to warrant refusal of the application.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan Ref No.	Description	Date Received
	Red line site plan	09.06.2011
2213/004A	Building elevations	21.07.2011
2213/007A	Oaklea Elevations	21.07.2011
2213/006	Proposed block plan	09.06.2011
2213/002	Site elevations	09.06.2011

Reason: To define the consent and ensure that a satisfactory form of development is obtained

2. This permission shall ensure for the benefit of Mr Stephen Grinham and Mrs Nicola Grinham only and not for the benefit of the land or any other persons having an interest therein. When the land ceases to be used by Mr Stephen Grinham and Nicola Grinham, the use hereby permitted shall cease and all materials, enclosures and buildings brought on to the land in connection with the use shall be permanently removed.

Reason: In the interests of visual amenity in accordance with Policy GD1 and ENV1 of the Teesdale District Local Plan.

3. Within 3 years of the date of this permission and subject to the provisions of condition 2, the number of dogs kept at the property known as Oakwood shall be no more than 14 in total.

Reason: In the interests of residential amenity in accordance with policies GD1 and ENV1 of the Teesdale District Local Plan.

4. Within 56 days of the date of this permission, details of foul and surface water drainage for the kennels shall be submitted to and approved in writing by the local planning authority, and shall be retained in accordance with the approved details.

Reason: In order to ensure that adequate drainage facilities are provided in the interests of the amenity of the surrounding area in accordance with policy GD1 of the Teesdale District Local Plan.

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5. The development hereby approved shall be carried out in strict accordance with the Site Management Plan prepared by George F White, dated May 2011, unless otherwise agreed in writing. In the event that any amendments to the Site Management Plan are necessary, the development is carried out in accordance with the approved amended Site Management Plan.

Reason: In the interests of residential amenity in accordance with policies GD1 and ENV1 of the Teesdale District Local Plan.

REASONS FOR THE RECOMENDATION

- I. The proposed considered acceptable having regard to policies GD1, ENV1, ENV3 and H11 of the Teesdale District Local Plan.
 - II. It is considered that the implementation of the submitted site management plan and that the applicants are prepared to accept some level of control by the Local Planning Authority on the number of dogs to be kept on site, disturbance to the occupiers of neighbouring properties can be controlled and kept to a minimum.
 - III. The buildings at the property are well screened from any public vantage points The buildings are located within an enclosed garden, and are not visually detrimental to the setting or appearance of the open countryside, nor are they detrimental to the area of high landscape value.
 - IV. The objections which have been received have been given due consideration, however the issues raised do not provide sufficient justification for refusal of the application. On balance the scheme is considered to be acceptable. The proposals are considered to accord with both local and national planning policies, and would constitute an acceptable form of development subject to conditions
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BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- Teesdale District Local Plan 2002
- Planning Policy Statements / Guidance, PPS1,
- Responses from Public Protection
- Public Consultation Responses





Planning Services

Part retrospective application for the change of use from residential to a mixed use of residential and the keeping of animals with associated outbuildings. Erection of lean-to extension to dwelling at Oakwood, Redford, Hamsterley 6/2011/0178/DM

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Comments

Date 5th December 2011

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