

Development Control Committee 6 December 2023

WORKING PAPER 1

Planning Application DC/23/0783/VAR – Doctors Hall, Bury Lane, Stanton

Date registered:	27 July 2023	Expiry date:	22 September 2023 EOT 13 December 2023
Case officer:	Connor Vince	Recommendation:	Approve application
Parish:	Stanton	Ward:	Stanton
Proposal:	Planning application - application to vary conditions 2 (approved plans), 4 (insulation details) and 6 (breeding bitch numbers) of DC/17/1652/FUL for the material change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (a) 2.1 metre high close boarded timber fence and concrete post; (b) car parking area; (c) 2no. dog kennels and (d) 1no. stable block as amended by plans received 15 November 2023.		
Site:	Doctors Hall, Bury Lane, Stanton		
Applicant:	Ms Wayne Chrzanowski		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

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Background:

This application has been referred to the Development Control Committee following consideration by the Delegation Panel. Stanton Parish Council object to the application, contrary to the officer recommendation for APPROVAL.

The application was originally validated as a 'FULL' planning application and made available for public viewing. Given the proposed changes are to an existing permission, the application was subsequently changed to a variation of condition 'VAR' application. Whilst this was occurring in discussion with the planning agent, the application remained accessible on the West Suffolk Public Access Website, with an Officer Update document to allow members of the public the opportunity to comment. Once the application type and relevant plans were uploaded and changed, a full 21-day consultation was undertaken.

Planning permission was granted on 29 November 2017 for the change of use of the land from paddock to the breeding and keeping of dogs comprising a 2.1 metre high close boarded timber fence and concrete post, car parking area, two dog kennels and a stable block. This application seeks variations to condition 2, 4 and 6 of the 2017 permission. The application is partially retrospective.

A Committee site visit took place on Monday 30 October 2023.

Proposal:

1. The application seeks the variation of conditions 2 (approved plans), 4 (insulation details) and 6 (breeding bitch numbers) of DC/17/1652/FUL. The application proposes to raise the number of breeding bitches from ten to twenty, alongside incorporating improved sound attenuation measures, which have been exhibited via the accompanying Noise Impact Assessment and amended plans.
2. The changes to the approved plans include alterations to the approved stable block, which is proposed to function as a whelping kennel, as well as upgrading the fencing at the site to acoustic fencing, landscaping changes and insulation details for the kennel blocks.
3. The application is partially retrospective. The whelping block, breeding bitch numbers and insulation details have been implemented, but not in accordance with the approved plans and relevant conditions. These elements are therefore being considered as part of this application to reflect what has been built on site currently, alongside proposed changes as a result of the landscaping and the acoustic fencing, which have not been implemented in association with the increase in breeding bitch numbers.

Application supporting material:

4. Application Form
Planning Statement
Covering Letter
Noise Impact Assessment

Location Plan
Block Plan
Floor Plans and Elevations
Stable Block Floor Plans and Elevations

Site details:

5. The application site is situated within designated countryside, to the south of one of the defined settlement boundaries of Stanton. The prevailing land use in the immediate vicinity is predominantly agricultural with two relatively isolated dwellings, one of which being the applicant's, to the immediate south west of the application site.

Planning history:

6.

Reference	Proposal	Status	Decision date
DC/21/0688/HH	Householder planning application - first floor side extension with balcony.	Application Granted	20 May 2021
DC/22/1476/VAR	Application to vary condition 6 of DC/17/1652/FUL to change from 10 breeding bitches on the site to 20 to allow for the material change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (a) 2.1 metre high close boarded timber fence and concrete post; (b) car parking area; (c) 2no. dog kennels and (d) 1no. stable block	Application Withdrawn	18 October 2022
DC/17/1652/FUL	Planning Application - Material Change in the use of the land from paddock to the breeding and keeping of dogs comprising the following: (i) 2.1 metre high close boarded timber fence and concrete post; (ii) car parking area; (iii) 2no. dog kennels and (iv) 1no. stable block (Part Retrospective)	Application Granted	29 November 2017

Consultations:

7. Stanton Parish Council: Objection - Stanton Parish Council unanimously objected to this application on the basis of noise from barking dogs, and the applicant currently not adhering to the permitted conditions of 10 breeding dogs.

8. Suffolk County Council – Highways: Notice is hereby given that the County Council as Highway Authority does not wish to restrict the grant of permission due to the application not having a detrimental effect upon the adopted highway.

9. Waste Management: Please provide bin locations and capacities

10. Private Sector Housing and Environmental Health: No objections subject to the conditions identified below.

Representations:

11. Letter of objection from occupier of 'Stanton Manor', who objects for the following reasons:

- Noise Impacts
- Failure to adhere to planning conditions and enforcement notices

Policy:

13. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.

14. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Vision 2031 have been taken into account in the consideration of this application:

15. Rural Vision 2031

- RV1 Presumption in Favour of Sustainable Development

16. St. Edmundsbury Core Strategy:

- Core Strategy Policy CS3 - Design and Local Distinctiveness

17. Joint Development Management Policies Document (adopted February 2015):

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM13 Landscape Features
- Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

Other planning policy:

18. The NPPF was revised in September 2023 and is a material consideration in decision making from the day of its publication. Paragraph 219 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the

Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

19. The issues to be considered in the determination of the application are:

- Principle of Development
- Amenity Impacts
- Design and Impact on Character of the Local Area
- Other Matters

Principle of Development

20. Having regard to Section 73A of the Town and Country Planning Act 1990 (TCPA), this planning application seeks permission to vary conditions 2, 4 and 6 of DC/17/1652/FUL which refer to the approved plans, sound insulation and the maximum number of breeding bitch numbers respectively. Section 73A of the Town and Country Planning Act 1990 allows for retrospective planning applications to be made in respect of development which has been carried out without permission or complying with conditions.

21. As this application seeks to vary specific conditions via the submission of further details, with minor internal and external changes to the buildings approved as part of the previous permission, and alongside a change in the wording, there is no need to reconsider the principle and detail of the application again, unless there have been significant changes in circumstances on site, and/or significant changes to the development plan or national policy. This is not the case here.

22. For context, planning permission was granted via reference DC/17/1652/FUL for the change of use of the site from paddock land to a dog breeding use, including a 2.1 metre high close boarded timber fence with concrete posts, car parking area, two dog kennels and a stable block. This included a suite of conditions, which will be discussed in more detail below. However, the 2.1 metre fence has been installed, as well as the dog kennel buildings but the stable block has not been constructed according to the approved plans and is being used currently as a whelping kennel.

23. Conditions were imposed as part of the previous permission restricting the number of breeding bitches to 10 on site, as well as requiring the submission of sound insulation details for the kennel buildings and for the landscaping, as proposed on the plan, to be installed by the end of the first planting season. These conditions, as detailed above and discussed below, have not been adhered to. This application proposes that they be varied. The considerations here therefore concern whether the supplementary information relating to noise and sound attenuation are sufficient to justify an increase in the number of breeding bitches from 10 to 20, alongside the re-use of the stable block and alterations to the landscaping, is acceptable.

24. Policy RV1 states "when considering development proposals the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework." Moreover,

Core Strategy Policy 3 states "proposals for new development must create and contribute to a high quality, safe and sustainable environment."

Amenity Impacts (Conditions 2, 4 and 6)

24. Planning Policy DM1 provides, in line with the spirit of the 2023 National Planning Policy Framework, that planning permission should be granted unless material considerations indicate otherwise. Commensurate with DM1, policy DM2 states that proposals should not negatively impact residential amenity and should, where possible, ensure appropriate mitigation measures are employed to effectively minimise any potential harm which may arise from the development.

25. Policy DM14 states development will not be permitted where, individually or cumulatively, there are likely to be unacceptable impacts arising from the development on... the natural environment, general amenity and the tranquillity of the wider rural area.

25. The development is on land adjoining the applicant's home, to the north-east. Stanton Manor is the closest residential dwelling to the application site, approximately 85 metres south-west of the host dwelling Doctors Hall. The nature of the business is not one which might ordinarily be capable of taking place within an urban area due to land constraints and amenity implications. These factors add further weight in support of the proposal.

26. Condition 2 refers to the approved list of plans of the previous approval, DC/17/1652/FUL. As amended plans have been received, this condition is proposed to be varied as part of the current submission.

27. Condition 4 of planning permission DC/17/1652/FUL states:

"Before the use hereby permitted is first commenced, sound insulation shall be provided to the internal kennel walls in accordance with details which first shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the insulation shall be retained in its approved form."

28. These details were not discharged via discharge of condition application and there has therefore been a breach in condition as the use has otherwise been implemented. These details have been submitted and are being considered as part of this variation of condition application and are discussed alongside condition 6, which states:

"No more than a total of 10 breeding bitches shall be kept or kennelled on the site at any one time."

29. As per paragraph 1.3 on Page 7 of the Noise Impact Assessment (NIA), an earlier NIA was undertaken by HA Acoustics in 2017 for this site where noise monitoring was undertaken prior to dogs residing on-site. The assessment relating to such accounted for 20 dogs being present at the site. Planning permission was granted for up to ten breeding bitches (But no total limit on the number of dogs since it is impossible to predict the size of any individual litter) at the kennels in 2017 as this was the number confirmed by the applicant at the time of that proposal.

30. However, the applicant has stated that they had always wished to have 20 breeding bitches at the site, and which would therefore in all likelihood include

more total dogs than the previous noise report had already accounted for. The noise report submitted with the current application has therefore been updated to take 20 breeding bitches into account.

31. The proposed physical changes primarily concern upgrading the mass of the existing 2.1 metre boundary fencing so as to comprise an acoustic barrier, with reference to the increase in the number of breeding bitches and their location within the stable block in the southern part of the site. Stanton Manor is the closest residential dwelling to the site and has been specifically considered in relation to the re-use of the stable block as a whelping kennel, which would be approximately 85 metres north-east of the main Stanton Manor dwelling.

32. All kennels have a tin roof covering, beneath which is a soft roll thick insulation of 250mm and then 18mm plywood which is painted. The walls are ecoclad shiplap panels, with a vapour membrane. This is affixed to 10mm plywood, which in turn is affixed to a timber stud frame infilled with a mixture of mineral roll insulation and to the whelping unit, insulation batts, similar to elotex insulation sheeting. Then to the inner framework is 10mm plywood to all kennels; then either painted or a plastic PVC hygiene cladding, which is suitable for disinfectant spray down.

33. The submitted acoustic information has been assessed by the Council's Private Sector Housing and Environmental Health (PSHEH) Officer, who has visited the site as part of their consideration of this proposal. The Noise Impact Assessment confirms that the kennels will be sufficiently insulated to mitigate against any adverse noise impacts. A condition has been agreed requiring these works to be completed within four months from the date of this decision.

34. The PSHEH Officer has reviewed the aforementioned Noise Impact Assessment and states they are satisfied that the updated Noise Impact Assessment builds on the previous report, with specific reference to the insulation of the kennel buildings which are *"of a suitable mass and composition, so as to significantly reduce down any internal kennel noise."*

35. The report also confirms that *"instantaneous noise levels have the potential to cause local residents disturbance and therefore it is recommended that the clients business produces a noise management plan which details the controls in place, to help address dogs barking occurrences"*, and goes on to include recommended paragraphs to assist the applicant and provides guidance on typical methods for controlling noise arising from kennel activities. This Noise Management Plan is also recommended to be imposed via condition by Officers below.

36. Previous comments made by the PSHEH Officer referred to the Environmental Health Team having received several complaints alleging noise from barking dogs at the kennels causing a nuisance. Officers understand these complaints relate to the sound of dogs barking outside i.e. not when housed in the kennels at night time, and with the PSHEH Officer having visited the premises, they are satisfied it is the 'instantaneous noise' of dogs barking that is causing a disturbance rather than prolonged and excessive / uncontrolled barking.

37. The Noise Impact Assessment establishes that prolonged periods of barking are not readily experienced, more that instantaneous barking appears to be the observed issue. The report goes onto state at paragraph 7.4 that, *"acoustic mitigation is required"* and is adequately proposed. *Mitigation is given in the form of a 2.1m acoustic barrier, to be installed on the outside edge of the existing*

concrete post and contractors timber fencing" which is proposed as part of this application as an upgrade to the previously approved fencing, as well as the sound insulation installed on the kennel buildings and whelping kennel building. The PSHEH Officer is satisfied that the existing contractor timber fencing panels can be upgraded to meet the criteria to be considered an acoustic barrier as described in paragraph 7.15 of the V2 Report.

38. Comments have also been received regarding the insulation measures of all kennels, including the whelping kennel to the south of the site. The sound insulation materials of the kennel walls are of a suitable mass and composition, so as to significantly reduce down any internal kennel noise as per paragraph 34 of this report. Acoustic predictions are that internal kennel noise would not be observable at the nearest noise sensitive receptor.

39. To conclude, the PSHEH Officer is content that the measures identified, which are the upgrading of the fencing to acoustic fencing and sound insulation measures to the kennel buildings are acceptable in terms of noise impacts, sufficient to mitigate for any additional noise arising as a result in the increase in the number of breeding bitches at the site.

Design and Impact on Character of the Local Area (condition 2)

40. There are four kennels on-site. This includes the breeding/mating kennel, the general kennel and the resting dogs kennel. The buildings, in terms of their design, form and scale are entirely commensurate with typical rural buildings and they do not represent additions to the landscape which give rise to an unacceptable degree of harm which cannot be mitigated against. In any event they have previously been considered and approved as being acceptable, and so consideration of such matters is not necessary in relation to a variation of condition application. The modest scale and complete enclosure of the site serves to prevent the buildings from being unduly dominant; as does the physical orientation of the compound.

41. Policy DM13 states Development will be permitted where it will not have an unacceptable adverse impact on the character of the landscape, landscape features, wildlife, or amenity value

42. With respect to the visual amenity of the area and the potential impact of the proposal on the aesthetic profile of the site a landscaping plan was previously approved as part of the original planning permission. The landscaping has not been implemented as there is therefore a breach in condition 3 of DC/17/1652/FUL. However, the landscaping has been amended and is therefore considered with this proposal to reflect the current arrangement of the site. The landscaping plan includes a traditional, double staggered East Anglia mixed species hedgerow and eight trees which are to be planted within the site. What will now be condition 2 of this proposal has therefore been amended to ensure that evidence is submitted to the LPA that the planting will be implemented by the end of the next planting season, being the end of March 2024, and which has been agreed by the applicant. Given the upgrades to the noise attenuation of the site and the general rural landscape surrounding the site, the changes to the landscaping proposed are considered acceptable.

42. Reference has been made to the outline planning application DC/19/2481/OUT by the Private Sector Housing and Environmental Health Officer directly to the north of the site, which proposes the provision of up to 220

residential dwellings and is currently undetermined. That application has been considered as being relevant to this variation of condition application, as noted by the Private Sector Housing and Environmental Health Officer. The noise mitigation measures are considered to be acceptable accounting for the potential residential development to the north, noting that the application has not been determined and, in the event that it is determined positively, a reserved matters application would then be required.

43. Amended plans have been received from the agent which reflect the stable block building currently on the site, which differs to that approved as part of the previous application. The building shown on the plans now matches that previously approved in terms of scale, but differs in terms of external appearance and materials. Officers do not consider this alters the assessment of the application, with particular reference to noise impacts associated with its use. No further changes are to be made to the buildings on the site, other than those mentioned above and, overall, the effects upon character with reference to Policy DM2 and DM5 can be considered satisfactory.

Other Matters

44. Concerns have been raised regarding the operation of a dog grooming service at the site. Officers have liaised with the agent regarding this and have been informed that the grooming use has ceased whilst the current application is being determined. The extent to which that use even requires planning permission is dependent on the extent of the use, and whether it would be ancillary to the existing dog breeding business. Given the current application is for a variation of condition to the previous approval, the LPA would not be able to add this to the current application for consideration. If the grooming use recommences then the LPA would investigate this matter separately to the current application in terms of whether or not planning permission is required.

Conclusion:

45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions be made in accordance with development plans unless there are material considerations that indicate otherwise.

46. At the time the original application was determined (DC/17/1652/FUL) officers considered that the restriction on the number of breeding bitches to ten was acceptable, given the information provided at that time and the lack of sound attenuation details provided, and which were then secured via condition 4. The proposed variation of condition application has been accompanied by an updated Noise Impact Assessment alongside sound attenuation measures to be incorporated into the use of the site, which are considered acceptable by the Private Sector Housing and Environmental Health Officer. Subject to the imposition of the conditions identified below in relation to securing these measures, the proposal is considered to be in accordance with the relevant Joint Development Management Policies, in particular DM2 in relation to amenity impacts.

47. In conclusion, the detail of this variation to the approved development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

48. It is recommended that planning permission be **APPROVED** subject to the following conditions:
1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Reason: To define the scope and extent of this permission.

Reference No:	Plan Type	Date Received
EP727-17-01 Rev A	Location Plan	18.05.2023
EP727-17-02 REV C	Proposed Site Plan	15.11.2023
EP727-23-03 REV B	Proposed Elevations & Floor Plans	15.11.2023
EP727-17-04 REV A	Proposed Elevations & Floor Plans	15.11.2023
HA/AE338/V2	Noise Impact Assessment	18.05.2023

2. All planting comprised in the approved details of landscaping (Drawing Number EP727-17-02 Rev C) shall be carried out in the first planting season (March 2024) with evidence submitted to and acknowledged in writing by the Local Planning Authority. Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To enhance the appearance of the development.

3. Within four months of the date of this approval, all of the noise protection and mitigation works associated with the development as detailed in the Healthy Abode (HA) Acoustics Report '*Noise Impact Assessment of Breeding Kennels Incorporating a 2.1 Metre Acoustic Barrier & Details on Sound Insulation to Support Discharge of Planning Consent Ref DC/17/1652/FUL, Condition 4*' (Reference HA/AE338/V2, Date 17 March 2023) shall be completed in their entirety in accordance with the approved details. Beyond this four month period, there shall be no dogs on site unless and until all acoustic measures have been completed in accordance with the submitted details.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

4. Notwithstanding the provisions of the Use Classes Order and the General Permitted Development Order 2015, the site shall be used for the purpose hereby approved, and for no other use.

Reason: In the interests of limiting the scope of this permission, in the interests of sustainable development.

5. No more than a total of 20 breeding bitches shall be kept or kennelled on the site at any one time.

Reason: In the interests of limiting the scope of this permission, in the interests of sustainable development and residential amenity.

6. The use hereby permitted shall only be undertaken by the owner and resident of the dwelling known as 'Doctor's Hall' as shown on the land edged in blue on drawing number EP727-17-01 Rev A.

Reason: Reason: In the interest of residential amenity in accordance with Policy DM2 of the Joint Development Management Policies Local Plan

7. Within 6 months of the date of this approval, the completion of the works shall be verified on site by a specialist noise consultant and the Local Planning Authority shall be notified in writing of the completion and verification of the works. Thereafter the approved works shall be retained.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

8. Within 4 months of the date of this approval, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall identify management practices to mitigate noise emanating from the development, and such practices shall be implemented in accordance with the approved plan at all times.

Reason: To protect the amenities of occupiers of properties in the locality, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/23/0783/VAR](#)