

UTT/12/5584/FUL (Great Dunmow)

(Referred to Committee by Cllr Mackman . Reason: Concerned about the fact it seems to be a retrospective application and some apparent discrepancies in the information provided particularly with regard to parking arrangements and potential noise impact.

PROPOSAL: Change of use of detached outbuilding which encloses a pool to use as a dog hydrotherapy and exercise practice.

LOCATION: 5 The Dell, Great Dunmow, Essex, CM6 1HW

APPLICANT; Ms C Littlemore

AGENT: Mr D Hackett

GRID REFERENCE: TL

EXPIRY DATE: 01.01.2013

CASE OFFICER: Mrs M Jones

1.0 NOTATION

1.1 Within Development Limits.

2.0 DESCRIPTION OF SITE

2.1 The application site is located on the northern side of The Dell and is the last property in this small cul-de-sac of modern houses. The property abuts a paddock area and there is a close boarded fence separating the property from the paddock. To the rear of the site is the Scout Hall and associated land and there is a mature hedge along this boundary. Within the garden is a large outbuilding constructed with board and corrugated plastic and this is the building the subject of this application. Adjacent to the house outside its curtilage is an area of land that has a stables building located on it and a manage. To the front of the stables is a large area of hard standing.

3.0 PROPOSAL

3.1 The proposal is for change of use of a detached outbuilding (located within the garden of 5 The Dell) which encloses a pool to use as a dog hydrotherapy and exercise practice.

4.0 APPLICANTS CASE

4.1 Design and Access Statement (summary) Please see main file for full details.

5.0 RELEVANT SITE HISTORY

5.1 UTT/1188/12/CLE - The application is for a Certificate of Lawfulness for Existing Development made under Section 191 of the 1990 Act. It relates to an existing outbuilding which has been constructed around an above ground swimming pool. The building is constructed in board and clear corrugated plastic. It measures 6.1m by 8.9m and has a mono-pitched roof with a front eaves height of 2.6m and a rear eaves height of 2.9m. Approved August 2012.

UTT/0944/82/FUL: Proposed stables and open area for storage conditionally approved 1982.

UTT/0982/99/FUL: Variation of personal use condition to allow use by occupiers of 5 The Dell conditionally approved 1999.

UTT/0527/00/FUL: Formation of manage and fence enclosure conditionally approved 2000

UTT/1782/04/FUL: Extension to stables approved 2004

UTT/0674/05/FUL; Extension and conversion of existing garage approved 2005

6.0 POLICIES

6.1 National Policies

- NPPF- National Planning Policy Framework

6.2 East of England Plan 2006

- Policy SS1 - Achieving sustainable Development
- Policy ENV7 - Quality in the Built Environment

6.3 Essex Replacement Structure Plan 2001

- N/A

6.4 Uttlesford District Local Plan 2005

- Policy S1 - Development Limits.
- Policy GEN2 - Design
- Policy GEN1 - Access
- Policy GEN4 - Good Neighbourliness
- Policy GEN8 - Vehicle Parking Standards

7.0 TOWN COUNCIL COMMENTS

7.1 No reply received.

8.0 CONSULTATIONS

Environmental Health

8.1 To be reported

9.0 REPRESENTATIONS

9.1 Six representations have been received.

- We have concerns about the noise of the dogs barking all day and into the evening especially in the summer when we like to sit in the garden in the peace and quiet and also parking would be a problem because we have no where to park now when get in from work as commuters park until about 6.30pm.
- It is a quiet residential estate, not a business estate.
- There will be an increase of traffic to a road which was built for the few houses down there with just a turn around at the bottom. I believe the pool has already been erected and certainly there has been advertising in the local free magazine. We have had no warning regarding this and as a residential area and quiet cul-de -sac do not believe a business should be set up in this address. I have four children and bought this house due to the fact no one would use our road as a drive through. I now have to stop my children going out in case of extra traffic who are not aware of the children in the houses down the Dell. In addition we already had our fence along our drive knocked down by a visitor to

the address due to cars being parked out on the road and causing it a problem for people to turn around in the road. Does this pool also include the business venture of dog training in their grounds which we had no warning of that has also meant extra cars travelling to this address on a weekly basis.

- I wish to object to the running of a business in a residential area, noise, days and hours of trading and light pollution.
- My concern is that a commercial business operating seven days a week, and being situated at the bottom of this quiet cul-de-sac, would have a considerable impact on the other properties here in The Dell, recently described by an estate agent as a 'desirable and sought after location'.
- There would obviously be a substantial increase in traffic, as well as in noise associated with the proposed business, especially if it expanded beyond the fairly modest forecast detailed in the application. I understand too, that should permission be granted for this business, further permission could then be sought at a later date to include other businesses in the same Use Class category - for instance Kennels were mentioned. I live at 1, The Dell and expect to be putting my property on the market at some time during the next year. My fear is that should this development go ahead it could be a deterrent to potential buyers, and could also lead to a reduction in the value of properties in the perhaps then, not quite so 'desirable vicinity'.

- In Section 3 the two tick boxes are incorrect as the building is complete (built in 2009, as stated in the Design and Access Statement) and this change of use to a business has occurred and they have been operational for approximately a year. I do not understand the answer in Section 11. It indicates there are 2 *on-site* parking spaces. They have only one off-road parking space on the drive at the front of the house (currently used by one of their lodgers). As noted in the Design and Access Statement they also have "*parking for in excess of 15 cars*" elsewhere on their property that is not covered by this application - that is the space currently used for parking by customers of both the Water Hounds hydrotherapy business and the Essex Flyers dog agility business.

I am concerned about the proposed hours of operation stated in Section 21 but will address this later.

The Design and Access Statement (page 7) states there is a "*turning area and recessed two vehicle parking spaces in front of 5 The Dell*". This is very concerning and self-contradictory as, if those parking spaces are used, it is clearly no longer useable as a turning area which prevents all users of The Dell from being able to turn at all. Therefore the following statement that "*clients arriving to bring and pick up their animals will be able to park in these areas without causing any inconvenience or obstructions to neighbours or the public highway*" is plainly wrong and misleading. As it is a narrow cul-de-sac, all vehicles using The Dell need to turn at some stage during their visit. The turning area outside 5 The Dell is the only possible place to turn in the whole road and it is therefore imperative it is never blocked.

The Dell is a narrow road and narrows even further in the small section of road at the end of the turning area which is directly in front of the gate of No.5 and the access to the carport of my property (10 The Dell) which I use every day as I park my car there. This is shown in the photo at the top of Page 2 of the Design and Access Statement – you can just see the entrance to my car port by the section of dropped kerb on the right.

If a car is parked immediately outside the gate I cannot access or exit my drive at all as the entrance is narrow and my car therefore has to be straight for a car length after exiting before it can *start* to turn. The presence of any vehicle there makes this an impossible manoeuvre and therefore this area cannot be a parking option for visitors to this business. The narrowness prevents all turning at the bottom of The Dell if the turning area is blocked by two parked vehicles. It is also very difficult with just one car parked there unless it is a small car parked tightly to both the back and side of the kerb. I have noted that a large proportion of visitors to both existing dog businesses at 5 The Dell (Water Hounds and Essex Flyers) use large vehicles such as estate cars, 4WDs, jeeps etc to transport their animals.

Problems concerning turning and car parking in The Dell are already a big issue for local residents and it is particularly annoying for myself when cars park outside my car port or the turning area is blocked by two cars or one large or badly parked vehicle. This happens regularly already, often due to the cars of the owners, their three lodgers and (non-business) visitors to 5 The Dell. This bad situation surely cannot be allowed to be made worse by a constant stream of business visitors.

The Design and Access Statement comments that *"the clients will be told to park in the street parking area directly outside the curtilage of the property"* and that they *"will be able to park in these areas"*. The street is, of course, outside the control of the owners of 5 The Dell who cannot know a space will be available for customers.

The Design and Access is therefore incorrect when it states on page 7 that *"only one client will be booked in ... at any one stage and therefore the number of parking spaces available will accommodate this arrangement"*. It goes on to prove it is incorrect by contradicting itself on Page 8 when stating *"there could be two cars parked at a time"*. There is no possible way that two cars can be parked outside the curtilage of 5 The Dell without causing traffic and parking problems.

They also state that *"If the Planning Officer considered this arrangement to be problematic then there is the potential to utilise part of the land that is currently ancillary and of agricultural use to 5 The Dell"*. I would potentially object to this also but do not need to go into detail as this land is clearly outside the red line plan submitted with this application and therefore cannot be included in any way within the application or permission.

I hope it goes without saying that a cul-de-sac of just eight houses is not a busy thoroughfare and so any business use like this has the potential to cause impact by significantly increasing the levels of traffic noise, noise from car door slams (two on each vehicle arrival and two on each exit) and disturbance to all other residents.

In summary, there is no practical or legal way for cars to park when visiting this business in the way proposed within the application and any usage would cause noise and disturbance to all residents of The Dell.

Before I start on this aspect I should perhaps point out that this is my 'specialist subject' as I am an Acoustic Consultant who specialises in environmental noise and has been commenting on noise issues with regard to planning applications for over 20 years, initially within the Environmental Health department of a Council and then in specialist consultancy since 1992.

I was shocked that the Design and Access Statement could include the comment that *"the nature and activity of the pool does not in itself create a noise which would cause a nuisance/harm or disturbance to surrounding neighbours"* when I have experienced the noise created and know how close other properties are. Despite being screened from the pool area we do hear noise from pool activity at our property – barking and the screaming / shouting of encouragement etc of the staff / dog owners. Noise levels must be higher at other properties (i.e. 1 and 3 The Dell and 24 -30 (evens) Tenterfields) which are much closer to the pool area and are significantly elevated above the pool area (The Dell is on quite a steep slope downwards) and therefore having a 'grandstand view' which reduces even any minor screening effects from garden fences etc.

Our home and those of our neighbours are in a quiet residential area on the very edge of town which, as the application states, is *"rural in nature"*.

I would have thought that there is therefore every possibility that this activity could cause a statutory nuisance or *"significant adverse noise impact"* as discussed in the recently published National Planning Policy Framework (NPPF, March 2012). This should be fully addressed in any planning application.

It is probably also worth pointing out that, to my knowledge, the nearest property (3 The Dell) has been unoccupied since the pool was constructed in 2009 and therefore the new owners will have had little experience of the potential issues.

I object to the granting of planning permission due to the issue of parking. There is already a significant problem with turning and access within The Dell and this proposed use will only make matters worse. There is no practical or legal way for cars to park when visiting the business in the manner proposed within the application. The manoeuvring and parking of vehicles as proposed would also cause significant disturbance and noise to a number of residents including ourselves.

Furthermore there are a number of factual inaccuracies within the application, particularly with respect to parking, which could mislead the reader (including potential objectors) to believe the issues are not as significant as they would be. I will leave you to consider whether this makes the whole application invalid.

The proposals also rely on factors outside the applicant's control (e.g. availability of parking spaces on a public road).

I have also given my opinion on the issue of noise from the actual usage of the pool.

Whilst it does not cause statutory nuisance or significant adverse impact at my property, this is not necessarily the case at other properties and I believe needs to be adequately addressed within the application rather than simply dismissed with a bland and incorrect statement that may again mislead the reader.

If, despite the above, you are still minded to grant planning permission then I would propose than conditions are placed with respect to the following:

Only one customer vehicle is permitted to be at the premises at any one time.

Only one or maybe two dogs are permitted to be within the facility at any one time (to include resident and customer animals). It is my experience that waiting dogs get apprehensive and excited and bark far more than the ones being exercised. Also two or more dogs can react off each other and bark far more than a lone dog. There is also a need to control the possibility of noisy 'pool parties'.

A tighter control on the hours of operation than those proposed as the noise and disturbance (including vehicles) would be considerably worse during the quiet evening and Sunday times proposed. I would suggest the standard working hours of 0900-1700 Monday-Friday and 0900-1300 Saturdays with no use on Sundays or Bank Holidays.

I consider the above to be a balanced view from a concerned neighbour wishing to protect the peace, quiet and amenity of his property and this quiet residential area in a rural setting from the adverse impacts of commercial use.

10.0 APPRAISAL

The issues to consider in the determination of the application are:

- A) Whether the location is suitable for the proposed change of use to business use (ULP policies S1, Gen2 and GEN4)
- B) Highway Safety (ULP policies GEN1 and GEN8)

10.1 A) Whether the location is suitable for the proposed change of use to business use (ULP policies S1, Gen2 and GEN4)

The building has already been converted to be used for purposes incidental to the enjoyment of the dwelling house as permitted development under Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008.

Policy S1 states that development compatible with the character of the settlement will be permitted. The applicant now wishes that the building is used for business purposes and consideration must be whether this change of use is appropriate for the location. The site is located at the end of a cul-de-sac consisting of residential dwellings.

The change of use would not have any impact on the character of the area in respect to the built form, however, it has the potential to change the character of the area by way of intensification, highway and noise issues. The application is for the business to operate seven days a week and to have one employee. The business is considered to be of a low intensity with one customer being booked in for therapy sessions at any one time. The hydro pool is small in nature and therefore it is unlikely to house several dogs at any one time. The numbers visiting can be controlled by an appropriate condition. Given the proposed scale of the development it is unlikely to impact on the residential nature of the area, provided the scale and opening times are controlled and therefore accords with policy GEN 2. To ensure that there is limited impact on neighbouring residential properties with regard to noise, vehicular movements and pedestrian visitors any permission shall need to be restricted by the use of appropriate conditions.

10.2 B) Highway Safety (ULP policies GEN1 and GEN8)

The property currently has one off road car parking space to its frontage and a further space in front of the drive. As stated above the proposed business is of low intensity. The application site also includes the adjacent land to the house which is currently used ancillary to the residential dwelling. There is a large area of hardstanding that the applicant has stated could be used for parking. If this piece of land is permitted for customer parking it is considered that this may have the potential to harm the character of the settlement as it is a large area and could house several vehicles. It should therefore be restricted to parking for vehicles only in connection with the hydrotherapy business and not with any other use of the land outlined in red adjacent to the house. Additionally the neighbouring residential properties mainly have garaging and off road parking.

11.0 CONCLUSION

The following is a summary of the main reasons for the recommendation:

- The proposed change of use is acceptable provided the scale of the development is controlled by appropriate conditions.
- It is not considered that the proposal would be materially detrimental to highway safety.

RECOMMENDATION – CONDITIONAL APPROVAL

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies.

3. When the premises cease to be occupied by Ms C Littlemore, the use hereby permitted shall cease.

REASON: in the interests of protecting the character and amenities of the locality in accordance with policies GEN2 and GEN4 of the Uttlesford Local Plan (adopted 2005)

4. The business hereby permitted shall not open before 9am on Mondays to Saturdays nor after 5pm on Mondays to Saturdays nor at any time on Sundays, Bank or Public Holidays.

REASON: The use of this site outside these hours would be likely to cause nuisance and disturbance to adjacent residents in accordance with Policies GEN 2 and GEN 4 of the Uttlesford Local Plan (adopted 2005)

5. The use hereby permitted shall be carried out only by the applicant, Mrs C Littlemore and her dependents in connection with the occupation of the property or in connection with their hydro pool business.

REASON: Permission is granted solely because the nature of the use as carried out by the applicant is compatible with the character and amenity of the surrounding area, and an uncontrolled use could give rise to harm to these criteria.

6. The use hereby permitted shall be restricted to a maximum of five sessions a day and only one dog and customer shall attend each session.

REASON: in the interests of protecting the character and amenities of the locality in accordance with policies GEN2 and GEN4 of the Uttlesford Local Plan (adopted 2005)

7. Only parking in association with the business use hereby permitted or of any use ancillary to the dwelling known as No 5 The Dell shall be to the area beyond the gated access at the end of the cul-de-sac.

REASON: to protect the character of this residential area in accordance with Uttlesford Local Plan (adopted 2005) policies GEN2 and S1.
