clerk@kirklangleyparishcouncil.gov.uk

From:clerk@kirklangleyparishcouncil.gov.uk
Sent:28 Apr 2022 09:58:43 +0100
To:Development
Subject:AVA2022-0194 - Proposed dog day care centre planning application
Importance:Normal

Dear planning department,

Please find herewith comments from Kirk Langley Parish Council in relation to the above planning application. [redacted]

Planning Proposal:AVA2022-0194 - Proposed dog day care centre
Submission by Kirk Langley Parish Council

The Parish Council objects to the proposed development on the basis that it is contrary to the Amber Valley Local Plan, the NPPF and Kirk Langley Neighbourhood Plan (KLNP). The objections relate to the following matters:

1) **Heritage:** The proposal will impact the Conservation Area and local heritage assets. It also falls within the setting of Kedleston Hall.

2) **Environment**: the proposal neither recognises nor enhances the historic landscape and local character

3) **Agricultural Land**: the applicant has not demonstrated how the public benefit outweighs the need to preserve agricultural land

4) **Business development**: The proposed development will have an adverse impact on the tranquillity of the local area and will harm residential amenity, due to noise and a substantial increase in traffic.

5) **Biodiversity:** the impact of noise and other disturbance as well as loss of habitat

1. **HERITAGE**

The conservation area (CA) runs along the west side of Flagshaw Lane (the main approach road to the development) to a point just beyond Flagshaw Brook. The

boundary reappears at the north west side of Lodge Lane, (opposite the field where the kennels would be sited), where it extends and crosses over the road to Crow Wood and Lodge Farm on the South side of Lodge Lane. Lodge Farmhouse is a Grade 11 listed building. The proposal site is therefore encompassed on three sides by the CA and lies firmly within its setting and the setting of Lodge Farmhouse. This area is undeveloped and designated as open countryside within the KLNP. It is described within Appendix 3 of the KLNP[1] and is clearly important in relation to the story of Kirk Langley. This development does not follow existing patterns of development and will sit incongruously, in a prominent position, sharing none of its characteristics.

Policy HER2 in the KLNP states:

> **"a) To be supported development proposals must demonstrate regard for the significance of the Conservation Area, and any heritage asset identified in Appendix 4 and Appendix 6 (as updated throughout the plan period) where they, or their setting may be affected by the proposal. Development will be required to be designed appropriately, taking account of local styles, materials and detail. Account must be taken of the distinctive character areas, as described in Appendix 7"**

The proposal does not take account of local styles, materials and detail. The proposal is entirely practical in nature and makes no attempt to fit in with the vernacular.

From the outskirts of the village of Kirk Langley to the entrance of Kedleston Hall, no similar development can be found. This area has been left untouched by modern development and currently provides an attractive, tranquil approach to Kedleston Hall unchanged and unharmed by modern intrusion. This deserves special consideration and protection.

Policy **EN27** of the Local Plan states*: Planning permission will only be granted for development proposals within and adjacent to Conservation Areas, as shown on the Proposals Map, if they would contribute to the preservation or enhancement of the Conservation Area. Special consideration will also be given to proposals for development adjacent to and affecting the setting of a Conservation Area.*
*Policy **EN33** Within the defined setting of the Historic Park and Garden at Kedleston Hall, as shown on the Proposals Map, planning permission will not be granted for any development proposals that would have an adverse impact on the landscape setting, including views into and out of, the Historic Park and Garden*
The NPPF paras 200/201 are also engaged.

1. **ENVIRONMENT**

This objection relates to the impact on the natural landscape. The environmental policies within the KLNP are designed to protect views from public places.

> **POLICY: ENV2**
> **To be supported development proposals must demonstrate how they recognise, protect and enhance the historic landscape and local character. The open rural "feel" and those vistas identified on Figure 33, and described in Appendix 8, must be protected. These include the views from footpaths and roads, and from the designated open spaces and recreation facilities identified in Policy ENV1.**

The development will be seen from several public areas. These include the new housing development to the North of the A52, Lodge Lane and the footpath which runs diagonally across the field where the development is intended to be sited. There are several permissive footpaths which criss-cross this area and which are used by residents and visitors alike for recreation. These will be affected. The protection of views from open green spaces, roads and footpaths is key to conserving the landscape for now and future generations. The proposal does not recognise, protect and enhance this historic landscape and local character.

This proposal is also contrary to the environmental policies in the saved parts of the 2006 Local Plan. Policy **EN1** only permits development in the countryside in particular circumstances; it is essential for agriculture, necessary and cannot be reasonably located elsewhere, or will improve viability etc of existing services. The applicant has not demonstrated how this proposal fits within these exceptions.

Policy **EN6** refers to the development not having an adverse effect on landscape quality or character, referring in particular to how the development fits into the landscape in terms of vernacular, grouping and siting of buildings. Policy **EN7** further defines the key features of a landscape character type. This development has no relationship with any existing agricultural buildings and stands alone, uniquely foreign in its appearance in this special landscape. The NPPF para 130 makes it clear that the visual attractiveness of the development is important as well as being "sympathetic to local character and history".

3 USE OF AGRICULTURAL LAND.

Land quality in Kirk Langley has been assessed generally but not closely studied. It is believed to be either grade 2 or grade 3a according to the Natural England strategic assessment. Arable land in the parish is used for sheep, dairy, beef and mixed arable use. This particular field has been used to graze cattle in the recent past. The KLNP states:

> **POLICY: ENV 4**
> **To be supported proposals for the development of best and most versatile agricultural land must**
> **demonstrate the public benefit outweighs the economic and other benefits of the existing use.**

This balancing process should also take into account government policy in relation to food production in the UK as set out in the Feb 2020 "policy and progress report", which describes the need for food security.

Policy **EN10** of the Local Plan also places emphasis on the loss of agricultural land. There is no evidence from the applicant as to the reason why this site has been selected as opposed to any other previously-developed site.

1. **BUSINESS DEVELOPMENT**

The KLNP has the following relevant policy:
BUS2 Managing the environmental impact of business development
POLICY:
Further development of existing businesses on land already in commercial or agricultural use and proposals for new business development will be supported where it can be shown that the scale, design and form of the proposal is in keeping with rural setting and would not adversely impact on the tranquillity of the area. It should not harm landscape character or residential amenity, nor have a detrimental effect on the operation and safety of the country lanes and local road network.
Businesses which utilise both public and non-motorised transport in order to mitigate traffic levels will be supported.
To be supported new business developments, and significant extensions to business premises, must provide infrastructure for electric vehicle charging unless it is demonstrated that it is not practicable.
Development proposals that include small decentralised renewable energy systems, including building mounted solar energy, biomass, and ground and air source heating systems will be supported.
The proposal is contrary to this policy in several important respects:

1. a) the scale, design and form of the proposal is not in keeping with its rural setting, and;
2. b) It adversely impacts on the tranquillity of the area, and on residential amenity, and;
3. c) it will have a detrimental effect on the operation and safety of the country lanes and local road network
4. a) **Scale design and form**

This has been addressed in sections 1 and 2 above

1. b) **Tranquility and residential amenity**

The proposal will create a noisy environment with up to 32 dogs per day being housed on the premises. This will be bound to generate noise, not only of a large number of dogs barking but also of human activity on the site., including motor vehicle movements. Travelling away from the A52 and heading north along Flagshaw Lane, the tranquillity of the area is evident and a welcome relief from the incessant traffic noise from the A52. This will be lost. Not only is this loss of tranquillity to the detriment of the community, but it is also to the detriment of wildlife.

Government advice relating to noise[2] states that decision-makers need to take account of the acoustic environment and:-

"As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy".

The mere assertion by the applicant that noise will be restricted to certain times of the day, and due to distance will not be a problem for nearby dwellings, is not sufficient to deal with this particular objection. The issues are these:

- Properties along or near to the A52 are already sited in a noise hot spot. The A52 at Kirk Langley has been identified in Amber Valley's own sustainability study as generating a noise problem. Any further disturbance created by additional ambient noise could have a detrimental effect on residents, as described in the following government advice: -

  "Increasing noise exposure will at some point cause the 'significant observed adverse effect' level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused".

- There is nothing suggested in the proposal that would in any way abate the noise.

- The site is located on high ground which overlooks the new development on the North of the A52. It also affects existing properties on the main road and along Flagshaw Lane. The sound of barking dogs may well extend further than this. The extent of this is unknown because it has not been assessed by an expert.

Government advice on noise also alludes to this issue:

> *"Noise can adversely affect wildlife and ecosystems. Particular consideration needs to be given to the potential effects of noisy development on international, national and locally designated sites of importance for biodiversity"*;

This is further touched on in relation to the impact on biodiversity, below.

Policy **EN16** in the Local Plan states that :

> *"Planning permission will not be granted for development that would be likely to lead to a material increase in levels of air, water, noise, light or other forms of pollution".*

It is submitted that this development cannot fail to have such an effect.

1. c) **effect on the country lanes and local road network**.

A worst-case scenario suggests 4 cars for staff amounting to 8 Journeys minimum, (but more if staff are part-time and job share) and 128 extra car journeys along Flagshaw lane (32 dogs x 4 journeys by car), plus additional deliveries, rubbish collection etc. This is a narrow country lane, unsuited to this type of activity. The approach to the proposed entrance is winding from both directions and poses considerable safety concerns. In addition, there will be an impact at the Flagshaw/Moor Lane crossroads which are already difficult to navigate safely at busy times. There are no crossing facilities for pedestrians, which makes the problem even more concerning for residents.

5) Biodiversity

This area lies adjacent to woodland, which adjoins Meynell Gorse, a local wildlife site referred to in the KLNP. As such, it forms part of the range for the wildlife which has been observed in the area. Noise, light and disturbance of this uncultivated land will impact on the local environment for wildlife. This is a tranquil area, hitherto unaffected by noise or light pollution. In the absence of further expert investigation, it is not accepted that this risk will be offset by an additional hedge and some wildflower planting along the hedge bottom. The fact that there have been no reports of e.g. lizards and great crested newts in an area which is acknowledged to be highly suitable for them, should not determine the issue. Surely this is something to be further investigated?

Policies **EN13 and 14** of the local plan apply.

Summary

This is not a sustainable development. There is no evidence that it is needed in this area and local opinion is not supportive. Its impact on the local economy will be extremely limited, whereas its impact on the tranquillity of this area will be profound. The balance of public benefit is clearly against this development. It will not provide employment for the local population and will simply generate more car journeys on unsuitable roads. The population of this village has to cope with ever-increasing traffic noise from a noise hot-spot. The nearest accessible tranquil place with a public footpath is the proposed site. This is an important area in terms the heritage of Kirk Langley and Kedleston Hall. It is also adjacent to a local wildlife area, which is also within the Conservation area (Crow Wood). The proposal fails to be environmentally sustainable by virtue of the harm caused to the natural greenfield landscape from a prominent form of development, albeit it temporary in nature, without justification of a significant social or public benefit which would outweigh the harm to the area. This is contrary to Paragraph 8 of the National Planning Policy Framework and the environmental objective of sustainability, which requires the protection of the natural environment

Kirk Langley Parish Council

[1] Para 3.3; 5.10; 6.4
[2] 6/3/14 updated July 19

Kind regards

Fiona Keppel-Spoor

Locum Clerk
Kirk Langley Parish Council
10 Willow Close
Aston on Trent
Derbyshire
DE72 2BX
Tel: 01332 793272