

Application 09/01016/F	No:	Ward: Caversfield	Date 03/08/2009	Valid:
Applicant:	Mr. L. Gardiner			
Site Address:	OS Parcel 8844, Rose Lodge, Middleton Road, Bucknell OX25 4TA			

Proposal: Temporary retention (3 years) of mobile home, creation of dog training track, kennels and associated parking area – resubmission of 09/00149/F.

1. Site Description and Proposal

- 1.1 The proposal seeks the retention of a mobile home at the site and the creation of a greyhound training track with associated parking. The development also includes kennelling for 28 dogs, a control room and garage. The retention of the mobile home and garage are a retrospective element of the application.
- 1.2 The site lies within a rural location, adjacent to the M40. The site is approximately 3.5 miles west of Bicester and 1 mile east of Middleton Stoney. The land forms a triangular parcel of land, bounded to the east by the M40 and Middleton Road to the west. Mature landscaping is present around the entire site. An existing access lies to the south of the site leading to the mobile home and parking areas.

2. Application Publicity

- 2.1 The application has been advertised by way neighbour letters and a site notice. The final date for comment was 31/08/09
- 2.2 No letters of representation have been received.

3. Consultations

- 3.1 **Middleton Stoney Parish Council** – The Parish Council wishes to object to the application on the following grounds: As this is a rural site, domestic development should not normally be permitted.
- 3.2 **Bucknell Parish Council** – Object on the following grounds: Development in the countryside, impact on highway safety, noise and fumes from M40 could impact on users of the site and escape of animals could impact on highway safety.
- 3.3 **Highways Agency** – No objection.
- 3.4 **Natural England** – No comments

- 3.5 **Rhodes Rural Planning and Land Management** – See appraisal below.
- 3.7 **Landscape Officer** – The proposals appear to be inappropriate in character to the hedgerow field pattern of the area, and will therefore require substantial mitigation through the considered use of tree and thicket planting, along with a management regime to ensure successful establishment and longevity of the scheme for years to come. Because that landscaping is so important and integral to the approval of this development I strongly advise the applicant to employ the services of a fully qualified landscape architect.

4. Relevant Planning Policies

- 4.1 South East Plan 2009 – Policy CC6
- 4.2 Adopted Cherwell Local Plan 1996 – Saved Policies H18, C28 and C30
- 4.3 Planning Policy Statement 7: Sustainable Development in Rural Areas

5. Appraisal

- 5.1 The key issues to be considered in this case are:-
- The history of previous applications on the site; and
 - Assessment against policy.
- 5.2 **Planning History**
- 5.3 The application site has been the subject of a number of planning applications and appeals. The site was granted planning permission in 1997 for the following:
- 97/01827/F Siting of four bedroom bungalow for 2 years;
 - 97/01828/F Change of use of agricultural land to greyhound schooling, training track and bungalow.
- 5.4 In July 2000, a further permission was allowed under application 00/00980/F for the retention of the bungalow for a further period of one year. In November 2004, an enforcement notice was served on the land (ENF. 31/03 and ENF. 16/04) for the following:
- A change of use of the land to use for storage of materials and construction of a greyhound training track and kennels, and;
 - Change of use of the land to residential use and siting of mobile home.
- 5.5 The enforcement notices were served as it was considered by the LPA that a lawful start of the development approved under the 1997 applications had not begun within the 5 year period as conditions attached to those permissions had not been discharged. The applicant appealed the enforcement notices. However, the Inspector agreed that the developments were not lawful and upheld the notices.
- 5.6 In 2006 the applicant submitted a further application (06/01647/F) for the continued use of the land for greyhound schooling/training, the formation of the greyhound

track and the erection of a bungalow and kennels. This application was refused on the grounds that the applicant had failed to demonstrate that the enterprise had a reliable and viable future. That decision was appealed against and subsequently dismissed in 2008.

- 5.7 As part of this proposal the LPA consulted Mr. Paul Rhodes of Rhodes Rural Planning and Land Management to assess the proposal. Mr. Rhodes assessed the 2006 application and also attended the hearing that led to the appeal being dismissed in 2008. In dismissing the appeal, the Inspector took note of the previous permissions the LPA had approved at the site and stated that these permissions were insufficient to outweigh the inconsistency with PPS7. Moreover, the Inspector concluded that the application was 'substantially deficient in many significantly material ways.'
- 5.8 The planning history of the site is a material consideration to the determination of the proposal. It is clear that the applicant has been living at the site since 1997 and despite planning approvals to allow the proposal, the applicant has failed to start the enterprise. Moreover, it has been over 13 years since the applicant has been engaged in any business relating to the training of greyhounds. It should also be noted that the business referred to in the description of the development has not started. These matters are also material considerations.

Assessment Against Policy

- 5.9 The application has been submitted placing reliance under Annex A to Planning Policy Statement 7: Sustainable Development in Rural Areas. The applicant has stated that in order to ensure that the safety and welfare of the dogs at the site is maintained, it is essential for the applicant to live on the site. Whilst not strictly defined as an exception dwelling within Annex A, paragraph 15 of PPS7 does refer to other occupational dwellings.
- 5.10 Annex A to PPS7 states that in order to justify temporary accommodation to support and existing or newly created enterprise, it should be demonstrated that that there is:
- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
 - (ii) functional need (see paragraph 4 of this Annex);
 - (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
 - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
 - (v) other normal planning requirements, e.g. on siting and access, are satisfied.
- 5.11 Saved policy H18 of the Adopted Cherwell Local Plan 1996 also allows new dwellings within the countryside provided it is, 'essential for agriculture or other existing undertakings...'
- 5.12 Saved policy H18 defines 'essential' as a 'proven necessity for a worker to live at or

very close to the site of their work. In addition, H18 also states that 'where there is any doubt that a dwelling is required for the proper functioning of an enterprise...it will be necessary to supply adequate financial information to demonstrate that the proposals are sound.

- 5.13 The applicant has engaged the services of Kernon Rural Consultancy to assist in these matters and financial information is supplied as part of the application.
- 5.14 Rhodes Rural Planning (RRP) have been engaged by CDC to assess the proposal against PPS7 and they have reported that, given the history of the site, the applicant has failed to provide robust evidence that there is a clear intention and ability to develop the enterprise.
- 5.15 In addition to this, RRP also queried the following:
- whether permanent accommodation is actually required,
 - whether the isolation rooms within the kennelling meets GBGB (Greyhound Board of Great Britain) requirements,
 - would the applicant satisfy the GBGB licensing requirements, and
 - the return on capital is flawed,
- 5.16 The agent acting on behalf of the applicant responded to the above and clarified the issues relating to essential accommodation and provided a letter from GBGB that the kennels would meet their requirements.
- 5.17 With regard to licensing, the applicant has stated that to be fully GBGB licensed the premises (or at least planning permission for the premises) needs to be provided before he can apply. There is no information from either party claiming that the applicant cannot or will not be able to meet GBGB licensing requirements.
- 5.18 Rule 213 of the GBGB's Rules of Racing state that, 'all premises shall be provided with over-night supervision to the satisfaction of the Stipendiary Steward' With this in mind, it can be construed that accommodation should be provided to comply with this requirement.
- 5.18 With regard to the return on capital investment, the agent has re-assessed the Year 3 return on capital investment and reports that a return on capital of 6.5% would be realised. This is considered acceptable given that agricultural enterprises return approximately 2.5%.
- 5.19 Therefore, the applicant has demonstrated that the enterprise meets the expectations of Annex A, except for paragraph 12(i): Is there clear evidence of a firm intention and ability to develop the enterprise concerned?
- 5.20 As stated earlier, the applicant has been at the site for a number of years and failed to establish the enterprise in question. The applicant's agent has responded to this by stating that,

'It is true that the applicant has owned the land for over 10 years and has not, as yet, developed the business. It is also true, and is an inescapable consideration, that he has never had consent for kennels and, since 2002, he has had no planning permission in place for the track or mobile home so that he could develop the business. It is also true, and an inescapable consideration, that since 2001 he has

been undergoing cancer treatment.'

- 5.21 It is accepted that the applicant has had personal difficulties that have prohibited him starting the enterprise. Nevertheless, the fact remains that he has failed to create any type of business during his tenure at the site.

However, the test within PPS7 is whether the applicant has a firm intention and ability to develop the enterprise concerned. Cherwell District Council has previously approved applications at the site and it would be reasonable to recommend granting a temporary permission again, providing the enterprise is started within a reasonable period. This would ensure that there is indeed a firm intention and ability to develop the enterprise.

- 5.22 Therefore, despite the length of time the applicant has resided at the site, it is recommended that the application be recommended for approval subject to a condition requiring the enterprise to be substantially developed within 6 months of the date of the permission.

5.23 **Conclusion**

- 5.24 The applicant has met the tests as set out within Annex A to Planning Policy Statement 7: Sustainable Development in Rural Areas regarding functional and financial requirements. However, there remains a doubt whether the application has a firm intention and ability to develop the enterprise. In order to overcome this concern a condition requiring the enterprise to be substantially developed within 6 months of the date of the permission is recommended.

- 5.25 Therefore, the application is recommended for approval subject to the following conditions.

6. Recommendation	
Approval, subject to the following conditions:	
1. That the kennels and training track hereby approved shall be substantially completed within 6 months of the date of this permission.	Reason - To ensure that the enterprise concerned is started within a reasonable time.
2. That at the expiration of 3 years from the date of this permission the building(s) and training track shall be removed from the site and the land shall be restored to its former condition on or before that date.	Reason - The building, because of its design and siting, is not suitable for permanent retention and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.
3. That this permission shall enure for the benefit of the applicant and his dependents only and of no other persons whatsoever, and shall not enure for the benefit of the land. Upon the applicant ceasing to occupy the building, it shall revert to its former use.	

Reason - This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent in accordance with Saved Policy H18 of the adopted Cherwell Local Plan.

- 4. That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-**

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,**
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,**
- (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.**

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

- 5. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.**

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan

- 6. The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: 08543 02A and 08543 03A dated Oct 2008.**

Reason - To ensure that the development is carried out in a satisfactory manner in accordance with saved policy C28 and C30 of the Adopted Cherwell Local Plan 1996 and policy D4 of the Non-Statutory Cherwell Local Plan 2011

- 7. That no goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open without the prior express planning consent of the Local Planning Authority.**

Reason - In order to safeguard the visual amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan.

REASON FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan, unless material considerations indicated otherwise. Incorporating and adhering to the above conditions, the development is considered to be acceptable on its planning merits as the proposed development is appropriate in its context and would not have a detrimental impact on the character and appearance of the area nor neighbouring amenity and highway safety. As such the proposal is in accordance within policy CC6 of the South East Plan 2009, saved policy H18, C28 and C30 of the Adopted Cherwell Local Plan 1996 and the advice within Annex A to Planning Policy Statement 7: Sustainable Development in Rural Areas and the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

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