

<b>APPLICATION NUMBER</b>		24/00278/OUT	
<b>SITE ADDRESS:</b>		Upperwood Boarding Kennels, The Moorlands, Back Lane, Darley Moor, Matlock, Derbyshire	
<b>DESCRIPTION OF DEVELOPMENT</b>		Outline application for demolition of outbuildings and erection of 1no. dwellinghouse as a rural workers dwelling with approval being sought for access, layout and scale	
<b>CASE OFFICER</b>	Sarah Arbon	<b>APPLICANT</b>	Mr Dominic Goutorbe
<b>PARISH/TOWN</b>	Darley Dale	<b>AGENT</b>	Mr Jon Millhouse – Planning Design Practice
<b>WARD MEMBER(S)</b>	Cllr Burton Cllr Franks Cllr Shelley	<b>DETERMINATION TARGET</b>	23 <sup>rd</sup> May 2024
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Called in by Cllr Shelley and Burton	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	Requested by Cllr Burton

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>– Principle of development</li> <li>– Layout and Scale</li> <li>– Access</li> </ul>

<b>RECOMMENDATION</b>
That the Application be Refused

## 1.0 THE SITE AND SURROUNDINGS

- 1.1 The site is to the north east of Two Dales and there is a two storey stone dwelling with agricultural style buildings for use in association with the Kennels to the north. A mixture of single storey stone, render and steel cladding former kennel buildings remain to the north west of the existing dwelling. There is an open field to the west which slopes down to the west with woodland beyond.

## 2.0 DETAILS OF THE APPLICATION

- 2.1 Outline planning permission is sought for a new dwelling associated with the existing dog kennels with access, layout and scale included and appearance and landscaping reserved. The two storey dwelling on site is owned by the applicant's elderly mother and part of the property is rented out to the applicant to reside in whilst running the business. The business provides accommodation for 45 dogs and 14 cats.
- 2.2 This proposal involves demolishing the existing single storey buildings to the north west of the dwelling and erecting a four bedroom house to accommodate the applicant, his partner and three children. The 3D visuals submitted indicate an one and half storey dwelling utilising space within the roof. It would be in a similar location to the buildings to be removed and would be lower than the ridge of the existing two storey property on site.
- 2.3 Financial statements for the year ends of 2019, 2020, 2021 and 2022 have been submitted with the application. A review of houses available in the vicinity has been provided.
- 2.4 A letter of support from the applicant's mother has been submitted. She resides in 'Moorlands' the existing dwelling on site and her and her late husband built the kennels in the late 1970s and is proud to see how successful the business is under the ownership of her son. She reiterates the need to live at the premises in order to care for the animals and this is why she allows him to live in part of her house at present. However, she considers it unfair that the Council considers that she should continue to provide accommodation for a business that she retired from over a decade ago. In the future this accommodation within her house will be needed for her care.

## 3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

- 3.1. Adopted Derbyshire Dales Local Plan 2017  
Policy S4 Development in the Countryside  
Policy PD1 Design and Place Making  
Policy PD3 Biodiversity and the Natural Environment  
Policy PD5 Landscape Character  
Policy HC13 Agricultural and Rural Workers Dwellings  
Policy HC19 Accessibility and Transport
- 3.2. Other:  
The National Planning Policy Framework (2023)  
National Planning Practice Guide

## 4.0 RELEVANT PLANNING HISTORY:

23/01320/OUT	Outline application for demolition of outbuildings and erection of 1no.	REF	14/02/2024
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dwellinghouse with approval being sought for access, layout and scale

## **5.0 CONSULTATION RESPONSES**

- 5.1 Darley Dale Town Council has no objection.
- 5.2 The proposal does not appear any different in terms of the highway details from the previous application 23/012320/OUT therefore the same highway comments and conditons as stated in their response dated 10 January 2024 remain relevant. The Highways Authority stated that given the existing use of the site and that the proposal would be occupied by the owners of the kennels, it is not considered that the proposal would result in any significant increase in use of the site and therefore there are no highway objections. Provision of the access, parking and turning should be secured by condition.
- 5.3 Environmental Health have no objections in principle, subject to the tying of the development to the dog breeding business as suggested in the application documents. There only concern would be if the main house was then subsequently sold as this would be subject to possible nuisance from dog barking.
- 5.4 Derbyshire Wildlife Trust have reviewed the proposal and the Preliminary Ecological Appraisal (Absolute Ecology, January 2024). Their previous comments (letter dated 14th February 2024) and recommended conditions are still applicable with no changes necessary. The the information provided including photographs of the site and also consulted Derbyshire Biological records database. The latter shows that the site is near to the Halldale & Cock's Head Wood Local Wildlife Site which lies to the west of the site. There are also some protected /notable species records in the local area. Given the nature of the proposals and the design of the existing buildings which are to be demolished Ecological surveys appear to be disproportionate. However, they would recommend the following conditions are attached to any permission. Conditions in respect of best practice during construction, breeding birds, lighting and bat and bird boxes are recommended.
- 5.5 Cllr Franks states that this long standing Boarding Kennels business is at risk of loss without on site accommodation for the owner his partner and children. This small holding whose main business is the boarding kennels is owned by Mr Goutorbe. The adjoining house and garden is not in the ownership of Mr Gourtobe; at present he stays overnight in a small annexe in this property but this is not large enough to accommodate his family. Due to the rural situation there are very few other properties and no alternative accommodation available close by. It is essential that there is a 24 hour presence for the welfare of the animals boarded at the kennels hence I respectfully ask that this application is referred to the planning committee for consideration if officer refusal is being considered.

## **6.0 REPRESENTATIONS RECEIVED**

- 6.1 Twenty letters of support have been received and they are summarised below:-
- a) Derwent Valley Vets supports the application from a animal welfare point of view.
  - b) A member of staff supports the application as the working hours for one person is overwhelming and it would build resilience in the business.
  - c) It is absolutely necessary to have someone living on site at the kennels to ensure the safety and care of the animals boarding there.
  - d) As a customers of the facility as are two other family members, I would not choose to send my dogs unless someone was living at the kennels.
  - e) A client of Upperwood Kennels for nearly 16 years, during that time, they have cared for my dogs on numerous occasions, coping with puppies, young, mature and very old dogs.

- f) I live locally and it is the only kennels I would consider using because of the quality and professionalism of the service the owners and their staff provide.
- g) They employ regular 5 staff and have given many local young people their first weekend and holiday job opening.
- h) A key part of the service provided is that the owner live on site to cope with 24 hour medical emergencies, two of which have been for their dogs.
- i) A customer for nearly 16 years, probably using the kennels for at least four weeks in total each year and during this time they have cared for our dogs with real care and attention, coping with puppies, young, mature and very old dogs.
- j) We live locally and it is the only kennels we would consider using because of the quality and professionalism of the service the owners and their staff provide.
- k) We think it essential for the success of his business (and certainly for us as users) that he and his family have security of tenure in a home build on the site of the kennels.
- l) By living on site they can tend to the animals overnight, deal with emergencies and also provide a pick up and drop of service that fits for those of us that work shifts.
- m) The increase in thefts of dogs is concerning and the owners need to live on site to make sure they are safe and cared for should they fall ill at night.
- n) With flooding on roads & also winter snow to contend with a dwelling is required to make sure that someone is on site.

## 7.0 OFFICER APPRAISAL

The following material planning issues are relevant to this application:

- Principle of development
- Layout and Scale
- Access

### Principle of development

- 7.1 The site is located within the countryside where Policy S4 is relevant. Residential development that is considered appropriate in the countryside includes:- a single replacement dwelling, affordable housing in accordance with HC4, housing to meet the essential requirements of agricultural, forestry or other rural based enterprise in accordance with Policy HC13, conversion or re-use of buildings in accordance with Policy HC8 or on the edge of higher order settlements in circumstances where there is no 5 year supply.
- 7.2 Having reviewed the planning history for the site, a similar proposal for an additional dwelling on site was refused in 1996 (DDD/0396/0172), 1993 (WED/0593/0309) and 1992 (WED/1191/0938). The reason for refusal was that there was no policy basis for additional dwelling as adequate supervision of the enterprise is already available from the dwelling which already exists on the site. Whilst it is acknowledged that these decisions were prior to the Local Plan adoption in 2017, the need for an additional dwelling within the countryside for this business remains a significant consideration in this case.
- 7.3 In a recent appeal decision for the provision of residential accommodation for a rural workers dwelling within the District the Inspector stated the following:-

*"I consider that Policy HC13 is still of relevance in determining the appeal. This policy sets out a variety of criteria that need to be satisfied for such accommodation to be acceptable. These include that there is a clearly established functional need for a fulltime worker and that this cannot be met by another existing building either on the site or in the locality. I consider that an essential need for the development to accommodate a rural worker has not been established"* (Appeal Ref : APP/P1045/W/20/3253522).

- 7.4 The Boarding Kennels is an established use that has developed with the owners living at the existing two storey dwelling known as 'Moorlands'. However, over time the mother no longer works at the kennels and rents out some of the dwelling to her son, the applicant. The submitted Planning, Design and Access Statement makes the case that the existing dwelling is not available to the applicant to live on site. It states the neighbouring dwelling is owned and occupied by the applicant's mother and it is not possible or fair to expect her to relocate to allow the applicant to live there. The statement in paragraphs 5.7 to 5.15 seeks to review agricultural workers dwelling appeals in relation to the need for a dwelling in the countryside. The Keen judgement was mentioned, however, this also relates to an agricultural workers dwelling which this case does not.
- 7.5 The case for requiring 24 hour supervision of the animals is made in the submitted Planning, Design and Access Statement which states the applicant's partner currently commutes from North Wingfield. The applicant needs to be on site due to the kennels being for overnight accommodation for the animals, with some of these having medical conditions such as diabetes which requires round the clock care. It would not be practical for the applicant to live in a nearby town or village. As well as the long working hours involved, he needs to be on hand and respond quickly to issues as they arise, for animal welfare reasons and to meet customer expectations. Being in earshot also allows for the applicant to instantly hear whether anything has gone on in the kennels when not directly at the business. It cannot be expected for the business to be situated in a town due to the kennels being a well-established rural enterprise trading from the same site for the last 52 years. In any event, if relocated, the business would cause disturbance to those residing in the town due to the noisy nature of the enterprise.
- 7.6 The applicant on my site visit stated that he currently lives on site in a self-contained section of the existing house separate from where his mother lives. Therefore, the situation at present that exists is that 24 care is provided by the applicant, however, as he does not own the dwelling when his mother dies the house will be sold and will no longer be associated with the existing business. It is considered therefore that at the present time the need for a dwelling on site to serve the 24 care needs of the business is fulfilled by the existing dwelling and this dwelling (or part in which the applicant resides) is currently suitable and available albeit it being considered too small to accommodate the applicant's partner and children. A change in circumstances of the mother or size of accommodation for a family, making the current accommodation situation no longer suitable, does not establish a functional need for an additional dwelling in the countryside, contrary to Policy S4 and HC13.

#### Layout and Scale

- 7.7 Policy PD1 requires all development to be of high quality that respects the character, identity and context of the townscape, contributes positively to an area's character in terms of scale, height, density, layout, appearance, materials and relationship to adjacent buildings.
- 7.8 If the principle for a dwelling was established, it is considered that the layout and scale is considered commensurate with the use and would be in keeping with the character of the existing dwelling and surrounding area. The dwelling would be viewed in context with the existing two storey property and would appear ancillary in scale and design.
- 7.9 The layout and design are not considered to have a significant adverse impact on the residential amenity of the existing dwelling and assessment in detail of any overlooking impacts considered at reserved matters stage.

## Access

7.10 Policy S3 requires development to have appropriate access and parking provision. Policy HC19 seeks to ensure that development can be safely accessed in a sustainable manner and adequate parking is provided. Adequate access, turning and parking provision can be accommodated as such there is no highway objection.

## **8.0 RECOMMENDATION**

That the Application be Refused for the following reason(s):

1. The application fails to demonstrate a clearly established functional need for a dwelling to serve the business and that the functional need cannot be fulfilled by another building on the unit or in the locality. Without such justification, the proposal constitutes an unwarranted and inherently unsustainable form of development in the countryside that is contrary to Policies S4 and HC13 of the Adopted Derbyshire Dales Local Plan (2017) and paragraph 84 of the National Planning Policy Framework (2023).

### **NOTES TO APPLICANT:**

The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.