
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 02/09/19

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 15.10.2019

Appeal Decision

Site visit made on 02/09/19

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 15.10.2019

Appeal Ref: APP/T6850/A/19/3232823

Site address: Gnoll House, Neath Road, Ystradgynlais, SA9 1PR

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Davies against the decision of Powys County Council.
 - The application Ref: P/2018/0606, dated 16 April 2018, was refused by notice dated 5 June 2019.
 - The development proposed is the erection of a boarding kennel establishment, formation of access road, parking and turning area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the Council's Notice of Decision as it provides a more accurate description than that outlined on the planning application form. As the amended description is broadly consistent with that outlined on the Appeal Form, I am satisfied that there would be no prejudice in this respect.

Main Issue

3. This is the effect of the proposed development upon the living conditions of the occupiers of neighbouring residential properties, having particular regard to levels of noise and general disturbance.

Reasons

4. The appeal relates to an irregular shaped parcel of land located to the side and rear of an existing residential dwelling known as Gnoll House which is sited off Neath Road near Ystradgynlais. The proposed development represents a revised scheme for a boarding kennel establishment with a new access. The previous scheme was refused planning permission by the Local Planning Authority (LPA), under Ref: P/2017/0104, and that decision was subsequently upheld at appeal¹. The Council's sole objection to the current proposal relates to an alleged lack of information to adequately assess

¹ Appeal Ref: APP/T6850/A/17/3189572

whether the amenity of local residents would be unacceptably affected by reason of noise impact. I shall confine my reasoning to this principle matter of dispute.

5. The appeal documents indicate that the proposed kennels would be capable of accommodating up to 12 dogs at any one time. A Noise Impact Assessment (NIA) prepared by qualified acoustic specialists has been submitted in support of the proposal. That document focusses on the effect of the development upon a number of nearby residential dwellings that are unconnected to the appeal proposal. Those dwellings are sited in differing directions relative to the appeal site and range from between approximately 70 and 135 metres distant. In the absence of a standardised methodology for considering such proposals, the NIA considers an absolute criterion of 45dB L^{AFMAX} as the level above which an impact would occur. Within this context, it is notable that the NIA concludes that a maximum noise level of 43dB L^{AFMAX} would be attributable during daytime hours, with night-time impacts being described as 'effectively inaudible' from the bedrooms of the nearest properties. A management plan is proposed to limit the frequency and duration of the noise impacts and a two metre high acoustic fence is also proposed as a noise mitigation measure.
6. The Council objects to the proposed development on the basis that the available evidence does not enable it to adequately assess the impact upon the living conditions of neighbouring residents. Amongst other things, the Council is concerned that the NIA results are based upon a single dog barking, despite the fact that the proposal is for up to 12 dogs to be housed at any one time. It is also concerned that noise events are assumed to principally comprise a small number of discrete events. Whilst I recognise that there is no standard methodology for assessing such proposals, I share the Council's concerns. I have fully considered the fact that the World Health Organisation's document entitled '*Guidelines for Community Noise*' states that the use of L_{Amax} or SEL is recommended for noise principally composed of a small number of discrete events. However, even taking into account the proposed management plan arrangements, I have not seen anything to indicate that the cumulative impact of the noise generated by up to 12 dogs should in fact be defined as a small number of discrete events.
7. In addition to such matters, there is limited information available regarding the baseline noise data for the area and the effect of the proposed acoustic fence is largely unexplained. The assumption that all windows will be closed at the kennels is also a concern, not least because I have not been provided with any cogent evidence, or a suggested planning condition, to demonstrate that mechanical ventilation and/ or air conditioning could safely be used during the summer months. I have had full regard to the proposed management arrangements and note the potential for a management plan to be agreed through a planning condition. However, it is notable that, despite forming an integral part of the suggested noise management plan, no facilities are provided within the appeal site for the isolation of barking dogs. Furthermore, there is little evidence to indicate that the methods identified to stop dogs from barking would in fact be sufficient to prevent material harm.
8. On the basis of the foregoing, I concur with the Council's assessment that the proposed development would have potential to cause material harm to the living conditions of the occupiers of neighbouring residential properties by reason of increased levels of noise and general disturbance. I therefore find that the development would conflict with Policy DM13 of the adopted Powys County Council Local Development Plan (2018) (LDP) which, amongst other things, states that the amenities enjoyed by the occupants of nearby properties shall not be unacceptably

affected by levels of noise. For the same reasons, the development would also be contrary to the general thrust of the advice set out in national planning policy². For these reasons, and having considered all matters raised, I conclude that the appeal should be dismissed.

9. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR

² Planning Policy Wales (Edition 10) and Technical Advice Note 11 (1997).