DOG TRAINING AT TOMLINSONS KENNELS, MARKFIELD PLANNING STATEMENT

The Proposal

1. This proposal relates to use of an area of 0.7 hectares, split into three smaller parcels for dog training activities such as obedience and agility. Land at the Tomlinsons Kennels site falls away towards the north west, so the application site is several metres lower than houses along Thornton Road.

2. In the extensive planning history of the site, the application land has been known as the "bottom fields". At the present time there are two fields involved, with one of them crossed by public footpath R4. This proposal will define that route in a minimum 2.0m wide corridor across the training area by way of typical post and rail fence, providing smaller training areas on either side.

3. Training activities will take place in classes of 8 -10 dogs, all accompanied by their owners, between the hours of 6.00pm and 8.00pm on weekdays and a maximum of 9.00am to 6.00pm at the weekend. These are the maximum times of use during the summer period, as the activity is directly dependant on the weather and daylight hours, as well as the take up of classes.

4. The blue line on the application plan indicates for full extent of the Tomlinsons site, and it is anticipated that the Council will preclude any other outside training activities either by way of negative condition or appropriate legal undertaking.

5. The only permanent structure associated with the application is a 2.00m high acoustic screen fence to be erected along the south eastern boundary of the relevant field as described in the subsequent sections of this Statement relating to Noise and Landscape.



The Site

6. Tomlinsons Kennels is a long established business in Markfield, having first been granted planning permission in 1990. In addition to the large kennels building in the middle of the site, there is a training hall adjacent to it, and a hydrotherapy building close to the office. The site slopes away to the north west such that there is a difference of 10-15m between the application land and the houses on Thornton Lane.

7. The M1 motorway runs on an embankment around half a kilometre to the west of the site. Traffic using the motorway is visible and it is very audible at all times.

Planning Policy

8. There are no policies relating directly to the use applied for in this application, however there are saved policies relating generally to development in the countryside and highways matters.

9. In the applicant's submission, the type of use applied for now, associated as it is with no permanent built structures, is entirely appropriate in this rural location. Indeed, as impact upon residential amenity of any adjacent properties is an important matter for consideration, it must be

that, in principle, a countryside location is the essential starting point. Noise impact on residential amenity is dealt with in a later section of this Statement.

10. Highways matters are dealt with in the relevant section of this Statement.

Planning History

11. There is a long and complex recent planning history associated with this site, following rejection of two applications for a Certificate of Lawful Existing Use for dog training in 2007. The Council served an Enforcement Notice requiring cessation of all dog shows and dog training within a defined area of the site in August 2007, and an appeal was lodged.

12. The Council subsequently withdrew that Notice and served a revised one on 6th December 2007. There was a variation to the site area involved, however the requirement to stop all outdoor activity other than dog walking remained the same. Neither Enforcement Notice referred to any alleged unauthorised or unacceptable use of the training hall.

13. At the time of the Enforcement Notice most of the training activities were taking place in the "top fields" situated between the kennels and the houses on Thornton Lane. The Council had also served a noise abatement notice in May 2007 and this was not appealed. It was therefore in place at the time of the planning appeal against the Enforcement Notice, heard as a four day Public Inquiry in June and July 2008.

14. The Inspector dismissed the appeal and upheld the Enforcement Notice with "corrections and variations". In brief, he amended the plan and wording to include the training hall within the requirements of the Notice. This was a very significant alteration to the Enforcement Notice and the appellant sought leave to refer to the High Court. The challenge was successful and the Court ordered that the appeal be considered again.

As a result, there will be a new Inquiry at a date to be arranged, presumably some time in the Spring of next year.

15. In the meantime, no outdoor dog training is taking place at Tomlinsons Kennels.

16. In the light of the concern about use of the top fields for training, together with the implications of the noise abatement notice, part of the appellant's ground (a) evidence to the 2008 Inquiry related to where outdoor training might take place without any adverse impact upon the residential amenities of neighbours.

17. The suggestion was made that the logical solution was use of the bottom fields, allied to restriction of outdoor training on any other part of the site. These fields are the farthest away from the houses and acoustic screening is already provided both by the topography of the site and the presence of the existing buildings. At the time, no detailed evidence was submitted in support of this suggestion.

18. Whilst the matter has now been referred back to the Planning Inspectorate for reconsideration, the applicant noted that in paragraph 47 of the previous decision letter it stated that ….."***As for the restriction of the use to land other than that immediately behind the houses on Thornton Lane, I have given this careful thought but the deemed application before me is for the mixed use of the open land and the training building for training and shows, and I heard insufficient evidence for me to conclude that such a restriction would eliminate the harm to residential amenity. As I have mentioned in paragraph 38, there may be room for such a compromise, but this would depend on the particular circumstances***".

19. This application provides the supporting evidence the Inspector alluded to.

Public Footpath

20. Public footpath R4 linking Markfield centre through to Ratby Lane, runs in a generally north-south direction across the Tomlinsons site. The line of the path as it crosses one of the proposed training fields will be defined in a 2.00m wide corridor by a 1.00m high post and wire fence, thereby creating two smaller training areas. This arrangement will avoid any confusion between users of the path and users of the training field, and will avoid any possible conflict with dogs being trained.

21. There is no proposal for any diversion of the footpath or for any enclosure or change on the rest of the Tomlinsons site.

Noise

22. The overriding matter for consideration as part of this application, particularly in the light of the long past history, is the impact on the amenities of residents living in the vicinity of the site. This application therefore includes a Noise Impact Assessment prepared by H&H Acoustic Consultancy Division.

23. The Assessment was based on a session arranged to take place on what was considered to be the most sensitive part of the proposed training area. The chosen activity was dog agility, being likely to be the most "noisy" of the training activities.

24. The conclusion is clear from the Assessment. The whole site already has a high background noise level from the M1 motorway. Part of the site already has the acoustic screen of existing buildings, and with provision of an appropriate acoustic screen fence at the top of the other area, then any impact from barking is minimal. In the criteria of BS4142 any noise impact is "*of marginal significance and should prove acceptable.*"

Landscape and Acoustic Screen Fence

25. The proposed acoustic screen will run close to the north western edge of the existing car park between it and the top section of the training field. It will be 2.00m high, constructed in the form explained in the Noise Assessment.

26. The photographs included in Appendix 3 of the Noise Assessment show new acoustic screen fences in a generally urban environment. In the case of this application the appearance of the fence will not only be improved by the use of a dark stain, but it will also be softened to a very great extent by planting shrubs and climbers (species to be agreed with the LPA) on both sides.

27. It should also be noted that a fence of this form in this location falls within the parameters of Class A of Part 2 of Schedule 2 of the General Permitted Development Order 1995.

Access & Parking

28. Each training class is limited to a maximum of 10 dogs, so this will not generate any significant traffic movement when compared to the other traffic already visiting the site. A survey was carried out over a continuous ten day period in April 2008 for use at the forthcoming Public Inquiry, indicating a total number of 686 visits (excluding dog shows) over the period, giving a daily average of 69 (138 movements).

29. Outdoor dog training was taking place at the time of the survey. The results indicated that almost exactly half (49%) of all traffic was associated with the kennels, and almost exactly a quarter (24%) was associated with the hydro pool. The remaining traffic was divided between the existing private dwelling, use of the indoor training hall, and outdoor training.

30. At the time of the Public Inquiry the Highway Authority agreed that concern about the access could be overcome by the imposition of

suitable conditions in respect of widening the entry to allow vehicles entering and leaving to pass each other. Notwithstanding the very limited level of traffic associated with this particular proposal, the applicant anticipates that these conditions will be imposed now.

31. The existing car parking arrangements on the site have been provided to satisfy the need for occasional shows, and they far exceed any requirement associated with this particular application. No new or additional provision is proposed now.

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