

Planning Committee

31 May 2023



Application No.	23/00318/FUL
Site Address	89 Marlborough Road, Ashford
Applicant	Mr and Mrs Warren and Nicola Aldridge
Proposal	Erection of 12 walk-in style pens in rear garden of property and operation of Cattery
Case Officer	Susanna Angell
Ward	Ashford Town
Called-in	This application has been called in by Councillor Rybinski on grounds that the business would generate noise pollution and smell and would be an overdevelopment of the garden within this residential area. Further concerns are the impact of the proposal on the availability of on-street parking, which is limited.

Application Dates	Valid: 13.03.2023	Expiry: 08.05.2023	Target: Extension of time agreed to 02.06.2023
Executive Summary	<p>The subject property, a detached bungalow, is located on the western side of Marlborough Road. The site lies within the 1:100 flood risk zone and adjoins the River Ash to the rear.</p> <p>The proposed pens have a low profile roof and are considered acceptable in appearance. Due to their height and design they are considered to have an acceptable relationship with neighbouring properties.</p> <p>The Environmental Health officer has raised no objection to the proposal on grounds of noise or odour impact on residential properties.</p> <p>Surrey County Highways Authority considers that the proposal would not have a material impact on the safety and operation of the public highway.</p> <p>The proposed pens and operation of a Cattery are therefore considered to be acceptable.</p>		
Recommended Decision	Approve the application subject to conditions.		

MAIN REPORT

1. Development Plan

1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:

- Policy EN1 (Design of New Development)
- Policy CC3 (Parking Provision)
- Policy LO1 (Flooding)
- Policy EN11 (Noise)

1.2 On 19 May 2022, Council agreed that the draft Local Plan be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The public consultation for the Pre-Submission Publication version of the Local Plan ended on 19th September. The Local Plan was submitted for examination in November 2022 and the examination is due to commence on 23 May 2023.

1.3 The following policy of the draft Spelthorne Local Plan 2022-2037 is of relevance:

- Policy PS2 (Place shaping)
- Policy ID2 (Sustainable Transport for New Developments)

1.4 The NPPF policy states at para 48 that:

Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Section 38(6) the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan (unless material considerations indicate otherwise) and not in accordance with an emerging plan, although emerging policies may be a material consideration.

1.5 At this stage, the policies referred to above in the Pre-Submission Spelthorne Local Plan carry limited weight in the decision-making process. The adopted policies in the 2009 Core Strategy and Policies DPD carry substantial weight in the determination of this planning application.

2. Relevant Planning History

2.1 There is no relevant planning history.

3. Description of Current Proposal

3.1 The application property is located on the western side of Marlborough Road, which is relatively mixed in character comprising detached and semi detached two storey properties and bungalows. The rear boundary of the site adjoins the River Ash.

3.2 The proposal is for the erection of a 12 double pen boarding cattery, accommodating a maximum of 24 cats. The pens would be located in the rear garden of the residential property 89 Marlborough Road.

3.3 The 12 double pens would be situated at the north western corner of the rear garden. They would be L shaped in footprint extending 12.6 m in length along the northern boundary (adjacent to no. 87 Marlborough Road) and 7m across the rear (adjacent to the river Ash). The pens would stand 2m in height to the eaves and 2.3m in maximum height, with a low profile, sloping roof. The pens would be constructed of wood and mesh.

4. Consultations

The following table shows those bodies consulted and their response.

Consultee	Comment
Environment Health (noise and odour)	No objection
County Highway Authority	No objection

5. Public Consultation

5.1 The Council has received 6 letters of objection raising the following issues: -

- Noise
- Smell
- The Cattery would contravene Defra guidance (*officer note: this is not a planning matter, but the cattery will require a licence from Environmental Health, based on DEFRA guidance, in order to operate*).
- Location of property near walking area used by dog walkers likely to result in dogs barking at the Cats and causing stress to cats. This would mean they would be more vocal. (*officer note: this is not a planning matter*).
- Increased traffic generated by dropping off and collecting cats. The property does not have a parking space and is adjacent to a T junction.
- Operation of a cattery would encourage more foxes and rats in the area (*officer note: this is not a planning matter*).
- Applicant has an existing business run from the property the cattery use will take up more on- street parking spaces.
- Comment that neighbour is already unable to park outside their own property.

- Disposal of wastewater and effluent – no information as to where it will be disposed (*officer note: this is not a planning matter*).
- Business could generate numerous additional vehicle movements.

6. Planning Issues

- Impact on Character.
- Impact on Residential Amenity.
- Impact on Parking Provision & Highway Safety.
- Flooding.

7. Planning considerations

Design

7.1 Policy EN1 of the Core Strategy and Policies DPD states that proposals for new development 'should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land.

7.2 In terms of design the roof line of the pens would slope down towards the side boundaries of the site standing a maximum of 2.0m to the eaves and 2.3m overall. The plans show they would be constructed of wood and mesh. The pens are considered acceptable in appearance.

Amenity

7.3 In terms of impact on neighbouring amenity, as noted above, although the pens would extend 12.6m in length along the northern boundary with No.87 Marlborough Road, the plans show the eaves would be no higher than the existing boundary fence. The low profile roof line would then angle away from the boundary to a maximum height of 2.3m. The pens would also be set 0.5m off the boundary with No.87. As a result, it is considered that the proposal would have an acceptable impact on the adjoining property, No.87.

7.4 The Council has received representations raising concerns that the cats would cause noise disturbance to neighbouring properties. The Council's Environmental Health Department has been consulted on the application with regards to noise impact. Following the receipt of information from the applicant demonstrating how the pens would be enclosed and insulated, the Environmental Health Officer (EHO) has raised no objection to the proposal on these grounds.

Highway matters

7.5 The Council has received representations raising concerns that the proposal would result in a significant increase in vehicle movement, which could cause highway safety issues and problems with on-street parking.

7.6 The County Highway Engineer (CHA) has been consulted on the proposal with regards to highway safety. The CHA considers it would not have a material impact on highway safety and has no comments. Having regard to the CHA's comments, the impact of the proposal on highway safety is considered to be acceptable.

- 7.7 With regards to potential impact on traffic, the applicant states that the proposed customer dropping off and picking up of cats is likely to occur 1-3 times a day and will be by appointment. The proposal would therefore result in a small increase in traffic movements compared to the existing situation. However, this would be limited by the opening hours proposed. The hours proposed are Monday to Saturday 8am to 11am and 10am to 12pm on Sundays and not at all on Bank Holidays. It is proposed that these times will be controlled by planning condition. The applicant also states that the drop off and collections per day are likely to last no longer than 5-10 minutes each.
- 7.8 Taking into consideration the small number of likely delivery and collections of cats and the short duration time (5-10mins), it is not considered that the proposal would impact significantly on the availability of on-street parking.

Other matters

- 7.9 Representations received also raise concerns that the cattery would cause odour issues for neighbouring properties. A separate licence will be required by Environmental Health for the operation of this business. Information submitted with the application clarifies that waste would be removed from the site by a waste disposal contractor every two weeks. The EHO has not raised objection to the proposal on these grounds, clarifying that the site would need to be clean and well managed in order to be licensable by Environmental Health. It is not considered that objection could be sustained on these grounds.
- 7.10 Representations received also raise concerns that the proposal would increase foxes and rats in the area. The EHO has commented that provided the business is managed properly it is not considered that an increase rats and foxes in the area is likely to result. The Environmental Health commercial team would look at arrangements for waste disposal as part of the licensing process which would be required for a business of this type. In order that the impact of the proposal can be monitored, it is recommended a condition be imposed restricting the permission to 2 years. The applicant has agreed to this.
- 7.11 The application site is located within the 1 in 100-year flood event area and within 20m of the River Ash. The Environment Agency was consulted on the proposal but no comments were received. It is considered that the proposal will not have an adverse impact upon the flood area provided that it adheres to the conditions recommended by the Environment Agency in their standing advice (standing advice is pre-written advice that explains what applicants must do to meet legislative and policy requirements and is a material consideration). These conditions are recommended to be attached to this proposal in ensure the application is in accordance with policy LO1.

Conclusion

- 7.12 It is considered that the proposed development would have an acceptable impact on the character of the area and would not have a significant impact on the amenities of neighbouring properties to justify refusal of the application.

Equality Act 2010

- 7.13 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Human Rights Act 1998

- 7.14 This planning This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.15 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.16 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e., peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 7.17 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, officers have concluded on balance that the rights conferred upon the applicant/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

8. Recommendation

- 8.1 To GRANT planning permission subject to the following conditions:
1. That this permission be for a limited period of two years only, expiring on 01.06.2025 when the use hereby permitted shall be discontinued and the building and works carried out under this permission removed and the land reinstated to the satisfaction of the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess the proposal on a trial basis and to ensure that it does not prejudice the residential amenity of surrounding dwellings.

2. That no more than 24 cats can be kept in the cattery at any one time.

Reason: To safeguard the amenity of adjoining residential properties and to comply with the terms of the application.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan, ex elev 3, pro elev 5, ex PL2, pro PL4 all rec'd 13.03.2023.

Reason: For the avoidance of doubt and to ensure the development is completed as approved.

4. All spoil and building materials stored on site before and during construction shall be removed from the area of land liable to flood upon completion.

Reason: To prevent the increased risk of flooding due to impedance of flood flows and reduction of flood storage capacity in accordance with policies SP1, SP7 and LO1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

5. There shall be no raising of existing ground levels on the site within the area liable to flood, other than in accordance with the approved details.

Reason: To prevent the increased risk of flooding due to impedance of flood flows and reduction of flood storage capacity in accordance with policies SP1, SP7 and LO1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

6. That the cattery shall not be open to visiting members of the public before 8:00 am or after 11:00 am Monday to Saturday, or before 10:00 am or after 12:00 on Sundays, and will be closed on Bank Holidays.

Reason: To safeguard the amenity of neighbouring properties.

Informatives

The applicant is advised to contact the Environment Agency to establish if a permit is required due to the proximity of the proposed Cattery to the River Ash.

