



HYTHE AND DIBDEN PARISH COUNCIL

The Grove, 25 St. John's Street, Hythe, Hampshire SO45 6BZ

Serving the communities of Dibden, Dibden Purlieu and Hythe

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To: Members of the Planning Committee

Mr W Binns

Mr R Guy

Mrs M McLean

Mr G Parkes

Mr M Short Vice Chairman

and remainder of the Council for information

Mr B Uglow

Mr A Wade Chairman

Mr D Smith (ex officio)

Mr Jon Bennett (ex officio)

AGPLN377

6 April 2010

Members of the Planning Committee

are hereby summoned to attend the Planning Committee meeting to be held in The Grove, St. John's Street, Hythe on Monday next 12 April 2010 at 7.00 pm

Yours faithfully

P.P.

S. Spencer

Clerk to the Council

AGENDA

1. Apologies for absence.
2. To note any declarations of interest made by Members in connection with an Agenda item. The nature of the interest must also be specified.
3. Public Participation Period.
4. Notification of any other urgent business to be raised at the end of the meeting.
5. Forthcoming events that could affect the communities within the Parish.
6. Planning lists –

New Forest District Council

(a) Period ending 24 March 2010

(b) Period ending 31 March 2010

National Park

Applications received – 17 March 2010 to 23 March 2010 - none

Applications received – 24 March 2010 to 30 March 2010

8. Notice of Appeal Decision – 2 Warrys Close Hythe, Southampton - attached .
9. Any other urgent business concerning the Committee.



Planning Applications to be considered 12 April 2010

1 **10/95256** 17/03/10

Applicant - Mr Rencber

Proposal - Single storey front extension.

Site - 3 Admirals Way, Hythe SO45 6RU

2 **10/95289** 16/03/10

Applicant - Mr Cerqua

Proposal - Single storey rear extension

Site - 16 Langdown Road, Hythe SO45 6EH

3 **10/95322** 22/03/10

Applicant - Mr Hudson

Proposal - House

Site - Land rear of 15-17 High Street, Hythe SO45 6AG

4 **10/95334** 23/03/10

Applicant - Mr Howse

Proposal - Two storey dwelling; access alterations

Site - Land of 10 The Vale, Hythe SO45 5ET

5 **10/95371** 22/03/10

Applicant - Mr M Bradley

Proposal - New roof, dormers and rooflights in association with new first floor

Site - 28 West Road, Dibden Purlieu, Hythe SO45 4RJ

6 10/95386 24/02/10

Applicant - Mr and Mrs Rogers

Proposal – Two storey front and side extension; 3 front dormers; porch; front gates; boundary wall/railings

Site - Dornoch, Butts Ash Lane, Hythe SO45 3RL

7 TPO10/0103 15/0310

Proposal – x4 Scots Pine – Crown thin of 15% and crown clean

Site – Silver Firs, 6 West Road, Dibden Purlieu SO45 4RJ

Deferred from last meeting.

8 TPO10/01107 24/03/10

Proposal - T1 Ash - Fell

Site - 57 Mountfield, Hythe SO45 5AQ

9 TPO10/0119 26/03/10

Proposal - x1 Oak - Fell x 1 Oak - Reduce by 30%

Site - 22 Peartree Road, Dibden Purlieu SO45 4AL

New Forest National Park

1 10/95076 24/03/10

Applicant - Mrs H Pettman

Proposal - Variation of condition 4 of planning permission 80582 to allow roof space to be used as habitable accommodation.

Site - The Rest, Hythe Road, Marchwood SO40 4WU



Appeal Decision

Site visit made on 3 March 2010

by **Chris Anscombe** BTP DMS MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
18 March 2010

Appeal Ref: APP/B1740/A/09/2114383

2 Warrys Close, Hythe, Southampton, Hampshire SO45 3QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Lesley Gulliver against the decision of the New Forest District Council.
- The application Ref 09/94234, dated 24 June 2009, was refused by notice dated 2 October 2009.
- The application sought planning permission for use as a dog grooming business without complying with a condition attached to planning permission Ref 08/92227, dated 12 June 2008.
- The condition in dispute is No.1 which states that: *The use hereby approved shall cease on or before 30th June 2009.*
- The reason given for the condition is: *To enable the impact of the use on residential amenities to be reviewed after the business has been operational and to comply with Policy DW-E1 of the New Forest District Local Plan First Alteration.*

Decision

1. I allow the appeal and grant planning permission for the use of part of the existing dwelling as a dog grooming business at 2 Warrys Close, Hythe, Southampton, Hampshire SO45 3QS in accordance with the application Ref 09/94234, dated 24 June 2009 subject to the six conditions set out in the attached schedule.

Main issue

2. The main issue in this case is the effect of the continued use of part of the dwellinghouse for dog grooming on the living conditions of adjoining occupiers, with particular reference to noise, disturbance and traffic attraction.

Reasons

3. The reason for the imposition of the condition refers to Local Plan Policy DW-E1 which has been 'saved' and remains part of the development plan. This policy states that development shall not cause an adverse impact on local amenities. It requires developers to have regard to the potential impacts of the proposal, such as noise and traffic generation. I am told that the appellant wrote to her immediate neighbours on 15 April 2008 setting out her intention to start a part-time dog grooming business and inviting comments and questions. She says she received no responses to her letters.
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4. Subsequently she was granted the planning permission set out in the heading to this decision for a temporary period of some 12 months to allow the impact of the use to be reviewed after it had been operating. Government advice in Circular 11/95: *The use of conditions in planning permissions* states (at paragraph 112 of the Annex) that a second temporary period should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the right answer. I am advised that the permission granted was originally recommended to be for a period of two years, but this was reduced to one year when the decision was made. No reason has been given for this reduction in the trial period.
5. During the permitted period, when the use was taking place, it would seem that no complaints were received by the Council. It was only when the application was made to continue the use that the occupiers of four adjacent properties submitted letters of objection relating mainly to noise, disturbance and traffic. It would seem that this was the main reason for the refusal of planning permission to continue the use, but there is no evidence that the Council carried out any investigation into the allegations made or any assessment of the issues raised. Indeed the Council's own Environmental Protection department raised no objection. The Council's decision appears to have been made simply on the basis that these objections in themselves implied that the use was inappropriate.
6. I do not dismiss the objections made by neighbours lightly and I fully accept that they may have been irritated by activities that have taken place in connection with this use of the appeal property. However, Government advice on private interests is set out in *The Planning System: General Principles* (February 2005) at paragraph 29 and states that, "*The planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases. It can be difficult to distinguish between public and private interests, but this may be necessary on occasion. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest*".
7. The other conditions attached to the permission granted sought to protect the amenities of adjoining occupiers. These limited the business activity to between 8am and 6pm Mondays to Fridays (not including public holidays); and to not more than 3 days a week; required that all grooming should take place within the dwelling and no dogs would be kept in the rear garden; and restricted the operation of the use to the residential occupant of the property. There is no evidence to contradict the appellant's claim that she has complied with these other conditions at all times.
8. The grooming takes place in one small room within a pre-existing extension to the side of the dwelling, between the single garage facing the road and a study which projects into the rear garden. This room, which appears originally to have been a bathroom, has a window facing the side boundary some 0.4m away. The adjoining property, No.1 Ashleigh Close, has a kitchen window almost directly opposite and about 2m from this boundary. In the room where

the activities take place there is a dog grooming table, a dog bath and some other related equipment. There is space only for one dog to be groomed at any time. At my site visit I asked the appellant to demonstrate the dryer in use, as this appeared to be the source of much of the noise in the objections made. It is the size of a small domestic vacuum cleaner and makes a similar noise.

9. In response to the objections made to the use by the occupier of the adjoining property, I saw at my site visit that the appellant had wedged a thick square of foam into the window recess in an attempt to contain any noise arising from the grooming activities. This temporary arrangement would be difficult to enforce on a permanent basis and also affects light and ventilation to the room. In my view it would be sufficient to impose an additional requirement that the window be closed at any time that dog grooming is taking place within this room. I consider that the noise generated by the activities taking place would be unlikely to be significantly greater than other activities that may be carried out here incidental to the enjoyment of this dwellinghouse, including the keeping of pet dogs, entertaining guests and domestic cleaning.
10. The dwelling is situated within a cul-de-sac of some 24 dwellings. It is not a busy road. The appeal property has space on its driveway for two vehicles, side by side, and customers delivering or collecting dogs are encouraged to park here. However, they may choose not to and instead park on the road. In my view this would cause little inconvenience, even if one owner arrived to deliver their dog at the same time as another was there to collect one. I note that the local highway authority raised no objection to the continuation of the use and I consider that the traffic generated by this small scale commercial operation would be unlikely to cause any significant difficulties.
11. In its reason for the refusal of planning permission to continue the use the Council has also referred to Local Plan Policy BU-CE1, which relates to commercial and employment development in built-up areas outside town centres. Whilst this policy relates to any scale of commercial development and not specifically to working from home, it is nevertheless a permissive policy subject to the use being compatible with the amenity of adjoining and nearby uses. This consideration is no different to those of Policy DW-E1.
12. I have been advised of the existence of a covenant which, it is said, forbids the use of the dwelling for business purposes. That is a matter of civil property law, which would be for others to enforce if appropriate. It is not in itself a material planning consideration.
13. On the main issue I conclude that, subject to the imposition of an additional condition requiring the existing window in the side elevation to be closed whilst any activity associated with the grooming of dogs takes place, the continued use of part of this dwellinghouse for dog grooming would have no unacceptable impact on the living conditions of adjoining occupiers, with particular reference to noise, disturbance and traffic attraction. There would be no conflict with 'saved' Local Plan Policies DW-E1 or BU-CE1.

Chris Anscombe

INSPECTOR

Schedule of Conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No activity shall take place on the site in connection with the use hereby approved other than between the hours of 8am and 6pm Monday to Fridays, not including recognised public holidays.
- 3) The use hereby approved shall operate from the site for no more than 3 days in any one week.
- 4) All grooming of dogs shall take place inside the existing dwellinghouse, and no dogs visiting the site in connection with the approved business use shall be kept outside within the rear garden area of the property.
- 5) The use hereby approved shall only be operated by the residential occupant of the existing dwellinghouse at 2 Warrys Close.
- 6) The window to the dog grooming room in the side elevation facing No.1 Ashleigh Close shall be kept closed at all times that dog grooming is taking place within that room.