



LOANVIEW HOLDINGS, LOANVIEW HOUSE, LANG LOAN, LOANHEAD PLANNING APPLICATION 00/00178/FUL AND RELATED APPLICATIONS

Report by Head of Planning and Development

1 PURPOSE OF REPORT

- 1.1 At its meeting in January 2013 the Committee requested an update with regard the planning position at Loanview Holdings, Loanview House, Lang Loan, Loanhead.

2 BACKGROUND

- 2.1 Planning application 00/00178/FUL for the erection of dwellinghouse, cattery and kennels, garage and staff accommodation was granted subject to conditions and a legal agreement on 29 January 2001. Pertinent to the outstanding planning issues on the site are conditions 3 and 4:
3. The dwellinghouse hereby approved shall not be occupied until the animal accommodation hereby approved (except the isolation kennels shown on the approved drawings) has been built and completed in its entirety and its use as boarding kennels and cattery has commenced.
4. The dwellinghouse hereby approved shall be occupied solely by a person or persons employed or last employed in managing the kennels and cattery hereby approved together with the dependants of such persons residing with him or her or by the widow or widower of such person or persons.
- Reason for condition 3 and 4: Supervision of animal accommodation within the site was part of the justification for approval of the development.*
- 2.2 The legal agreement reaffirmed the occupancy restriction stated in condition 4.
- 2.3 The dwellinghouse was partially constructed in 2002 – 2004 and occupied in breach of conditions 3 and 4 of permission 00/00178/FUL.

2.4 Planning application 04/00836/FUL to amend condition 3 of planning permission 00/00178/FUL, to allow the occupation of the dwellinghouse and phased construction of kennels was refused on 14 January 2011.

2.5 A notice of review was submitted to the Local Review Body (LRB) for consideration. At its meeting in June 2011 the LRB granted temporary permission for the occupation of the dwellinghouse subject to the following conditions:

1. The dwellinghouse constructed under planning permission 00/00178/FUL may remain occupied until 1 July 2012. Thereafter the dwellinghouse shall only be occupied once the kennels (for 60 dogs) and cattery (for 30 cats) approved under planning permission 00/00178/FUL have been constructed (to a standard of completeness to be issued with a Completion Certificate from the Council's Building Standards Service) and its use as boarding kennels and cattery has commenced.

Reason: *To ensure the development accords with policies RP1, RP2, ECON8 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

2. With the exception of condition 3, all the conditions on planning permission 00/00178/FUL shall be complied with. Condition 3 on planning application 00/00178/FUL shall be replaced by condition 1 on this grant of planning permission.

Reason: *To ensure the development accords with policies RP1, RP2, ECON8 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

2.6 In determining the review the LRB concluded:

2.7 *"The principle of establishing a rural business comprising dog kennels and cattery is acceptable in this location. In support of this business the LRB were also supportive of the continued occupation of the existing dwellinghouse. However, the continued occupation of the dwellinghouse is only acceptable on the basis of supporting the approved rural business. Therefore the continued occupation of the dwellinghouse is only permitted for a temporary one year period, during which time the expectation is that the construction of the kennels and cattery is completed and the business becomes operational. Once the kennels and cattery is completed and the business becomes operational the dwellinghouse can be occupied on a permanent basis.*

If the business is not developed and operated as approved, the continued occupation of the dwellinghouse will be contrary to development plan policies which seek to protect the countryside and green belt.

The LRB were sympathetic to the individual circumstances of the applicant with regard his health, which has resulted in the development not progressing timeously. However, considering planning permission for the erection of a dwellinghouse, kennels and cattery was granted in 2001 and the dwellinghouse was constructed in 2002 it is reasonable for the Council to expect the kennels and cattery to be completed.”

- 2.8 Planning application 05/00669/FUL for erection of garage and flat to form staff accommodation was refused on 06 January 2011.
- 2.9 An application for a Certificate of Lawful Use or Development (CLUD) 01/00674/CL with regard the occupation of a dwellinghouse in breach of a planning condition (requiring the construction of kennels prior to the occupation of an accompanying dwellinghouse) for over 10 years for continued occupation of the dwellinghouse as a private house, independent of any business activity which the original permission related to was refused 06 January 2012. An appeal against the refusal was dismissed by the Directorate for Planning and Environmental Appeals (DPEA) and the Council was awarded costs. A copy of the Scottish Government’s Reporter’s appeal decision notice dated 13 November 2012 and decision to award costs dated 15 November 2012 was reported to the meeting of the Committee in January 2013.

3 CURRENT POSITION

- 3.1 Planning permission was granted to construct a dwellinghouse, a kennel building with two wings, a cattery and associated developments. The dwellinghouse has been constructed and is occupied and one wing of the kennel building has been constructed ready for use.
- 3.2 The continued occupation of the dwellinghouse without completing the kennels and cattery buildings is in breach of condition 1 of planning application 04/00836/FUL.
- 3.2 It is proposed to issue an enforcement notice to secure compliance with condition 1 of planning application 04/00836/FUL. The notice would require the completion of the kennels and cattery development or the cessation of occupation of the dwellinghouse. Non compliance could result in the breach of planning control being reported to the Procurator Fiscal.
- 3.3 Although a breach of planning control is outstanding the occupants of the dwellinghouse have the option of submitting a planning application to allow the continued occupation of the dwellinghouse with a reduced kennelling and cattery business. The occupants have been advised, without prejudice to the decision, of this option by the planning authority, but to date has not pursued this course of action. This option remains open despite any enforcement action taken by the planning authority.

4 RECOMMENDATION

- 4.1 It is recommended that the Committee:
- a) notes the history and current planning position at Loanview Holdings, Loanview House, Lang Loan, Loanhead; and
 - b) authorise the Head of Planning and Development to instigate such enforcement action as may be considered appropriate.

Ian Johnson
Head of Planning and Development

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Background Papers: