

REPORT TO: Planning Committee

MEETING DATE: Tuesday 18 June 2013

BY: Executive Director (Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor MacKenzie for the following reason: concerns about possible loss of amenity.

Application No. **13/00247/P**

Proposal Use of land and part change of use of former bakery building to use as a dog day care centre and erection of fencing and gate

Location **Former Fords The Bakers Office/Canteen Building
Mid Road Industrial Estate
Prestonpans
East Lothian
EH32 9ER**

Applicant Carefree Canines

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to a small part of the former Fords the Bakers building, an adjacent area of grassed land on the north side of the building and a small car parking area on the west side of the building that are all within Mid Road Industrial Estate, Prestonpans.

Planning permission is sought for the change of use of the small part of the former Fords the Bakers building and the adjacent area of grassed land on the north side of the building, for use as a dog day care centre. In association with this planning permission is additionally sought for the erection of fencing and a gate.

The small part of the former Fords the Bakers building the subject of this application comprises the majority of its single storey brick built northern component. The area of grassed land of the site, on the north side of the building, would be used as an outdoor exercise area for dogs at the proposed day care centre. It would be some 372 square metres in area. This proposed outdoor exercise area would be enclosed by a 2.4 metre high close boarded timber fence, which would have a 2.4 metre high close boarded timber gate installed on a short part of its northern length. There would remain an area of grassed land between the proposed fence and the access road that serves the industrial

estate. It is additionally stated on the application drawings that the applicant intends to plant a high hedge around the outer perimeter of the proposed fence.

The existing car parking area on the west side of the building would be retained for use for customers of the proposed dog day care centre.

No external alterations are proposed for the part of the former Fords the Bakers building the subject of this application to facilitate its use as the proposed dog day care centre.

By being within Mid Road Industrial Estate the building and land of the application site are covered by Policy BUS1 (Business and General Industrial Allocations) of the adopted East Lothian Local Plan 2008.

Northfield House, a category B listed building, is some 114 metres to the north of the application site, across Mid Road.

The applicant advises in a supporting statement that it is intended to operate the proposed dog day care centre from 8.00am to 6.30pm Monday to Friday and 9.00am to 1.00pm on Saturdays with no operation on Sundays. Use of the outdoor area would not commence until 9.00am. However, the applicant also informs that it is the intention to operate dog training classes until 8.00pm during the week, with use of the outdoor exercise area stopping at 7.00pm. Therefore this effectively means the proposed dog day care centre would operate from 8.00am to 8.00pm Monday to Friday but with use of the outdoor exercise area ceasing at 7.00pm on those days.

The supporting statement continues that dogs attending the proposed day care centre would spend their days circulating through a series of different areas either alone, with other dogs from the same family or (with their owners permission) in small supervised groups. The safety of the dogs attending the facility would remain of the utmost importance and dogs would not be permitted to "free run" in a large pack or group. It is intended to initially seek a license for 25 dogs, with a future goal of having 40 dog places at the proposed day care centre. The applicant advises it is also proposed to have a small specialist dog shop within the dog day care centre.

As a non-material amendment to the application a revised drawing has been submitted showing the extent of the proposed small specialist dog shop area within the building.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this application for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies ENV1C (International and National Historic or Built Environment Designations) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies BUS1 (Business and General Industrial Locations), ENV3 (Listed Buildings), DP2 (Design), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Sections 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

A total of 81 written representations have been received in respect of this planning application. Of these, 76 make objection to the proposed development and 5 express support for it.

The main grounds of objection to the application are that:

- * dogs barking would lead to noise nuisance and disturbance to nearby residential properties;
- * the proposed dog day care centre use would lead to increased traffic movement, parking problems and thus be a road safety hazard;
- * the proposed fencing would be unsightly;
- * the application site is in an industrial area and is not 'zoned' for a dog day care centre;
- * the proposed dog day care centre would harm the setting of the listed Northfield House;
- * it is not clear how dog waste would be disposed;
- * the proposed dog day care centre would devalue nearby residential properties.

The main grounds of support for the proposed development are:

- * the proposed dog day care centre would promote employment;
- * noise generated by use of the proposed dog day care centre would not be an issue;
- * the proposed dog day care centre would be a great facility for dogs.

The disposal of dog waste is not a material consideration in the determination of this application as such a matter would be controllable through the licensing of the proposed dog day care centre.

The effect of the proposed development on house prices is not a material consideration in the determination of this application

By being within Mid Road Industrial Estate the building and land of the application site are covered by Policy BUS1 of the adopted East Lothian Local Plan 2008. Policy BUS1 stipulates that within areas allocated for business and general industrial use there is support in principle for uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Development that does not fall within these classes will not normally be permitted, with the exception of retail activity that is directly related and ancillary to a business or industrial process carried out on the site. Other retailing activity will not be permitted.

The proposed dog day care centre use is a 'sui generis' use. It is not a use falling within Classes 4, 5 and 6 of the Use Classes Order. There is no land allocated through the Local Plan for such a use. Therefore the application falls to be determined on the basis

of the appropriateness and acceptability of siting the proposed use on land allocated for business and general industrial purposes.

The Council's Policy and Projects Manager advises that whilst the proposed use is one which does not fall within Use Classes 4, 5 or 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the proposed dog day care centre use is one that, due to its potential for noise impacts, lends itself to being located within a business and industrial location rather than for example a predominantly residential area, where the need to safeguard residential amenity is paramount. The Policy and Projects Manager advises that the proposed use is one that is compatible with the existing uses within the industrial estate and he raises no objection to the application.

The Policy and Projects Manager further advises that such a proposed use of this small part of the larger former bakery building and small part of the grassed land of the industrial estate would not prevent the remaining buildings and land of the industrial estate being developed for Classes 4, 5 and 6 of the Use Classes Order for which they are allocated, would not set a damaging precedent for other non Class 4, 5 or 6 uses on land the subject of Policy BUS1 and would not prejudice the purpose and integrity of Policy BUS1.

The proposed dog day care centre use would be restricted to a very small part of the overall area of Mid Road Industrial Estate. In the circumstance of this case, the proposed use of this small part of the former bakery building and land as a dog day care centre is, in principle, an acceptable use of the part of the building and land as an alternative to Class 4, 5 and 6 uses. The proposed dog day care centre use would not be incompatible with the business uses presently operating within Mid Road Industrial Estate and would not prejudice the designation of the industrial estate as a place for Class 4, 5 & 6 uses. The proposed dog day care centre use would create employment that would be beneficial to the economy of East Lothian and would be located in a sustainable location within an existing urban settlement. On these considerations the proposed dog day care centre use does not conflict with Policy BUS1 of the adopted East Lothian Local Plan 2008.

The small amount of space to be used for the specialist dog shop area would, as a retail use, be in association with and ancillary to the principal use of the premises as a dog day care centre. The area of floor space that would be so used is clearly delineated on the application drawings. A condition can be imposed on the grant of planning permission to restrict the retail use to that floor space. Such planning control over the extent of that use would ensure that it be ancillary to the principal dog day care centre use of the building.

The Council's Environmental Protection Manager does not object to the proposals. He advises that if the operation of the part of the building that is to be used as the proposed dog day care centre are restricted to the hours which have been applied for (i.e. between 8.00am and 8.00pm Monday to Friday and 9.00am and 1.00pm on Saturdays) then such use would not be harmful to the amenity of any nearby residential properties.

He recommends that the proposed fence to enclose the outdoor exercise area of the dog day care centre be constructed of close boarded timber fencing with a minimum weight of 12kg/m² and that use of that fenced-in area is restricted to that which has been applied for (i.e. between 9.00am and 7.00pm Monday to Friday and 9.00am and 1.00pm on Saturdays). Subject to these measures he advises that use of the outdoor exercise area would not be harmful to the amenity of any nearby residential properties.

Such recommended controls can reasonably be secured as conditions imposed on the grant of planning permission and subject to them the operation of the proposed dog day care centre would not be harmful to the amenity of any nearby residential properties.

The operation of the premises would also be controlled by the Council through its Licensing function. Planning controls should not duplicate the controls available to the Council through other legislation.

The Council's Transportation service raise no objection to the proposals. They advise that it is likely the proposed use of part of the building as a dog day care centre would generate a similar number of vehicle movements as its previous use as part of the larger bakery building. Transportation further advise that the car park on the west side of the building is of an adequate size to serve that proposed new use. Moreover, they advise that the dropping off and picking up of dogs by customers of the proposed dog day care centre is unlikely to happen at once given the hours of operation of it, and are more likely to be staggered through the day as advised in the applicant's supporting statement. As a result of this Transportation are satisfied that the proposed dog day care centre would not cause disruption to or congestion in the surrounding road network, or any parking problems within the industrial estate or surrounding roads. The proposed change of use does not conflict with Policies T2 or DP22 of the adopted East Lothian Local Plan 2008.

The proposed fence and gate, at a height of 2.4m and of a close boarded timber form would be prominently visible structures from within Mid Road Industrial Estate and in views from the public road of Mid Road to the north. However, the applicant intends to plant hedging around the outer perimeter of the proposed fence, and allow it to grow to a height commensurate with that of the proposed fence. This would give a landscape setting to the proposed fence and would act as a green barrier to soften and mitigate against the visual impact of it, and help to frame and visually contain the proposed gate. The hedge would also be seen in the context of the wider area of grassed land alongside which it would be planted. Subject to the planting of such a hedge, which can be made conditional on the grant of planning permission, the proposed fence and gate would not appear as harmfully intrusive or incongruous structures in their setting within the industrial estate.

On the above consideration the proposed dog day care centre is consistent with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2000 and Policy DP2 of the adopted East Lothian Local Plan 2008.

Northfield House, a category B listed building, is some 114 metres to the north of the application site, across Mid Road. It is almost completely hidden in views from Mid Road because of the amount of visual containment given to it by the presence of the trees and bushes along the length of the south roadside boundary of its curtilage. Therefore the proposed development would not have any visual relationship with that listed building and thus would not have any harmfully imposing effect on its setting.

On this consideration the proposals are not contrary to Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015, Policy ENV3 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: February 2010.

CONDITIONS:

- 1 The hours of use of the building of the dog day care centre hereby approved shall be restricted to 8.00am to 8.00pm Monday to Friday and 9.00am to 1.00pm on Saturdays only. The use shall not occur at any other time without the prior approval of the Planning Authority.

The hours of use of the outdoor exercise area of the dog day care centre hereby approved shall be

restricted to 9.00am to 7.00pm Monday to Friday and 9.00am to 1.00pm on Saturdays only. Use of the outdoor exercise area shall not occur at any other time without the prior approval of the Planning Authority.

Reason:

To restrict the hours of operation of the dog day care centre to that applied for and in the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 2 No use shall be made of the outdoor exercise area of the dog day care centre hereby approved unless and until the 2.4m high close boarded timber fence and gate have been erected in the positions shown for them on the 'Proposed Floor Plan' drawing docketed to this planning permission.

The close boarded timber fence and gate so erected shall have a minimum weight of 12kg/m² and shall be constructed such that there are no gaps between the fence boards or between the fence and the ground where they are to be erected. Thereafter the fence and gate so erected and constructed shall be retained in place, unless otherwise approved by the Planning Authority.

Reason:

In the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 3 On completion of erection of the 2.4m high close boarded timber fence in accordance with condition 2 above a hedge shall be planted along the entire length of its outer perimeter in accordance with details to be submitted to and approved in advance by the Planning Authority. The hedging so planted shall be allowed to grow to and thereafter be maintained at a minimum height of 2.4 metres above ground level where it is to be planted.

Reason:

In the interests of the visual amenity of the area.

- 4 Unless otherwise approved by the Planning Authority, the floor area of the 'Retail Shop Area', as an ancillary use of the dog day care centre hereby approved, shall be limited to that designated to it as shown hatched in orange on the 'Proposed Floor Plan' drawing docketed to this planning permission.

Reason:

In order to retain control over the amount of the retail component of the dog day care centre use to that applied for.

- 5 The existing car park to be used for parking for the dog day care centre use hereby approved as shown on the docketed drawings shall be retained for such parking use, unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety.