
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 06-Oct-2022

Subject: Planning Application 2022/90505 Change of use of agricultural land to Sui Generis for private dog walking with associated works Land adj, Moor Top Lane, Huddersfield, WF4 4BU

APPLICANT

S Macken

DATE VALID

14-Feb-2022

TARGET DATE

11-Apr-2022

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Kirkburton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

APPROVE

DELEGATE approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to complete the list of conditions including those contained within this report

1.0 INTRODUCTION

1.1 The application has been brought before the Strategic Planning Committee given that the site exceeds 0.5ha in size and is non-residential.

2.0 SITE AND SURROUNDING

2.1 The application relates to a field to the northeast side of Moor Top Lane. The field has been used for agricultural uses. The field is bound by fencing and hedges on all four sides. The field covers an area of 0.74 Ha.

2.2 The field benefits from vehicular access from Moor Top Lane to the west south western side of the site, with an existing hardstanding area beyond it, which is albeit overgrown at present.

2.3 The wider site is rural and allocated as Green Belt land. There are sporadic threads of residential development in the surrounding area. The closest dwelling to the application site is situated 70m away to the northwest. Dwellings can also be found 85m away to the south and 134m away to the northwest.

3.0 PROPOSAL

3.1 The application is seeking permission for the change of use of agricultural land to a private dog walking (Sui Generis Use) with associated works.

3.2 The proposal development would see two pens formed, each secured by fencing, for private use of the customer. Each pen would include activities and enrichment for the dogs. There will be a restriction of five dogs per area.

3.3 Parking for each pen would be provided on the existing hard standing area. This would be resurfaced with crushed stone. The site will provide 4 vehicle parking spaces. This is to allow two vehicles per booking per pen, and to facilitate the swap over time whilst the next customer waits for the previous booking to leave. The existing access gates from Moor Top Lane would be widened to have a width of 5m and set 6m back from the highway. The access would be tarmacked.

3.4 The agent has proposed operating hours of 07:00 until 21:00 (April to September inclusive) and 08:00 to 19:00 (October to March inclusive).

4.0 RELEVANT PLANNING HISTORY

4.1 Application Site

4.2 2004/95381 - Erection Of 4 No. Loose Boxes, Siting Of 7 No. Poultry Coops, Formation Of Exercise Area And New Access – Refused.

2005/90490 - Alterations To Existing Agricultural Access To Highway – Approved.

5.0 HISTORY OF NEGOTIATIONS

5.1 There have been constant discussions between the Agent and the Authority on this application. Discussions have taken place regarding the proposed operation of the site and potential conditions. With regard to amendments, plans have been revised to widen, surface and position the access appropriately as sought by KC Highways Development Management.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 20th July 2021).

Kirklees Local Plan (2019):

6.2 LP1 - Presumption in favour of sustainable development
LP10 - Supporting the rural economy
LP21 - Highway safety and access
LP22 - Parking
LP23 - Core walking and cycling network
LP24 - Design
LP28 - Drainage
LP30 - Biodiversity and Geodiversity
LP32 - Landscape
LP51 - Protection and improvement of local air quality
LP52 - Protection and improvement of environmental quality
LP56 - Facilities for outdoor sport and recreation

National Planning Guidance:

6.3 Chapter 2 - Achieving sustainable development.
Chapter 6 - Building a strong, competitive economy.
Chapter 12 - Achieving well designed places.
Chapter 13 - Protecting Green Belt land.
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change.
Chapter 15 - Conserving and enhancing the natural environment.

Supplementary Planning Guidance / Documents:

- 6.4 Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
Highway Design Guide SPD (2019)
Planning Applications Climate Change Guidance (2021)
Biodiversity Net Gain Technical Advice Note (2021)

7.0 PUBLIC / LOCAL RESPONSE

- 7.1 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 1st April 2022. 15 representations were received, 7 in support, 7 against and 1 general comment. These representations have been summarised as follows:

General Supporting Comments

- Would provide a good and safe asset for the community.
- Provide a good rural service.
- Provide a use for the site.
- Would not cause harm through noise.

Highway Safety Matters

- The use would cause accidents on the highway through its intensification.

Amenity Issues

- The development would cause harm through noise.

Other Matters

- Concerns whether fence is secure enough to keep dogs within the site.
- The use would increase crime in the area.
- Development would impact the water table cause surface flooding issues.
- The development would cause ecological harm.

Non-material planning considerations

- The temperament of the dogs and potential harm to people and farm animals close by.
- The noise barking may startle horses passing by on the highway.
- Worries of how dog waste will be disposed of.
- Alleged commencement of development

- 7.2 Officer also received comments from Cllr B Armer. In summary Cllr B Armer Noted highways concerns with the proposed scheme. This included highlighting that without 'no parking' restrictions the scheme could not prevent on street parking threatening road safety. Cllr B Armer also raised issue regarding vehicles entering and exiting the site, causing a hazard to the highway. Cllr B Armer stated that the provision of the on-site parking spaces would 'compromise the purpose of the Green Belt, in that the land would acquire a more urban character through the formation of a significant area of hard surfacing for parking and turning'.

8.0 CONSULTATION RESPONSES

- 8.1 Below is a brief summary of the consultation responses received. These comments will be discussed in further detail where relevant later on in the assessment.

KC Environmental Health – No objections in principle, however requested the following conditions: opening hours of 0800hrs to 2000hrs (April to September) and 0800hrs to 1800hrs (October to March) each day of the week.

KC Highway – Initial concerns regarding number of parking spaces, visibility and lack of vehicle refuge area when entering and exiting the site. KC Highway were reconsulted following amendments to the access and parking arrangement and the submission of highway data. Upon re-consultation KC Highways stated that they, on balance, considered the access was safe subject to a condition to ensure that visibility splays were to be kept clear.

9.0 MAIN ISSUES

- Principle of Development in the Green Belt and Visual Amenity
- Residential Amenity
- Highway Safety
- Ecology
- Carbon Budget
- Representations

10.0 APPRAISAL

Principle of Development in the Green Belt and Visual Amenity

- 10.1 The site is allocated as Green Belt on the Kirklees Local Plan and therefore consideration needs to be given to Chapter 13 of the National Planning Policy Framework. Paragraph 145 of the National Planning Policy Framework indicates that the provision of appropriate facilities for outdoor sport and outdoor recreation could be acceptable in principle so long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. LP56 of the Kirklees Local Plan reiterates this policy, stating that proposals should ensure that the scale of the facility is no more than what is reasonable required for the proper functioning of the enterprise, and the facility is unobtrusively located and designed to not introduce a prominent urban element into the countryside, including any new or improved access and car parking areas.
- 10.2 In this instance, the proposed use for dog exercise, is considered outdoor recreation. The site will be operated by the landowner. There will be a maximum of three dogs using the site at any one given time. The proposed development would utilise the existing access and hard-surfacing for vehicles. The access and hardstanding was approved under 2005/90490. The extent of the hardstanding has organically extended since this permission, however, has been in situ since 2009 as per the Council GIS imagery and is therefore immune from any enforcement action. The proposal will therefore not introduce any new urban into the Green Belt. The proposed deer fence can be erected under permitted development rights, nonetheless officers consider it visually appropriate in a rural setting. Therefore, the proposed use is

considered appropriate in the Green Belt as set out by Chapter 13 of the NPPF and Policy LP56 of the Kirklees Local Plan. The lack of physical alterations means the development would not be out of character with the rural setting, thus according with Local Plan policy LP24 and Chapter 12 of the National Planning Policy Framework also.

- 10.3 Furthermore, the economic benefits of the development are supported by local and national policy. The National Planning Policy Framework and Kirklees Local Plan also encourages the Authority to support rural businesses. The creation of a dog exercise facility would create a small rural business without any harm to the Green Belt visually, therefore, the scheme would help the wider rural community as per the aims of LP10 of the KLP and Chapter 6 of the NPPF.
- 10.4 For the reasons set out above, the principle of development in the Green Belt and visual amenity of the development is considered acceptable.

Residential Amenity

- 10.5 The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan. Policy LP24 seeks to “provide a high standard of amenity for future and neighbouring occupiers.” This is further supported by policies set out in Chapters 12 and 15 of the NPPF.
- 10.6 In this case, the application site is very rural and the closest dwelling is set circa 80m to the north west of the site. All other dwellings are in excess of 100m from the site. Considering this, the ability for the proposed dog exercise use to harm the residential amenity of nearby dwellings is very limited. Nonetheless, during night time hours, when background noise levels are low, harm could be caused as the barking would travel further. Also, a night-time use could see artificial lighting use on the site. As such hours of operation shall be conditioned. Officers note the hours proposed by KC Environmental Health but have no material reason to object to the hours proposed by the applicant, thus, officers will restrict the hours of use to between the hours of 07:00 until 21:00 (April to September inclusive) and 08:00 to 19:00 (October to March inclusive). Officers will also condition no artificial lighting is to be erected at the site. Officers note that KC Environmental Health have requested a noise mitigation scheme however officers do not consider this reasonable as per the six tests for conditions, given the vast separation distance between the application site and dwellings and considering the proposed level of development.
- 10.7 Officers consider that given the separation distance between the application site and the dwelling, the proposed use, subject to the conditions referenced above, would not materially harm their amenity. Thus, the proposed development is considered to accord with Local Plan Policies LP24 and LP52 and Chapter 12 of the NPPF with regard to residential amenity.

Impact on Highway Safety

- 10.8 Local Plan Policies LP21 and LP22 set out the local policy with regard to highway safety and parking. The Highways Design Guide SPD helps offers implement these policies. KC Highways were consulted as a part of this application also.

- 10.9 The Proposed Site Plan shows the existing vehicular access and hard surfaced area shall be utilised. The gate shall be moved backward to create a 6m pull in area between the highway and gate. Inward opening security gates are proposed at the site access, which will be operated by a combination padlock. Other proposed works to the access includes to 5m and a 2m kerb radii. These alterations will allow large cars to safely enter and exit the site in forward gear and are acceptable considered to accord with Local Plan Policies LP21 and LP22 and The Highways Design Guide SPD.
- 10.10 4 No. on-site car parking spaces are proposed, which are 5.0x2.5m. Sufficient turning space has been proposed within the site, with 6m+ reversing spaces provided for all car parking spaces, which has been confirmed as being adequate by vehicle tracking. The level of parking spaces proposed are considered adequate, subject to the development operating as suggested by the applicant, with a maximum of 2 bookings at any one time, and a restriction of a single vehicle per booking. To ensure that no overspill parking takes place on the highway, which would adversely affect highway safety, the above restrictions and car parking operation shall be secured by a planning condition.
- 10.11 Based on the latest 'Visibility Splays and Entrance drawing – ref 186-66-002D', visibility splays to an oncoming vehicle of 2.4x128 and 2.4x127 can be provided to the northwest and southeast respectively, which are acceptable. However, to achieve the visibility splays it will be necessary to cut back and/or replant the boundary hedge to the southeast of the access to achieve the necessary visibility splay. The applicant has at present cut back and officers have rechecked the visibility splay on site. This demonstrated that the trunk of the first hawthorne bush to the southeast of the access will need to be cut back further on the highway side, to ensure that the full visibility splay is achieved, with regular cutting back of the hedges required to ensure that the splays are maintained. Subject to a condition to secure the further cutting back of the hawthorne bushes appropriate and to ensure the splay is kept clear in the future, the site access is considered to not detriment the safety of the wider highway network, thus according with Local Plan Policies LP21 and LP22 and The Highways Design Guide SPD.
- 10.12 Subject to the conditions set out above, the scheme is considered acceptable with regard to highway safety and to accord with Local Plan Policies LP21 and LP22 set out the local policy with regard to highway safety and parking. The Highways Design Guide SPD helps offers implement these policies. This is in accordance with the advice given by KC Highways Development Management.

Other Matters

Ecology

- 10.13 The field is currently grassed. It does not have a watercourse running through it or have any obvious habitats present. The proposals in their current form, given that they are a change of use with very limited development will result in no impacts on biodiversity. However, it shall be conditioned that if any hedgerow is lost to provide suitable visibility splays as addressed in paragraph 10.11, this hedgerow shall have to be adequately replaced elsewhere within the site as to accord with Local Plan Policy LP30 and Chapter 15 of the NPPF.

Carbon Budget

- 10.14 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. As per the standards set for commercial development, typically one electric vehicle charging point would be required for an application of this nature. However, as the site does not benefit from an electricity, or require an electrical system to be installed for the main purpose of the proposal, it would be unreasonable, as per the six tests for conditions, to seek a condition for the provision of an electric vehicle charging point.

Contaminated Land

- 10.15 Local Plan policy LP53 states that 'For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment.' The development site lies within 250m of a historic landfill site (our map ref 71/23). A condition is therefore required for the finding of any unexpected contamination to be reported to the Local Planning Authority in order to comply with Kirklees Local Plan policy LP53.

Representations

- 10.16 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 1st April 2022. 15 representations were received, 7 in support, 7 against and 1 general comment. These representations have been summarised as follows:

10.17 General Supporting Comments

- Would provide a good and safe asset for the community.
- Provide a good rural service.
- Provide a use for the site.
- Would not cause harm through noise.

Response: Noted

Highway Safety Matters

- The use would cause accidents on the highway through its intensification.

Response: Noted and considered in the assessment above.

Amenity Issues

- The development would cause harm through noise.

Response: Noted and considered in the assessment above.

Other Matters

- Concerns whether fence is secure enough to keep dogs within the site.
Response: Noted and deer fencing considered appropriate.

- The use would increase crime in the area.
Response: Noted.

- Development would impact the water table cause surface flooding issues.
Response: Noted but the application site is set within Flood Zone 1 and consists of limited built development, thus, is not considered materially harmful.

- The development would cause ecological harm.
Response: Noted and considered in the assessment above.

Non-material planning considerations

- The temperament of the dogs and potential harm to people and farm animals close by.

- The noise barking may startle horses passing by on the highway.

- Worries of how dog waste will be disposed of.

- Land ownership disputes.

- Alleged commencement of development

Response: Noted, however cannot be considered as these are not material planning considerations.

11.0 CONCLUSION

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that proposed use is appropriate in the Green Belt and would not materially cause any harm with regards to its purposes. The associated development is considered to be tightly limited to that required to practically facilitate the developed and would not materially harm the Green Belt either. The scheme would also boost the rural economy, without any material harm to the residential amenity of dwellings or to the detriment of highway safety. For this reason officers are recommending the application be approved.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

Below is a summary of the proposed conditions:

1. In accordance with the approved plans.
2. Development to begin within 3 years.
3. Hours of operation between 07:00 until 21:00 (April to September inclusive) and 08:00 to 19:00 (October to March inclusive).
4. No artificial lighting to be installed.
5. Details of scheme to clear and maintain clearance of the visibility splay.

6. Replacement hedge to be planted where removed in conjunction with condition 5.
7. Access gate to be repositioned and parking spaces to be provided prior to the site being bought in to use.
8. Operated via a booking system, with a maximum of 2 bookings at any one time, and a restriction of a single vehicle per booking.
9. Report of unexpected contaminated land.

Background papers:

Application case file: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/90505>

Ownership Certificate B signed: 13/02/2022