

Delegated Report

Planning Ref: 23/00790/FUL
Applicant: Lorraine and Stuart Wileman
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: The Cottage, Elmesthorpe Lane, Earl Shilton,
Leicester

Proposal: Change of use of paddock (sui generis agriculture) to dog exercising area (Class E) with associated fencing and car parking

1. Recommendations

- 1.1. Approve planning permission subject to the conditions at the end of this report.

2. Planning Application Description

- 2.1. The applicant seeks planning permission for the change of use of paddock land (agricultural sui generis) to a secure dog walking/exercise paddock with associated fencing and parking.
- 2.2. The dog walking paddock would be accessed through the existing field entrance where a car parking area will be created. The parking area proposed is an existing hardstanding area and is shown on the block plan. There would be a gated access from the car park to the field and dog exercise area. Between the garden of The Cottage and the dog exercise area, a 6ft close board fence is proposed, with the existing hedgerow retained on the other boundaries along with chicken wire and post fencing.
- 2.3. It has been agreed between the applicant and HBBC that there will be a maximum of 1 customer/household allowed within the site at a time, and this will be secured by a condition. The development will be open between the maximum hours of 06.00 and 20.00 but limited to daylight hours depending on the time of year.
- 2.4. The purpose of the application is to create a secure dog exercising environment where the public can make use of this paddock & walk their dogs in a safe and managed environment. No buildings are being built or converted. The existing dwelling and buildings are not included with the proposal.

3. Description of the Site and Surrounding Area

- 3.1. The site is in the open countryside and lies within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge. It is situated adjacent (south west) to the settlement boundary of Earl Shilton, with the A47 lying to the south east, open countryside to the south west, and The Cottage, which is owned by the applicant. The site is a roughly rectangular shaped paddock of 0.2 hectares in size. The site is bound by hedgerows on 3 sides.

4. Relevant Planning History

22/01018/FUL

- Proposed three bedroom replacement dwelling following the demolition of the existing dwelling and garage
- Planning Permission
- 05.07.2023

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

- No objections or representations have been received.

6. Consultation

- 6.1. Earl Shilton Town Council- No comments received
6.2. LCC Highways- No objection subject to Condition
6.3. HBBC Waste- No objection.
6.4. HBBC Pollution- No objections following re-consultation.
6.5. LCC Ecology – No comment.
6.6. LCC Minerals – No objection.

7. Policy

7.1. Core Strategy (2009)

- Policy 6: Hinckley/Barwell/Earl Shilton/Burbage Green Wedge

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM7: Preventing Pollution & Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety

Assessment against strategic planning policies

8.2. Policy DM1 of the Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved unless material considerations indicate otherwise.

8.3. As the site is located outside of the settlement boundary of Earl Shilton, within open countryside, Policy DM4 of the SADMP is relevant. Policy DM4 seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. Policy DM4 states development in the countryside will be considered sustainable where; it is for outdoor sport or recreation purposes and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; the proposal involves the change of use, re use or extension of existing buildings which lead to the enhancement of the immediate setting; it significantly contributes to economic growth, job creation and/or

diversification of rural business; it relates to the provision of stand alone renewable energy developments; it relates to the provision of accommodation for a rural worker.

- 8.4. Policy 6 of the Core Strategy relates to the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge which this site falls within. The following land uses will be acceptable in the Green Wedge, provided the operational development associated with such uses does not damage the function of the Green Wedge:

- (a) Agriculture, including allotments and horticulture not accompanied by retail development
- (b) Recreation
- (c) Forestry
- (d) Footpaths, bridleways and cycleways
- (e) Burial grounds
- (f) Use for nature conservation

Any land use or associated development in the Green Wedge should:

- (a) Retain the function of the Green Wedge
- (b) Retain and create green networks between the countryside and open spaces within the urban areas
- (c) Retain and enhance public access to the Green Wedge, especially for recreation and
- (d) Should retain the visual appearance of the area

- 8.5. The proposal is for recreational use and would not result in any built development that would diminish the function of the Green Wedge or harm the appearance of the area. The proposal would also enhance public access to the Green Wedge by allowing the opportunity for members of the public to use the site, albeit for a fee.

- 8.6. The site is considered to be in a sustainable location, adjacent to the settlement boundary and roughly 1 mile from the town centres of both Earl Shilton and Barwell. The facility would allow dog owners to walk their dogs in a safe and managed environment which is considered to provide a valuable community facility, whilst also providing additional income for the applicant. Due to the limit on dog numbers and handlers on the site at any one time it is not expected that traffic to the site would increase significantly.

- 8.7. In summary, the proposal would create a recreation facility to the benefit of the wider public, located adjacent to the settlement boundary, and would not have a significant adverse effect on the intrinsic value, beauty, open character or landscape character of the area, a matter discussed in more detail later in this report. It is therefore considered that the development would comply with Policy DM4 of the Site Allocations and Development Management Policies DPD and Policy 6 of the Core Strategy and is acceptable in principle.

Design and impact upon the character of the area

- 8.8. Policy DM4 requires that development which is considered sustainable in the countryside should not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and does not undermine the physical and perceived separation and open character between settlements.

- 8.9. Policy DM10 of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout,

density, mass, design, materials and architectural features with the intention of preventing development that is out of keeping with the surrounding area.

- 8.10. No additional built structures will be introduced. The site would appear the same as it does now apart from the proposed 6ft fence along the western boundary, and chicken wire and post fencing around the rest of the site, which would be screened by the existing hedgerow. An additional hedgerow is proposed to screen the 6ft fence. The access and the parking area are existing. Due to only one customer being on site at any one time it is not considered acoustic mitigation is required. In summary, it is not considered the proposed would have a detrimental impact on the countryside and the proposal therefore complies with Policy DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

Impact upon neighbouring residential amenity

- 8.11. Policy DM10 of the SADMP states that development should be permitted providing that the development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality, noise, vibration and visual intrusion.
- 8.12. The nearest residential property is over 30 metres away with hedgerow in between the site and this dwelling. Acoustic fencing is not being proposed. The applicant has agreed that only 1 customer would be allowed within the site at a time, it is therefore judged to be a low-key dog walking facility subject to compliance with this condition. HBBC Environmental health Officers have agreed to this condition.
- 8.13. It is considered to be reasonable to limit the operational hours of the facility to a 7am – 8pm to avoid disturbance to surrounding residents early in the morning and later in the evening.
- 8.14. A soft & hard landscaping condition is recommended to ensure any small gaps in screening along the northern boundary of the site are improved to prevent any overlooking/ loss of privacy. No other neighbour would have the potential of being affected by the proposal in terms of amenity.
- 8.15. Subject to compliance with the conditions imposed, it is considered that the site would not result in significant harm to any neighbouring residential amenity and is therefore considered to be in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

Impact upon highway safety

- 8.16. Policy DM17 and DM18 of the SADMP require development to accord with the adopted highway design and vehicle parking standards to ensure that there is adequate highway visibility for road users and adequate provision of off-street parking and manoeuvring facilities. Paragraph 32 of the NPPF states that development should only be refused on highway grounds where the cumulative impacts of the development is severe.
- 8.17. The LHA have no concerns relating to the level of trip generation due to the low-key nature of the operation and conclude that the proposal would not have a severe impact on the highway in accordance with Paragraphs 110 and 111 of the National Planning Policy Framework (NPPF) 2023.
- 8.18. The LHA are satisfied the Applicant has provided off-street car parking in accordance with Paragraphs 3.151 (Quantum of Spaces), 3.165 (Parking Space Dimensions) and Figure DG13 (On-site Turning) of Part 3 of the Leicestershire

Highway Design Guide (LHDG). As such, the LHA would not seek to resist the proposals in these site specific circumstances subject to conditions.

- 8.19. As such the proposal satisfies the requirements of Policy DM17 & DM18 in regard to appropriate levels of parking provision & highway safety.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need 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.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The development proposes the use of an existing agricultural field in the countryside as a dog walking facility, which would be acceptable in principle. As a result of the nature of the development and its layout, the proposed development would not have any significant adverse impact on the character of the area or residential amenity, subject to the imposition of conditions. It is considered the proposed development would be in accordance with Policies DM1, DM4, DM10, DM17 and DM18 of the SADMP, Policy 6 of the Core Strategy, and the overarching principles of the NPPF.

11. Recommendation

- 11.1. **Grant planning permission** subject to the following conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site Location Plan - received 07/09/2023.

Block Plan - received 07/09/2023.

Block Plan marked up – received 14/08/2023.

Soft Landscaping drawing – received 01/11/2023.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be occupied until such time as the parking has been implemented in accordance with Block Plan drawing submitted to the Local Planning Authority on 14 August 2023. Thereafter the onsite parking and turning provision shall be kept available for such use in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2023).

4. The site shall be used as a dog walking field only and for no other use (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To ensure that the proposed development is compatible with existing development in the locality and the countryside in accordance with Policy DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

5. There shall be no more than 1 customer on site at any one time.

Reason: In the interests of protecting residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

6. There shall be no dogs on site in connection with the business hereby approved except between the hours of 7am to 8pm daily.

Reason: To ensure that the use is compatible with the surrounding countryside and to protect the amenities of neighbouring residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

7. The development hereby permitted shall be carried out in full accordance with the approved landscaping scheme – Soft landscaping drawing received 1st November 2023 and Block Plan marked up – received 14/08/2023. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the scheme has a satisfactory external appearance, and to ensure no adverse impacts on the amenity of the occupiers of neighbouring properties in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

Informatives:

1. All businesses have a duty of care to ensure that any waste produced is handled safely and within the law. All waste produced by a business including (but not limited to) paper, cardboard, cans, retail packaging, and food wrappers/waste, is commercial waste. For this reason, it legally has to be discarded in a certain way via a trade waste service or transfer station and cannot be disposed of through

the residential service. Please ensure there is adequate space on the property to store the waste containers for the business. Businesses should arrange their own business/trade waste collection service. If you give your waste to someone else you must be sure that they are authorised to take it and can transport, recycle or dispose of it safely.