

GROUND OF APPEAL

**KERRY HILL FARM
ARMSHEAD**

AUGUST 2023

Site Address:

Kerry Hill Farm, Eaves Lane, Armshead, Staffordshire, ST2 8NA

Appellant:

Ms. L. Robinson

Proposal:

Change of use of land to dog exercise field

Grounds of Appeal:

Date Issued: 2nd August 2023

Job Reference: RDP/2023/065

Report Prepared By:

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1 Introduction

- 1.1 Rob Duncan Planning Consultancy Ltd. has been instructed by Ms. L. Robinson to lodge an appeal under s78 of the Town and Country Planning Act 1990 (As Amended) against the decision of Staffordshire Moorlands District Council to refuse planning permission for the change of use of land at Kerry Hill Farm, Eaves Lane, Armshead, to a dog walking field (LPA Reference: SMD/2023/0065).
- 1.2 The application had proposed the change of use of an existing parcel of agricultural / equestrian land to a dog walking field, with vehicular and pedestrian access to the site being taken via an existing access off Eaves Lane. Parking for up to 4 vehicles is to be provided on an existing area of hardcore hardstanding. No external illumination is proposed. The application proposes to operate between the following hours:
- Summer Time – 7am until 8pm
 - Winter – 7am until 5pm
- 1.3 Bookings will be required to use the facility, via a website, with usage of the field restricted to one customer per booking. Each booking will occupy an hour long slot and last for 50 minutes, with a 10 minute gap left between bookings to allow time for customers to leave before the arrival of the next. A dog waste bin will be provided on site, which will be emptied on a daily basis by the applicant as part of their ongoing management and maintenance of the site. The appellant has offered to restrict the use to no more than 2 cars per booking and no more than four dogs at any one time.
- 1.4 The application was refused under the delegated authority for the three reasons set out overleaf:
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1. *The proposed development is not considered to preserve the openness of the Green Belt and conflicts with the purpose of including the land within it. Therefore the proposal is deemed to be inappropriate development in the Green Belt which by definition, in accordance with paragraph 143, is harmful to the Green Belt and should not be approved except in very special circumstances. The Council finds that no very special circumstances have been demonstrated in the application that could be considered to outweigh the harm to the Green Belt or outweigh the operation of Green Belt policy and it is therefore found contrary policies SS1, SS10 of the Staffordshire Moorlands Local Plan and Section 13 of the NPPF.*
2. *The development would fail to enhance and conserve the quality of the countryside and would instead, introduce the type of development that would contribute to a general or random dispersal of new development. The location proposed is not in, or close to, settlements and does not have good connectivity by public transport. As such, the development would be an unsustainable form of development and contrary to Policies SS10 of the Staffordshire Moorlands Local Plan, and the terms of the NPPF.*
3. *The proposal has the potential to adversely affect amenity as a result of noise emanating from barking dogs. It is not considered that a condition requiring a site specific noise mitigation scheme would be reasonable or enforceable given the nature of the use and the unpredictability of animal behaviour. In the absence of achievable mitigation the proposal is considered to be contrary to Policy DC1 of the Staffordshire Moorlands Local Plan and the NPPF.*

- 1.5 This document sets out the appellant's Grounds of Appeal having regard to the stated reason for refusal.

2 Site Description

- 2.1 The appeal site lies within the rural area and forms part of the North Staffordshire Green Belt. The site comprises an irregularly shaped parcel of land that extends to approximately 0.65 hectares in area. The site is currently used for the grazing of horses.
- 2.2 The site is located on the western side of Eaves Lane, a short distance southwest of its junction with Jack Hayes Lane. The carriageway of Eaves Lane encloses the eastern site boundary, beyond which lies an area of scrub vegetation. Open fields extend to the north, west and south.
- 2.3 The nearest neighbouring property, Little Greenfields Farm, lies 49m to the east of the site, on the eastern side of Jack Hayes Lane. Slightly further away to the northeast lies Greenfields Farm, which lies approximately 55 metres distant, again on the eastern side of Jack Hayes Lane. There are no immediate neighbours to the north, south or west of the site.
- 2.4 The appeal site lies a short distance from a number of local settlements, including Light Oaks (1.3km to the northwest), Bagnall (1.7km to the north), Abbey Hulton (2.5km to the west), and Washerwall/Werrington (2.5km to the southeast).
- 2.5 The site also lies in close proximity to a number of local public footpaths which provide access to those surrounding settlements including PF Bagnall 58/56/28 connecting with Light Oaks, PF Bagnall 32 / 28 connecting with Bagnall, PF Bagnall 58/56 connecting with Abbey Hulton and PF Werrington 42/39 connecting with Werrington.

3 Planning Policy

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the Development Plan taking into consideration any relevant material considerations. The Development Plan for this area comprises the Staffordshire Moorlands Local Plan (2020) of which the following policies have been cited within the reasons for refusal:

3.1 Policy SS1 of the Local Plan relates to 'Development Principles' and states that the Council will expect the development and use of land to contribute positively to the social, economic and environmental improvement of the Staffordshire Moorlands in terms of delivering, in partnership with other agencies and services:

- a mix of types and tenures of quality, affordable homes, including starter homes, to meet the needs and aspirations of the existing and future communities
- quality local services, including provision for education, healthcare, leisure, community, cultural and tourist facilities in response to anticipated population change and visitor numbers
- easy access to jobs, shops and transport services by all sections of the community
- increased economic prosperity and opportunities for employment and greater local capacity with an educated, skilled and flexible workforce

- a healthy, safe, attractive, active, well-designed and well-maintained environment
- development which maintains the locally distinctive character of the Staffordshire Moorlands, its individual towns and villages and their settings
- development that is undertaken in a way that protects and enhances the natural and historic environment of the District and its surrounding areas, including the Peak District National Park, both now and for future generations
- support development which secures high quality, sustainable environments, efficient and effective use of resources and contributes effectively to tackling climate change and reduced carbon emissions

3.2 Policy SS10 of the Local Plan relates to the 'Other Rural Areas Strategy' and states that these areas will provide only for development which has an essential need to be located in the countryside, supports the rural diversification and sustainability of the rural areas, promotes sustainable tourism or enhances the countryside. This will be achieved via a number of measures, including:

- Enabling the limited expansion or development of business for employment uses where a rural location can be justified
- Supporting the diversification of existing farm enterprises
- Giving priority to the need to protect the quality and character of the area and requiring all development proposals to respect and respond sensitively to the distinctive qualities of the surrounding landscape

- Limiting uses which generate a substantial number of regular trips in areas that are not well served by public transport
- Encouraging measures which protect and enhance the biodiversity, geological resources and heritage of the District.
- Maintain the Green Belt within Staffordshire Moorlands. Strict control will continue to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government policy.

3.3 Policy DC1 of the Local Plan relates to 'Design Considerations' and states that all development shall be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area in line with the Council's Design Guide SPD. In particular, new development should:

1. be of a high quality and add value to the local area, incorporating creativity, detailing and materials appropriate to the character of the area
2. be designed to respect the site and its surroundings and promote a positive sense of place and identity through its scale, height, density, layout, siting, landscaping, character and appearance
3. create, where appropriate, attractive, active, functional, accessible and safe public and private environments which incorporate public spaces, green infrastructure including making provision for networks of multi-functional new and existing green space (both public and private), landscaping, public art, 'designing out crime' initiatives and the principles of Active Design

4. incorporate sustainable construction techniques and design concepts for buildings and their layouts to reduce the impact of the development
5. protect the amenity of the area, including creation of healthy active environments and residential amenity, in terms of satisfactory daylight, overbearing development, sunlight, outlook, privacy, soft landscaping as well as noise, odour and light pollution
6. promote the maintenance, enhancement, restoration and re-creation of biodiversity and geological heritage, where appropriate
7. provide for safe and satisfactory access and make a contribution to meeting the parking requirement arising from necessary car use
8. require new developments to be well integrated for car, pedestrian and cycle use as well as other sustainable transport links
9. ensure that existing drainage, waste water and sewerage infrastructure capacity is available, and where necessary enhanced, to enable the development to proceed
10. ensure, where appropriate, equality of access and use for all sections of the community
11. be served by high speed broadband (>30mbps) unless it can be demonstrated through consultation with Next Generation Access Network providers that this would not be possible, practical or economically viable. In all circumstances during construction of the site sufficient and suitable ducting should be provided within the site and to the property to facilitate ease of installation at a future date.

4 Other Material Considerations

National Planning Policy Framework

- 4.1 The National Planning Policy Framework (NPPF) places an emphasis on securing sustainable development and sets out policies, *inter-alia*, in respect of safeguarding the Green Belt, supporting economic growth in rural areas, managing the movement of vehicles, and securing a net gain to biodiversity. The content of the NPPF has been taken into consideration in the preparation of this appeal.

5 Main Issues

5.1 It is common ground between the two parties that the proposed development is not harmful to the character and appearance of the landscape, and that no harm to highway safety will ensue as a consequence of the development.

5.2 The main issues to be considered in this appeal are therefore:

1. Whether the proposal amounts to an inappropriate form of development within the Green Belt or not.
2. Whether the proposed development occupies an unsustainable location or not.
3. Whether the proposal will give rise to harm to neighbouring residential amenity or not.

6 Statement of Case

Green Belt

6.1 The first reason for refusal cites concerns that the proposed change of use of land to a dog walking field would amount to an inappropriate form of development in the Green Belt. Policy SS10 of the Local Plan confirms that strict control will be exercised over inappropriate development within the Green Belt, allowing only for exceptions as defined by Government policy.

6.2 Paragraphs 149 of the National Planning Policy Framework identifies a number of exceptions, including:

“149(b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

6.3 Paragraph 150 of the National Planning Policy Framework also allows for the change of use of land, such as changes of use for outdoor sport or recreation, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

6.4 The submitted proposal constitutes an appropriate facility for outdoor recreation, and by virtue of its open nature, lack of buildings and its enclosure by roadside hedgerows, will preserve the openness of the Green Belt and not derive any material conflict with the purposes of including land within it. If any fencing is required around the fields for additional security, it can be undertaken as Permitted Development under Schedule 2, Part 2, Class A of the

Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

- 6.5 The parking of vehicles upon the land would not be harmful to openness. We contend that any such impacts would be transient in nature, arising only when the field is in use. No permanent ongoing harm would arise, and the impact of this use on the openness of the Green Belt would be no more harmful than someone visiting the site to attend to their horses grazing on the land.
- 6.6 The land would remain open and not derive any encroachment of built development into the countryside beyond that which already exists, and will ensure that the site continues to fulfil a role in checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns from merging into one another, and preserving the setting and special character of historic towns.
- 6.7 The provisions of paragraph 145 of the National Planning Policy Framework also weigh in favour of the proposed development, which state that:

*“Once Green Belts have been defined, local planning authorities should **plan positively to enhance their beneficial use**, such as looking for opportunities to provide access; to **provide opportunities for outdoor sport and recreation**; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land. (our emphasis)*

- 6.8 The provisions of paragraph 145 provide clear support for making beneficial use of Green Belt land to provide opportunities for recreation, and the proposal firmly accords with those objectives.

- 6.9 We consequently submit that the proposal amounts to an appropriate form of development in the Green Belt in accordance with paragraphs 149 and 150 of the National Planning Policy Framework, and in turn, policy SS10 of the Local Plan.

Sustainability of Location

- 6.10 The second reason for refusal cites concerns that the site is not in, or close to existing settlements and does not have good connectivity by public transport. The Local Authority consequently concludes that the development would introduce a type of development that would contribute to a general or random dispersal of new development, contrary to policy SS10 of the Local Plan and the provisions of the National Planning Policy Framework.
- 6.11 Policy SS10 of the Local Plan states in this regard that the Council will limit uses which generate a **substantial number** of regular trips in areas that are not well served by public transport. Paragraph 105 of the National Planning Policy Framework reflects those provisions, stating that:

*“The planning system should actively manage patterns of growth in support of these objectives. **Significant development** should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, **opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.***

(our emphasis)

- 6.12 The submitted proposal does not constitute ‘significant development’, nor will it generate a ‘substantial number’ of regular trips. The appellants proposal entails the booking of 1 hour slots to use the dog walking field, with hours of use restricted to 7am until 8pm during summer months, and 7am until 5pm in the winter months. That equates to 13 vehicle movements per day during the summer months and 10 movements in the winter months, based on one customer per booking. Even if one allows for up to two vehicles per booking, the total number of vehicle movements arising (20 – 26 depending on the season) cannot be considered to be ‘significant’ or ‘substantial’. They could be described as modest at most.
- 6.13 We do not dispute the Local Authority’s contention that the site does not have good connectivity by public transport, but that is not unusual in the rural areas, as reflected by the provisions of paragraph 105 of the National Planning Policy Framework. The site is however located a relatively short distance to the nearest settlements from where it is expected the vast majority of its customers will come.
- 6.14 The settlements of Light Oaks (1.3km), Bagnall (1.7km), Abbey Hulton (2.5km) and Washerwall/Werrington (2.5km) all lie a short distance from the site, so any journeys made to the site by customers from these areas will be short in duration. The supporting statement prepared by the appellant to accompany the application furthermore demonstrates that there are no dog walking fields located in proximity of this site, and notes a clear demand for this kind of facility. The letters of support from local vets and residents also serves to demonstrate a demand and need for this kind of facility.
- 6.15 Those nearby settlements are also well connected to the site by public footpaths, as evidenced by the public footpath plan enclosed as Appendix A, thereby offering opportunities for customers to walk their dogs to site along

the public footpath network, and then back again once their session has completed.

- 6.16 Having regard to these considerations, the low number of vehicle movements generated, coupled with the acknowledgment within the National Planning Policy Framework that rural areas do not afford opportunities for maximising public transport opportunities, leads to the conclusion that this is an appropriate and sustainable location for this kind of use, and that no conflict with policy SS10 of the Local Plan of the National Planning Policy Framework will arise.

Impact on Residential Amenity

- 6.17 The third reason for refusal cites concerns that the proposed development has potential to adversely affect residential amenity as a result of noise emanating from barking dogs. The decision notice contends that the noise condition recommended by the Local Authority's Environmental Health Officers would not be capable of being enforced given the unpredictability of dog behaviour.
- 6.18 The comments from the Local Authority's Environmental Health Officer confirms that they have **no objection** to this proposal. That is an important consideration in the assessment of this issue, as it is they who have responsibility for dealing with any noise related concerns raised within the District. If they felt strongly that the proposal would amount to a persistent and harmful source of noise and disturbance one can safely assume that they would have objected to the application.
- 6.19 In raising no objections the Environmental Health Officer has acknowledged the proposed restrictions on the development (hours of use, one booking per hour and max 4 dogs per booking). They nevertheless recommend a site specific noise mitigation scheme be secured via planning condition,

incorporating the above restrictions, along with a code of conduct, signage etc. to ensure that the site is appropriately managed. The appellant is agreeable to the imposition of such a condition, which can also include contact details for the owner in the event of there being a noise complaint, as well as contact details for the Environmental Health Officer.

6.20 The proposed hours of use of the facility are within sociable hours, and the nearest neighbour lies 49 metres distant, with mature vegetation located in between. Dogs are only prone to barking when they are frightened or over-excited by other dogs. The private nature of the proposed dog walking field will mean such scenarios are avoided, helping to minimise the prospect of disturbance from barking.

6.21 By providing this site specific scheme of noise mitigation, in line with the recommendations of the Environmental Health Officer, coupled with the proposed hours of use and other associated restrictions, no harm to residential amenity will arise. The proposal is consequently held to meet the requirements of policy DC1 of the Local Plan.

Other Considerations

6.22 In addition to the matters discussed above, there are other material considerations that are relevant to the determination of this appeal. Attention is drawn first and foremost to the supporting letter submitted with the application from Restart Dogs. The letter explains the importance of secure dog walking fields such as the one proposed and highlights the significant number of under-socialised dogs arising as a consequence of the Covid-19 pandemic. The letter demonstrates a clear need for this type of facility, and reinforces a lack of local alternatives. The content of that letter weighs in favour of consent being granted.

- 6.23 The content of the Restart Dogs letter is also reflected with the appellant's personal statement that accompanied the application. The applicant is a registered veterinary nurse, with over 30 years' experience. She makes reference to dogs often being brought in to the vets having sustained injuries from other dog attacks whilst being walked in public areas, with some having to be put down. She goes on to explain that many dogs have a fear of humans or other dogs due to cruelty or mistreatment and often become rescue dogs. The proposed dog walking field will provide a safe, secure and private area for dogs to be walked without fear of their dog meeting other dogs, and meet an increasingly growing need for such facilities.
- 6.24 The personal statement goes on to list a number of other similar facilities elsewhere in the region, with none being located in the general vicinity of the east Stoke-on-Trent area, or indeed around the Stoke area in general. The letters of support submitted by local residents during the application stage also reinforces that conclusion, with some people commenting that they have to travel all the way to Bradnop on the eastern side of Leek to access their nearest dog walking field. The benefits of this development in meeting an identified need for such facilities consequently lends further weight in favour of approval being granted.
- 6.25 Further benefits of the development will arise as a consequence of the proposed wild flower areas that the appellant intends to create within the field, as discussed in the personal statement. Those areas will be planted / maintained with wild flowers and natural grasses, with grass pathways created throughout to provide a calm and stimulating experience for the wellbeing of both the dogs and the owners. Such planting will make a positive contribution towards improving local biodiversity and deliver a net gain to biodiversity, in line with the objectives of the National Planning Policy Framework.

- 6.26 Support for this proposal is also afforded by paragraph 84 of the National Planning Policy Framework which states that planning decisions should enable:

“the development and diversification of agricultural and other land-based rural businesses”

- 6.27 The proposed dog walking field constitutes a land-based business, and will contribute positively to the rural economy of the District. The provisions of paragraph 84 of the National Planning Policy Framework consequently lend further weight in favour of consent being granted.

7 Conclusion

7.1 We submit that there is a compelling case for the appeal to be allowed and planning permission granted, having regard to the following conclusions:

- The proposal constitutes an outdoor recreational use that will not detract from the openness of the Green Belt or conflict with the five purposes of including land within it. It therefore constitutes an appropriate form of development within the Green Belt.
- The proposal will serve to enhance the beneficial use of the Green Belt by providing opportunities for access and outdoor recreation.
- The site benefits from good connectivity with local settlements, and meets an identified need for this kind of facility within the local area. The number of vehicle movements likely to be generated will not be significant or substantial.
- The proposed development will not give rise to harm to neighbouring residential amenity.
- The proposal will derive a number of additional benefits that lend further weight in favour of consent being granted.

7.2 The proposed development is consequently held to meet the requirements of policies SS1, SS10 and DC1 of the Staffordshire Moorlands Local Plan and guidance contained within the National Planning Policy Framework.

7.3 The Planning Inspector is therefore respectfully requested to allow the appeal and grant planning permission for the proposed development.