

GROUND OF APPEAL

**LAND AT CAVERSWALL ROAD
CAVERSWALL**

JANUARY 2025

Site Address:

Land at Caverswall Road, Caverswall, Staffordshire, ST11 9HA

Appellant:

Ms. Jessica Jones

Proposal:

Change of use of part of land for use as an enclosed secure
dog walking field (resubmission of SMD/2023/0179)

Grounds of Appeal:

Date Issued: 20th January 2025

Job Reference: RDP/2025/006

Report Prepared By:

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1 Introduction

- 1.1 Rob Duncan Planning Consultancy Ltd. has been instructed by Ms. Jessica Jones to lodge an appeal pursuant to 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 Caverswall Road, Caverswall to a secure dog walking field (LPA Reference: SMD/2024/0165).
- 1.2 The submitted application stated that the proposed dog walking field will be open between the hours of 08:00 – 20:00hrs during the summer period, and between 08:00 – 18:00 during the winter period. Customers will be required to make a reservation to use the field via a website, with each slot limited to one hour in duration. A pin code will be provided to allow access through the gate into the dog walking field. No external illumination is proposed. A litter bin will be provided on site for disposal of waste, and will be emptied as required by the applicant.
- 1.3 Vehicular access to the site is to be taken direct off the Caverswall Road which lies to the northeast of the site. An area of car parking is to be provided, along with space for the parking and turning of two vehicles.
- 1.4 The application was refused under the delegated authority for following reasons:
1. The application site is a parcel of grassland on the outskirts of Caverswall village. The proposed change of use of the land to a dog walking exercise and vehicular parking area constitutes inappropriate development within the Green Belt. The scheme would result in a loss of openness, encroachment, harmful visual impact and would conflict with the purposes of including land within the Green Belt. The application does not

demonstrate any very special circumstances which would individually or cumulatively outweigh the identified harm. The application is therefore contrary to policies SS1, SS10, DC1 and DC3 of the Staffordshire Moorlands Local Plan together with sections 2 'Achieving sustainable development,' 12 'Achieving well-designed and beautiful places' and 13 'Protecting Green Belt land' of the National Planning Policy Framework.

2. The proposal has the potential to adversely affect amenity as a result of noise emanating from barking dogs. It is not considered that conditions requiring noise mitigation measures would be sufficiently effective, 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 National Planning Policy Framework.

- 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 is located within the rural area and forms part of the North Staffordshire Green Belt. The site extends to approximately 0.37 hectares and currently comprises of open grassland, interspersed by post and wire fencing.
- 2.2 The site benefits from an existing gated access off the Caverswall Road along its northeastern boundary, from where access to the site is to be taken. The access benefits from good visibility in both directions. A brick built bus stop is located immediately to the east of that site access set within the highway verge.
- 2.3 A mature hedgerow encloses the northeastern and part of the southeastern site boundaries. To the east of the site, beyond a narrow parcel of retained grassland, lies a Scout Hut and its associated car parking and outdoor space. Further to the east of the site, and also to its southeast, lie residential properties in Mill Close. Further residential development lies to the northeast and more distantly to the northwest. To the immediate northwest of the site lie open fields, along with a stable block and manege. Further open fields lie to the southwest of the site.
- 2.4 The site lies on the fringe of the village of Caverswall which lies to the east / southeast of the site, and also a short distance from the settlement of Weston Coyney which lies approximately 500 metres to the northwest along the Caverswall Road.

3 Planning Policy

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the Development Plan taking into account of 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
- 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.

3.4 Policy DC3 of the Local Plan relates to 'Landscape and Settlement Setting' and states that the Council will protect and, where possible, enhance local landscape and the setting of settlements in the Staffordshire Moorlands by:

1. Resisting development which would lead to prominent intrusion into the countryside or have a significant adverse impact on the character or the setting of a settlement or important views into and out of the settlement as identified in the Landscape and Settlement Character evidence;
2. Supporting development which respects and enhances local landscape character and which reinforces and enhances the setting of the settlement as identified in the Landscape and Settlement Character evidence;
3. Supporting developments which conserve or enhance the biodiversity qualities of any natural or man-made features within the landscape, such as trees, woodlands, hedgerows, walls, watercourses or ponds;
4. Supporting opportunities to positively manage the landscape and use sustainable building techniques and materials which are sympathetic to the landscape;
5. Ensuring that development does not adversely affect the wider setting of the Peak District National Park.

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, safeguarding residential amenity 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 acceptable from a highway safety perspective, with the Local Highway Authority having raised no objections to the proposal.
- 5.2 It is also common ground that the development itself (setting aside the cited noise concerns) would not give rise to a loss of light, privacy or outlook to neighbouring properties.
- 5.3 The two parties are also in agreement that the proposal is acceptable from an ecology and biodiversity net gain perspective, and that the proposal is not at risk from former coal mining activities.
- 5.4 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; and
 2. Whether the proposal will give rise to harm to residential amenity.

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 Paragraph 154 of the recently revised National Planning Policy Framework sets out those exceptions which includes:

“the provision of appropriate facilities (in connection with the existing use of land or a change of use) , including buildings, 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 154 of the National Planning Policy Framework also allows for the change of use of land, citing as an example 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 Local Authority contends that the proposed dog walking field would amount to an inappropriate form of development as they perceive it will have an adverse impact on the openness of the Green Belt. Particular concern is raised that a condition could not be imposed to prevent the use of dog agility equipment on the land, which if utilised on site would cause harm to openness.

- 6.5 Concerns are also raised that the comings and goings of vehicles to and from the site would have a degree of harm to openness, as would the laying of the proposed hardstanding. The Local Authority also expresses concerns that the number of people using the site cannot be controlled by conditions, which in turn could result in harm to the openness of the Green Belt, as well as concerns that the provision of external illumination would further exacerbate impact on openness. We respond to each of these specific concerns in turn below.

Dog Agility Equipment

- 6.6 It is not the applicant's intention to allow the use of the land for dog agility purposes, other than general exercise of their dogs. The imposition of an appropriately worded planning can be utilised to ensure that no such equipment is used on the land. We suggest the following worded condition as an example:

"No dog agility equipment of any kind shall be placed or brought onto the land at any time"

- 6.7 If such equipment is deemed to be harmful to the openness of the Green Belt then such a condition would be necessary to make the development acceptable in planning terms. It would also be precise, reasonable and relevant to the development to be permitted. It would also be readily enforceable as any use of such equipment on the land could be readily observed from the site entrance as evidence of any breach of planning control. Such a condition would therefore meet the tests for conditions set out in paragraph 57 of the National Planning Policy Framework.

Comings and Goings of Customers

- 6.8 The Planning Statement accompanying the appeal states that customers will require a booking to use the field, with each slot limited to an hour in duration.

Recognising that this has some potential to cause issues when customers are arriving / departing, the appellant proposes that each session will now be limited to no more than 50 minutes in duration, thereby leaving a 10 minute gap for the customer to leave the site before the next customer arrives. Such changes to the proposed hours of use can be readily controlled by an appropriately worded planning condition, and we set out a suggested wording below:

“Each booking for the dog walking field hereby permitted shall be restricted to no more than 50 minutes in duration, with a ten minute gap left between bookings”

Laying of Hardstanding

- 6.9 The proposed area of hardstanding is modest in size and the minimum necessary to allow for the parking of customer vehicles and associated turning space. It is, by its nature, a flat and open feature. There are no buildings proposed, and any impact arising from the parking of vehicles upon the site will be a transient impact, rather than a permanent one. No permanent ongoing harm to openness would arise, and the impact of the use on the openness of the Green Belt would be no more harmful than someone visiting the site to attend to their animals grazing on the land. The parking area is furthermore to be located in a discreet position behind the existing mature roadside hedgerow and behind the brick built bus shelter, such that the parking of vehicles upon it will not have a harmful impact on the openness of the Green Belt or conflict with the purposes of including land within it.

External Illumination

- 6.10 On a number of occasions within the delegated report the Local Authority cites concerns about what they consider to be the necessary introduction of external illumination on the site in order to facilitate the use of the dog walking

field until the end of the proposed hours of operation. For avoidance of doubt it is not the client's intention, nor desire, to install any external illumination on the site, nor has any been proposed.

- 6.11 It is respectfully submitted that the imposition of an appropriately worded planning condition to restrict the hours of use during the winter months (October – March) to between 08:00hrs – Dusk (or any alternative time that the Planning Inspector may deem appropriate) will serve to address these concerns. Such a condition can be supplemented, for avoidance of any doubt, by an additional condition that precludes the erection of any external illumination. We suggest the following worded conditions:

"The development hereby permitted shall be open for use by customers between the hours of 08:00 – 20:00hrs during the months of April – September inclusive, and between the hours of 08:00 – 16:00hrs during the months of October – March inclusive. The land shall not be used by customers outside of these times"

"The development hereby permitted does not convey, nor imply consent for the installation of any external illumination to the site. No external illumination shall be erected on site without the express permission of the Local Authority via a planning application"

Fencing

- 6.12 Some reference is made to the fencing to enclose the dog walking field. The appellant has recently erected fencing within the site as permitted development pursuant to Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As

Amended). That fencing is sufficient to secure the dog walking field, and will be retained on site irrespective of the outcome of the appeal.

- 6.13 Having regard to the considerations set out above, we submit that that the proposed dog walking field will not result in any material harm to the openness of the Green Belt or conflict with the purposes of including land within it. The proposal therefore amounts to an appropriate form of development in the Green Belt in accordance with 154 of the National Planning Policy Framework, and policies, SS1, SS10, DC1 and DC3 of the Local Plan.

Impact on Residential Amenity

- 6.14 The second reason for refusal cites concerns that the proposed development has potential to adversely affect amenity as a result of noise emanating from barking dogs. The decision notice contends that a condition could not be imposed to provide sufficiently effective safeguards given the nature of the use and the unpredictability of dog behaviour.
- 6.15 The Planning Statement accompanying the application did not set out any restriction on the number of dogs utilising the field at any one time. The appellant is nevertheless willing to restrict the number of dogs using the field at any one time to no more than two, which in turn will significantly reduce the likelihood of disturbance from dogs barking.
- 6.16 Such restrictions can be secured via an appropriately worded planning condition, and can be supplemented by the submission of a Site Management Scheme detailing the proposed hours of use, code of conduct etc. to ensure that the site is appropriately managed into the future. We suggest the following worded condition, or similar:

“The development hereby permitted shall not be brought into use until a site management scheme has been submitted to and approved by the Local Authority which details restrictions on the number of dogs using the field at any one time to no more than 2, proposed hours of use, code of conduct, restrictions on agility equipment, and disposal of waste. The development shall thereafter operate in accordance with the agreed site management scheme”.

6.17 The site lies circa 40 metres from the nearest neighbouring residential properties and it is submitted that adherence to the noise mitigation measures discussed above will serve to limit the prospect of noise disturbance arising. We also highlight that the proposed hours of use for the dog walking field will be during normal socialable hours.

6.18 For the reasons set out above it is submitted that the proposed development will not give rise to an unacceptable loss of amenity to the surrounding area or neighbouring properties, and that the proposal is consequently in accordance with policy DC1 of the Local Plan.

Other Considerations

6.19 The provisions of paragraph 151 of the National Planning Policy Framework are a relevant consideration in the determination of this appeal. Paragraph 151 states 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)*

6.20 The provisions of paragraph 151 provide clear support for making beneficial use of Green Belt land to provide opportunities for recreation, and the proposal firmly accords with those objectives. The provisions of paragraph 151 of the NPPF therefore weigh in favour of planning permission being granted.

6.21 Support for this proposal is also afforded by paragraph 88 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”*

6.22 The proposed dog walking field constitutes a land-based business, and will contribute positively to the rural economy of the District whilst providing a facility for use by the community. The provisions of paragraph 88 of the National Planning Policy Framework consequently lend further weight in favour of consent being granted.

7 Conclusion

7.1 For the reasons set out within the Statement of Case above we submit that the proposed dog walking field amounts to an appropriate and sustainable form of development having regard to the following conclusions:

- The proposal constitutes an outdoor recreational use / change of use that will not detract from the openness of the Green Belt nor conflict with the five purposes of including land within it. It therefore constitutes an appropriate form of development within the Green Belt.
- The proposed development will not give rise to harm to neighbouring residential amenity.
- The proposal will serve to enhance the beneficial use of the Green Belt by providing opportunities for access and outdoor recreation.
- The proposal will benefit the rural economy and derive social benefits by providing a dog walking field for use by the local community.

7.2 The proposed development is consequently held to meet the requirements of policies SS1, SS10, DC1 and DC3 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.