

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 70**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS**

Reference No:	<b>2023/62/91765/E</b>
Site Address:	Walton Cross Paddock, Windy Bank Lane, Hightown, Liversedge, WF15 8EX
Description:	Formation of dog field with shelter
Recommending Officer:	Edward Cheseldine

**DECISION – Conditional Full Permission**

**I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

Sarah Longbottom

***AUTHORISED OFFICER***

**Date: 19 April 2024**

## **Officer Report**

2023/91765 - Walton Cross Paddock, Windy Bank Lane, Hightown, Liversedge, WF15 8EX

### **Site Description**

The application site is a field to the south-west of the wider farm site. There are fields to the north, south and west of the application site. It is currently used for agricultural purposes and is within the Green Belt.

### **Description Proposal**

The applicant is seeking planning permission for the erection of a shelter and fencing with a change of use from an agricultural field to a dog walking field (Suis-Generis).

### **Public Consultations**

The application was advertised by site notice and a press advertisement:

Site notice expiry date: 25 August 2023

Press advertising expiry date: 08 September 2023

No representations were received.

### **Relevant Planning History**

None.

### **Consultation Responses**

KC Highways – Highways were consulted informally; they required more information on the use of the field, which clarified the field would have a key car entry system, 1 hour time slots could be booked, there would be a maximum of 2 people at any given time, and the shelter would be used for dog owners. No objections, following the submitted response.

KC PROW – There were initial concerns from KC PROW as the fencing did not follow the indicative path of the public right of way route. Plans were

amended to reroute the fencing away from the public path. KC PROW subsequently retracted their objection.

KC Environmental Health – No objection, subject to conditions.

### **Negotiations/Amendments**

Changes were requested to layout of the boundary fence so it did not obstruct the public right of way and to remove of the secondary meshing so it did not impact the openness of the Green Belt.

### **Policy & Legislation**

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 27<sup>th</sup> February 2019).

The application site is within the Green Belt in the Kirklees Local Plan Allocations Plan Map.

### **Kirklees Local Plan (LP):**

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP52 – Protection and Improvement of Environmental Quality
- LP56 – Facilities for outdoor sport, recreation and cemeteries

### **National Planning Policy Framework (NPPF):**

- Chapter 6 – Building a strong competitive economy
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places and beautiful 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

### Other Guidance

- Kirklees Local Plan Supplementary Planning Document – Highways Design Guide

## **Assessment**

- 1) Principle of development (Green Belt)
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Environmental matters
- 6) Conclusion

### Principle of development:

#### *Green Belt*

In terms of Green Belt, Chapter 13 of the NPPF is relevant which sets out that *“the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”*

With regards to development within the Green Belt paragraphs 154 and 155 are relevant which set out types of development that can form exceptions to inappropriate development or are not inappropriate.

As relevant to this application, under Paragraph 155 there are several forms of development that can be deemed as being appropriate in the Green Belt so long as they do not impact on its openness or conflict with the purposes of including land within it. These include material changes in the use of land. This application seeks a material change in the use of the land from agricultural grazing land to private dog exercise facility with a new boundary fence. It is therefore considered that the proposals would be acceptable in principle, as long as they would not impact on the openness of the Green Belt or conflict with the purposes of including land within it, which is considered below.

It is in officer’s opinion that the physical change of use from agricultural land to private dog exercise facility would not impact on the openness of the Green Belt. This is due to the nature of the use which would allow the land to remain open and therefore retain the character of the existing field. However, openness is judged not just on the visual aspect but also the spatial aspect. The spatial impact would include the enclosure of the land through the

erection of fences, visual intrusion, and intensity of use, disturbance from noise, light and general activity which would occur during the day and into the evening.

Taking the above into consideration, it is noted that the site is currently bounded by chicken wire fencing, open panelled fencing, and a row of hedging on the southern boundary. The applicant seeks to surround the field in a green chicken wire fencing to prevent the dogs escaping into the surrounding fields. This appears to be acceptable as the land seems to have been separated by wire fencing for a number of years, the proposed fencing will be a similar material than that which currently exists, being lightweight and be of a similar style to adjacent types of fencing found throughout the immediate vicinity, albeit being higher. Field enclosures are also not uncommon features within the landscape, as is the case in this location. It is therefore deemed that this would not have a harmful impact on the openness of the Green Belt.

Agricultural tractor gates are currently in place to access the field. They are a galvanised metal material. There are no plans to replace the metal gates and the access point will not be moved.

There will be a small shelter facility to support the use of the dog field, which will be positioned at the north-west of the field. Facilities for outdoor recreation in the Green Belt can be acceptable as long as they do not conflict with the purposes of the land.

Policy LP 56 of the Kirklees Local Plan states,

- a) the scale of the facility is no more than is reasonably required for the proper functioning of the enterprise or the use of the land to which it is associated;
- b) the facility is unobtrusively located and designed so as not to introduce a prominent urban element into a countryside location, including the impact of any new or improved access and car parking areas;

A shelter will be erected in part for dog handlers to take shelter from poor weather. It will be a unit of 3.00(w) x 2.30(d) x 2.40(h) and is an appropriate size considering the availability of the dog field.

It is located in a corner of the field within the wire fencing. Its appearance stands similar to small agricultural units that are present within the farm setting that are used for storage. One of the sides will be open appearing like

an agricultural storage type unit. It is timber clad giving the appearance harmonising the structure with the farm setting.

Moving on to the intensity of use, visual intrusion and disturbance from noise, light and general activity. The applicant hopes to open up the site 7 days a week between the hours of 09:00 – 18:00 in the summer months, 09:00 – 16:00 in the winter months. The Council's Environmental Health officers were consulted on the application and raised no objections to the proposal, subject to conditions restricting the opening hours to the above days and times, with a further restriction on the number of dogs allowed on the site at any one time. It was also considered that any external lighting within this location would not be suitable given the rural nature of the area, a planning agent confirmed the field will not have additional lighting. It is considered that, subject to mitigating conditions to opening times and operation use, the proposals are deemed to be acceptable in principle and would not impact on the openness of the Green Belt to a significant degree.

In conclusion, the proposals are considered to be acceptable in principle and would not constitute inappropriate development within the Green Belt. It would therefore be in accordance with guidance within the NPPF.

#### Impact on Visual Amenity

Chapter 12 of the NPPF advises that good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and LP24, are also relevant. These policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

The change of use from agricultural grazing land to private dog exercise facility would result in a limited amount of physical changes to the appearance of the site. As discussed previously, the chicken wire fence that would be erected around the site is considered to be lightweight and not visually intrusive given the site's location, adjacent to similar style fencing.

The erection of the shelter will add an additional building within the farm setting. Although it is placed in an open field, it is positioned in a corner of which is an unobtrusive location considering it is close to the nearby farm group. The timber material choice will harmonise the new unit with its farm surroundings.

For the reasons set out above, the proposals are considered to accord with the requirements of policies LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

#### Impact on Residential Amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The closest neighbour are located to the east of the field at Walton Cross Barn. Is located approximately ~48.30m from the nearest boundary of the field. It is not considered there will be a loss of light, outlook or an overbearing impact as the residence as the form of development is minimal and located at such a distance.

In respect of noise, the Council's Environmental Health officers were consulted on the proposal and recommended to restrict the hours of operation 09:00 – 18:00 in April to September and 09:00 – 16:00 October to March in order to limit noise at inappropriate times. These times will be conditioned subject to approval.

It is therefore concluded that the proposal does not give rise to any adverse impacts upon neighbouring residential amenity and as such, this aspect of the proposal is considered to be acceptable. It is therefore concluded that the proposals comply with Policy LP24 of the Kirklees Local Plan and Section 12 of the National Planning Policy Framework.

#### Impact on Highway Safety

Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application site utilises the existing farm site, which will hold three parking bays in the adjacent hardstanding yard to the north-east of the field. Parking bays will be positioned between two existing agricultural buildings. The increase in the number of vehicles will not be to the detriment of existing highway safety considering the availability of the facilities.

The plans therefore accord with Policy LP 21 & LP 22 of the Kirklees Local Plan.

### Environmental Matters

#### *Noise Disturbance*

As previously mentioned, the hours of use of the dog park will be restricted in order to limit noise disturbance during inappropriate hours.

#### *Ecology*

There will be minimal loss of grassland from the development. The site is not located in an area known to contain habitats of protected species.

### **Conclusion**

This application for a change of use at Walton Cross Paddock has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework, the Kirklees Local Plan and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, and impact to the Green Belt, the proposal is considered to be acceptable.

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.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**Recommendation**

**Approve**

## Conditions and Reasons

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

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. Notwithstanding the approved plans on drawing 23/76 B, submitted 19 February 2024, the fencing material shall be constructed of wire meshed fencing only, there shall be no windbreaker installed as a secondary treatment.

**Reason:** For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

4. The development hereby approved shall be operated in accordance with the Noise Management Plan specified within the applicant's e-mail dated 11 August 2023.

**Reason:** To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. The premises, shall not be open for business including deliveries to or dispatches from the premises, outside the hours of –

- April to September (Summer) 09.00hrs to 18.00hrs Monday -Sunday
- October to March (Winter) 09.00hrs to 16.00hrs Monday - Sunday

**Reason:** To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the

Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

**NOTE:** Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership.

**NOTE:** To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours, Mondays to Fridays 08.00 and 13.00hours, Saturdays, with no working Sundays or Public Holidays. In some cases, different site-specific hours of operation may be appropriate.

**Plans and specifications table: -**

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan	LP	02	19/02/2024
Grouped plans and elevations	23/76	02	19/02/2024
Design and access statement	DAS	-	15/06/2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Changes were requested to layout of the boundary fence and the removal of the secondary meshing.

