PLANNING SUPPORT STATEMENT

RETROSPECTIVE APPLICATION FOR CHANGE OF USE OF LAND FROM EQUESTRIAN USE TO DOG EXERCISE AREA AND ASSOCIATED WORKS

MOORHOUSE FARM,

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JUNE 2024

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1.0 INTRODUCTION

The proposal which forms the subject of this retrospective planning application seeks the change of the use of the subject land from equestrian use to a dog exercise area together with associated works at Moorhouse Farm located off Moorhouse Lane, Birkenshaw. The land is located off a separate vehicular and pedestrian access to the field off Soureby Cross Way. The use has been in operation since November 2020.

The land subject of the application, forms part of a longstanding equestrian enterprise, Moorhouse Farm. The site was used as an equestrian turn out area incorporating riding with jumps and training.

Prior to the submission of the application, the matter has been discussed with the Council's enforcement officer Charlotte Dixon, and it was agreed to submit this planning application to seek to regularise the matter. It should be noted that since the exercise area has been open it has had strong community support and is a well used facility by dog owners in the area.

The application is supported by the following information:

(i) Full plans and details – Fox Architecture and Design;
(ii) Planning Support Statement – Townsend Planning Consultants; and
(iii) Noise Report – Clover Acoustics.

This statement is submitted to Kirklees Council in support of the application and to provide full information regarding the background to the application. It is considered that this statement will provide full information regarding the application to aid in the discharge of its development control function. Should the Council require any further relevant information, the applicants are willing to provide such additional information.

It is considered that this statement demonstrates to the Council that the proposal accords with the development plan and, when judged against this and all material considerations, including government guidance (the National Planning Policy Framework), it is clearly the case that retrospective planning permission for the change of use of the land to dog exercise area is acceptable. This statement will demonstrate that notwithstanding the fact that the site is located in the Green Belt, the proposal can be seen to conform with relevant

policy and does not constitute ‘inappropriate development’. It will also be demonstrated that there are no issues of harm in respect of the subject development.

The statement now proceeds to give details of the site and background to the application, including the planning history. The proposals for the site are then outlined in more detail. Relevant Development Plan Policy and Central Government advice in the form of the National Planning Policy Framework is then discussed. Following which the issues that the proposal raises (including the development plan context and all material considerations) are examined. Finally, the conclusion is reached that permission should be granted for the development to proceed.

2.0 BACKGROUND, THE SITE AND THE PROPOSAL

The subject site, which extends to some 0.3 hectares or thereabouts, and is located off Sowerby Cross Way. The previous longstanding use of the site was for equestrian purposes and the land previously functional as a turn out area for horses in association with the wider equestrian use of Moorehouse Farm, a well established, livery establishment.

In November 2020, the applicant identified a growing trend and demand for dog exercise areas, particularly for those with limited or no garden space and repurposed the horse turn out area for dog exercise. The area is identified on the supporting plans and was already fenced off from the remainder of the farm as a turn out area. The business has since gone from strength to strength and demand for the facility has grown.

The existing vehicular access from Soureby Cross Way is utilised with parking and a gated access with a keypad to only allow access to the customer (it also allows suitable disabled access). The gravelled areas existed at the time of the change of use and were associated with the equestrian use (previously used for storing farm machinery and manure) and form suitable parking areas. It should be noted that the access is separate from the main access to the livery yard which is from Moorhouse Lane, therefore save for customers for the dog exercise area and farm traffic, negligible traffic uses the Soureby Cross Way.

It should be noted that the change of use has resulted in little change to the site. The area was always fenced off with the increase in height and further meshing to prevent dogs from escaping with strainer rails on the corner fences. The previous equestrian jumps have been retained on the land for dog exercise, these are not however permanent structures.

The dog exercise area business is manged by the applicant and operates on the basis of ‘appointments only’ which is only bookable via the website. It currently operates on the basis of one dog owner per 45 minute slots (usually 1 dog but no more than 3 at one time) with a 15 minute changeover time between customers. This results in the use being very low key. The proposed hours of operation are 8am to 6pm (daylight hours and weather dependant), however as the business use a booking only system the hours of operation tend to be more limited.

In addition to access via car, the site can be easily accessed on foot by existing footpaths from Soureby Cross Way.

This application is supported a noise report by Clover Acoustics. The report examined the existing noise environment when the dog exercise area is not operation and in operation. This report demonstrates that there is no discernible harm in such terms to neighbouring amenity and that the use does not give rise to issues of harm in such terms.

It is considered that in the context of the development plan and all material considerations the proposal is acceptable. Nevertheless, the applicant remains willing to discuss all details of the proposal with the Council.

3.0 PLANNING POLICY

By virtue of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, the planning authority must determine the planning application in accordance with the statutory development plan (insofar as it is material to the application), unless material considerations indicate otherwise. The NPPF also advises of a presumption in favour of development which accords with the development plan. The importance of the statutory development plan in the decision making process necessitates an examination of the relationship between the policies and proposals of the plan and government guidance.

3.1 Central Government Policy Advice

It is considered that the following central government policy advice in the form of the National Planning Policy Framework and retained Circulars are relevant to the consideration of this application.

3.1.1 The National Planning Policy Framework

The latest version of the NPPF was published in December 2023. The following are comments on the advice in the Framework which is considered to be relevant to the consideration of the proposal:

Para 2 of the 'Introduction' sets out that:

"Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise."

At Para 8 it states:

"Achieving sustainable development means that the planning system has clear overarching objectives which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a. An economic objective to help build a strong, responsive and competitive economy.

b. ***A social objective to support strong, vibrant and healthy communities… with accessible services and open spaces that reflect current and future needs and support communities' health social and cultural wellbeing.***

c. ***An environmental objective to contribute to protecting and enhancing our natural built and historic environment."***

This proposal meets with these overarching objectives:-

a) In economic terms it assists in supporting a rural enterprise;

b) It provides the public with an accessible open space (which is particularly important for those without gardens) to support physical and mental health and wellbeing; and

c) The change of use is sympathetic and ensures the protection of the natural environment.

Section 6 deals with 'Building a Strong Competitive Economy' and with regard to 'Supporting a Prosperous Rural Economy' at Para 88 it states:

"Planning policies and decisions should enable:

a. ***The sustainable growth and expansion of all types of businesses in rural areas both through conversion of existing buildings and well designed new buildings;***

b. ***The development and diversification of agricultural and other land based businesses;***

c. ***<u>Sustainable rural tourism and leisure developments which respect the character of the countryside;</u>***

d. ***The retention and <u>development of accessible local services and community facilities</u> such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship." (TPC underlining)***

The proposal seeks the change of use of equestrian land to dog exercise area. The change of use will provide a useful local service and assists in the expansion and diversification of this existing rural enterprise, Moorhouse Farm.

Section 8 deals with 'Promoting Healthy and Safe Communities'. At Para 96 it states:

"Planning polices and decisions should aim to achieve health, inclusive and safe places which…

c. enable and support healthy lifestyles especially where this would address identified local health and wellbeing needs."

At Para 97 it goes on to state:

"To provide the social, recreational and cultural facilities and services the community needs, planning polices and decisions should:

..b. take into account and support the delivery of local strategies to improve health, social and cultural wellbeing for all sections of the community."

The facility provides a service which is provides an open space for dog owners and their dogs which otherwise may not have a garden. This assists in improving the health and social wellbeing of customers who use the facility.

Section 13 deals with Protecting Green Belt Land. At Para 152 it states:

"Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances."

Para 154 goes on to state:

"A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

…(b) the provision of appropriate facilities (in connection with the existing use of land or 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 the land within it".

The proposal for a dog exercise area is an appropriate facility for outdoor sport/recreation and does not conflict with the purposes of including land within it. As such, it will be noted that as the proposal does not constitute "inappropriate" development and, therefore, it is

not necessary for the applicant to prove "very special circumstances" to justify the development.

3.2 Local Planning Policy

3.2.1 Kirklees Local Plan

The Development Plan for the Kirklees District is the Kirklees Local Plan (2019). The site on the supporting proposals map is identified as being within the Green Belt.

The following policies are considered relevant to the consideration of this application:-

(i) Policy LP1 – Presumption in favour of sustainable development

The policy sets out that the presumption in favour of sustainable development. It sets out that proposals accord with the policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise.

(ii) Policy LP10 – Supporting the rural economy

The policy seeks to improve the rural economy, this includes supporting small and medium sized businesses. It also sets out that amongst other requirements the policy sets out that where development is proposed in the Green Belt regard must be had to the relevant policies in the Local Plan and relevant national planning policy.

(iii) Policy LP22 – Parking

Suitable parking is provided within the retrospective scheme.

(iv) Policy LP24 – Design

The policy constitutes the general design policy for all developments. The retrospective proposals seek the change of use from equestrian to a dog exercise area. Save for the increase in height in fencing and meshing to stop dogs escaping, it is visually similar to the previous and wider use of the site as equestrian, indeed the new fencing is considered to be less visible in the wider landscape. It is noted

there are moveable jumps and structures which have been utilised from the previous equestrian use.

(v) Policy LP47 – Healthy, active and safe lifestyles

The Council supports healthy, active and safe communities. The application proposals ensures an accessible safe place for dogs and their owners to enjoy a high quality safe environment and well as promoting health and mental well being.

(vi) Policy LP52 – Protection and improvement of environmental quality

The proposals are supported by a Noise Report demonstrating the noise impact on nearby neighbours is not discernible from the general noise environment and no issues of harm are raised.

(vii) Policy LP56 – Facilities for outdoor sport, outdoor recreation and cemeteries

The policy sets out that:-

"In the Green Belt proposals for appropriate facilities associated with outdoor sport, outdoor recreation or cemeteries will normally be acceptable as long as the openness of the Green Belt is preserved and there is no conflict with the purposes of including land within it."

As demonstrated in this statement the proposals are appropriate use in line with the requirements of the NPPF. The save amendment of the additional height in fencing (and meshing), which is not discernibly different from the previous equestrian use, the proposals are not discernible from the previous lawful equestrian use. The appearance is therefore in keeping in the landscape as it would appear to synthesise with the equestrian use of the wider site.

The policy further sets out that:-

"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;

c. in the case of all-weather riding arenas or other facilities for the exercising of horses, the degree of engineering operation required and the resultant re-grading of land, including any earth mounding and retaining structures, does not result in incongruous or discordant land form out of character with its setting that cannot be mitigated through the use of appropriate hard and soft landscape techniques."

In relation to these matters:-

a. The scale of the retrospective facility is no more than reasonably required for the functioning of the enterprise.

b. The site appearance has not significantly changed from the use of the site as equestrian used in the turnout area. It is not out of keeping with the countryside landscape in this location. Car parking and access is as existing on surfaced areas.

c. No land has been regraded in the change of use.

It is therefore considered that the proposal conforms to the above policy.

4.0 THE ISSUES – THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

4.1 The Development Plan

The Development Plan is the starting point for the consideration of this application. It has been clearly demonstrated that the proposal complies wholly with the relevant policies of the Development Plan. The applicant is therefore entitled to expect the presumption inherent in Section 38(6) to be weighed in his favour.

It now falls for the matter to be considered in the context of all relevant material considerations which are explored further below.

4.2 Other Material Considerations

The following are matters which are considered to be material considerations. Examination of these matters also points to the grant of planning permission.

4.2.1 Green Belt

This application seeks retrospective planning permission for the change of use of the land from equestrian to dog exercise area. By reference to both local and national policy, proposals for the establishment of a business in rural areas are encouraged to support the local economy.

Indeed, by reference to the NPPF (Para 152) such proposals for outdoor recreation, do not constitute “inappropriate development” in a Green Belt. As such no very special circumstances need to be demonstrated to justify the use.

The proposal has no impact on the openness of the Green Belt with the only change between its previous use as equestrian the increase in the height in fencing and meshing, which does not give rise to harm to openness. The vehicular access was surfaced as existing with the previous use.

4.2.2 Visual Impact

The proposal is for the retrospective change of use and associated works to create a dog exercise area. The only visual changes from the lawful use is increase in height of the

fencing and meshing from the equestrian use for security reasons to keep dogs within the area. There is no visual discernible difference in the landscape.

Whilst the dog exercise area was further extended in 2022 it has been done in the same style and the existing exercise area. Indeed fencing is commonplace as part of the livery site and the wider landscape.

All existing surfaced areas was already long established on the site (and they were previously used for storage of large farm equipment and manure). All other structures such as jumps are movable.

It is therefore considered as the retrospective proposals in comparison with the previous use an equestrian turnout area and grazing and has no discernible impact on the openness of the Green Belt and there are no harmful visual impacts associated with this retrospective proposal.

4.2.3 Local Services

The applicant first determined to develop a dog exercise area following anecdotal evidence of an increase in demand for such facilities and a lack of availability of such facilities in the local area. The applicant therefore identified a gap in the market for such services which perform an important role in the health and wellbeing of the local population and their dogs. The business has continued to be successful since this time and has become an important local facility. In particular it provides a safe space for anxious, rescue and reactive dogs.

4.2.4 Noise/Amenity

The use is proposed to operate between 8am to 6pm (daylight hours and weather dependant), however as the business use a booking only system the actual hours of operation tend to be more limited. The proposals should be considered in the context of the existing noise environment.

The submitted acoustic assessment includes a background noise survey at the nearest sensitive receivers and has been taken in accordance with relevant noise guidance. The report concludes that the retrospective use would not give rise to any discernible issues

of harm in terms of noise in comparison with the noise context when the business is not in operation.

4.2.5 Highways

Access to the site is from the existing established and historic access from Soureby Cross Way. All surfacing existed prior to the change of use to dog exercise and parking is provided within this area as show on the proposed plans. Pre booked appointments will take place on one customer basis with only one appointment on site at any one time the use therefore generates minimal traffic movement.

4.2.6 Waste Management

The applicant has waste protocols in place for the disposal of both equine and dog waste. The waste is collected on a daily basis with bins provided at the site and removal from the site by professional contractors to suitable disposal.

5.0 CONCLUSION

The proposal seeks the retrospective change of use of equestrian land to a dog exercise area. The exercise area has become a well utilised local business since it opened in November 2020 which supports the local community.

The change of use has resulted in only minimal changes to the site involving the change in the height of fencing. The small car parking area utilises the previous long established hard standing area for farm machinery and manure. The vehicular access is well established.

The proposal has no harmful impact on the openness of the Green Belt. The proposal does not constitute inappropriate development in the Green Belt. It is clear from both local and national policy that the proposed use i.e. outdoor recreation is acceptable within a Green Belt and such businesses in the rural areas is encouraged to ensure a prosperous rural economy.

It is considered that the proposal conforms with the development plan as set out in this statement and, therefore, the presumption inherent in Section 38(6) of the Act must be weighed in the applicant's favour. It is demonstrated that the proposal does not give rise to any issues of harm and as such, in the absence of harm, there are no issues to outweigh the presumption. It is considered, therefore, that planning permission should be forthcoming. Nevertheless, the applicant remains willing to discuss all aspects of the proposal with the Council.