
Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 07-Feb-2019

Subject: Planning Application 2018/92175 Change of use and alterations to convert from driving range to dog day care facility Mount Pleasant Farm, Jackroyd Lane, Upper Hopton, Mirfield, WF14 8EH

APPLICANT

J Chambers

DATE VALID

09-Jul-2018

TARGET DATE

03-Sep-2018

EXTENSION EXPIRY DATE

14-Feb-2019

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield, Dalton

Mirfield town Council, Kirkburton Parish Council (access only). Councillors notified.

Yes

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 The application is brought to Committee as a significant number of representations have been received.
- 1.2 The application relates to Mount Pleasant Farm, Jackroyd Lane, Upper Hopton. The original farm has long since been divided into two parts and the true farming use has ceased with a number of other uses having taken over, including a livery business (Hopton Horse Centre), fishing lake, golf driving range and a caravan park.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is relatively level, in an elevated location above Upper Hopton with access taken from both Highgate Lane to the west and Jackroyd Lane to the east. There are two dwellings forming the original part of Mount Pleasant Farm and a third within a converted building which is nearing completion.
- 2.2 Adjacent to the access to the site from Highgate Lane is a manege and small grazing paddocks; and to the south of these is a large fishing lake. Adjacent to the access from Jackroyd Lane is the golf driving range with the associated building which forms the subject of this application.
- 2.3 The eastern boundary of the wider site borders onto residential properties within the settlement of Upper Hopton.
- 2.4 The site is located within the Green Belt on the UDP and Publication Draft Local Plan.

3.0 PROPOSAL:

- 3.1 The proposal is for the Change of Use and alterations to convert a golf driving range to dog day care facility. The building would be subdivided into 10 kennels with a maximum of up to 30 dogs at any one time on the site. The existing lobby and ball storage room would be converted into an office, reception and a dog grooming room.

- 3.2 According to the submitted supporting information, the facility would allow dog owners to leave their animals in a safe environment where there is constant supervision. An outdoor exercise area also forms part of the proposals.
- 3.3 The existing parking area would be retained and provides parking for up to 14 cars, whilst the proposed hours of opening would be 7:30 am until 7pm Monday to Friday and 7:30am till 12pm (noon) Saturdays with no opening on Sundays or Bank Holidays.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 **94/90300** Formation of golf driving range and tee-off points, caravan park, heritage farm and associated parking/outline for heritage farm buildings and toilet/shower block for caravan park - Approved

96/92380 Erection of 4 floodlights to golf driving range building - Refused.

92/02405 Use of part of farm yard for agricultural and excavation business - Refused.

93/02334 Deemed application (via enforcement appeal) for the making of a material change of use to a mixed use of land for the purpose of agriculture and for agricultural and excavation business together with storage of heavy goods vehicles, plant and machinery - Withdrawn.

2017/91890 Change of use from driving range to agricultural barn, erection of extensions and alterations - Invalid.

2015/91253 Certificate of lawfulness for existing golf driving range - Granted.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 Through the course of the application, discussions have taken place with the applicant's agent in order to obtain the following information:

10/09/18 - Amended plan submitted showing parking area and supporting statement submitted.

4/10/18 - Structural report and calculations submitted.

5/10/18 - Amended plan submitted showing outdoor exercise area.

6.0 PLANNING POLICY:

- 6.1 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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National

Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2 **D2** - General Development Policy

BE1- Quality of Design

BE2 - Design Principles

EP4 – Noise and New Development

B4 - Change of use of business premises

T10 - New development and access to highways

Kirklees Publication Draft Local Plan.

6.3 **PLP 10** - Supporting the Rural Economy

PLP 24 - Design

PLP 30 - Biodiversity and Geodiversity

PLP 57 - The extension, alteration or replacement of existing buildings

PLP 60 - The re-use and conversion of buildings

National Planning Policy Framework:

6.4 **Chapter 6** - Building a strong competitive economy

Chapter 12 - Achieving well designed places

Chapter 13 - Protecting Green Belt Land

Chapter 15 - Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by site notice and neighbour letters. The initial publicity period ended 17/08/18.

The Amended plans and additional information was re-publicised and the final publicity period expired 11/01/19.

14 objections were received in response to the initial site publicity and an additional 11 in respect of the amended plans.

Issues raised are summarised as follows:

- No clarification over what dog day care facility is.
- Concerned about noise from barking dogs during exercise and pick up.
- Will the building be insulated to protect against noise?
- Will there be overnight boarding.
- Disturbance caused to tranquil fishing lake.
- How will waste be dealt with?
- Inappropriate development in the Green Belt.
- No mention of opening hours.
- Jackroyd Lane is a poor access.
- Unsuitable location for dog kennels.
- Disturbance from additional traffic.
- Poor water supply to the site.
- No mains sewers.
- No details of planting provided.

7.2 **Kirkburton Parish Council:** No comments received.

Mirfield Town Council: No comments received.

Ward Members: No objections received.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

The Coal Authority. No objection subject to the imposition of a condition or conditions requiring an intrusive site investigation and remedial work if required.

8.2 **Non-Statutory:**

KC Environmental Services: Recommend the following conditions:

- Reporting of unexpected contamination,
- Noise report to be submitted before development commences.
- Hours of use to be 07:30 to 19:00 Monday to Sundays.

Following receipt of additional information, KC Environmental Services were re-consulted and confirmed that there was no change to their original comments.

KC Highways DM: No objection in principle. The proposed use is likely to generate less traffic than a golf driving range would be expected to do. Conditions would be required to prevent access from Jackroyd Lane for the development and the submission of a scheme detailing how this would be achieved.

Following submission of additional information, KC Highways DM confirmed that there was no change to their original comments.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is allocated as Green Belt on the Unitary Development Plan (UDP) and is proposed to be retained as such within the Publication Draft Local Plan (PDLP).
- 10.2 Consequently, as indicated in the National Planning Policy Framework (NPPF) any development should maintain the openness of the Green Belt or, if not, the applicant must demonstrate that 'very special circumstances apply' to outweigh the harm caused.
- 10.3 Paragraph 146 of the NPPF sets out certain forms of development which should be considered as not inappropriate and this can include the re-use of buildings provided the buildings are of permanent and substantial construction.
- 10.4 In addition to the above, Policy PLP 60 of the PDLP suggests that the conversion or re-use of buildings would normally be acceptable where;
- a. The building to be re-used is of permanent and substantial construction.
 - b. The resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape, including through the treatment of outside areas such as means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings.
- 10.5 With regard to the permanence of the building, a structural survey has been submitted which indicates that the building is capable of conversion and alteration to the proposed use as a dog day care facility. In terms of the introduction of incongruous features which may impact on the openness of the Green Belt, the proposals are to use the existing car park which serves the golf driving range, and minimal treatment of the outside areas is proposed. The main feature of this would be the proposed outdoor play area which would have an all-weather surface.
- 10.6 Chapter 3 of the NPPF is relevant as is Policy PLP 10 of the PDLP; both of these policies suggest that Local Planning Authorities should support the rural economy by supporting the needs of small and medium sized enterprises.

- 10.7 Given the above, it is considered that the proposed re-use of the building in the Green Belt for a dog day care facility is acceptable in principle subject to more detailed assessment of the above mentioned criteria.

Design issues

- 10.8 In general the proposals are for the re-use of the existing building and no extensions are proposed; there are however a number of external alterations proposed to the building.
- 10.9 The south elevation of the building is currently open and faces onto the driving range; this would be enclosed and timber clad to match the existing building and there would be a window serving each of the 10 kennels. There would also be a fire exit inserted on the east elevation of the building at the end of the internal corridor. Within the wider site the amended plans propose an all-weather play area for the dogs, this would measure 22m x 16m. There would be soft landscaping to the western boundary to screen the area from the vehicular access and the parking area. This play area is likely to have some additional impact on the openness of the Green Belt, however this area already forms part of the golf driving range; it is also something that is considered a necessary part of the proposals so that the dogs can be exercised near to the building.
- 10.10 On balance these proposals are considered acceptable in terms of the design and any additional impact on the openness of the Green Belt.

Residential Amenity

- 10.11 The nearest unconnected residential property, no. 2 Jackroyd Lane, is within the site known as Mount Pleasant Farm and would be approximately 50m away from the play area associated with the day care centre. Other dwellings on Jackroyd Lane would be between 150 and 160 m from the building.
- 10.12 Given that the proposals are for up to 30 dogs at any one time there is the potential for some disturbance to the occupiers of these dwellings by way of noise and from dogs barking and from traffic movements associated with the development. KC Environmental Services have been consulted and have not objected to the original or the amended plans subject to the imposition of a condition requiring a noise report to be submitted before development commences. It was discussed with The Environmental Services officer if a noise report should be submitted prior to determination, however the officer considered that a condition would be appropriate in this case. The condition should be worded so that the noise report is submitted prior to the commencement of any construction work, to ensure that any mitigation measures are incorporated in the building at the appropriate time. The noise report should assess noise emissions from the proposed development and details of background levels. This should also include a written scheme showing how the adjacent occupants would be protected from noise.

- 10.13 In terms of traffic movements, these are likely to be at opening and closing times but quieter during the remaining part of the day. KC Highways DM have commented that the change to a dog day care centre is unlikely to lead to an intensification of use of the access over the duration of the day. It is also important to consider that the current use as golf driving range appears, from the information submitted in support of application 2015/91253, to have hours of opening from 9am till 9pm.
- 10.14 The Environmental Health (EH) officer has also considered the proposed hours of use of the site with regard to the both the original and amended submitted details and has raised no objection to the proposals subject to a condition regarding the hours of opening. The EH officer has recommended the hours be restricted to 07:30 till 19:00 Monday to Sunday however the applicant has applied for opening hours of 7:30 till 19:00 Monday to Friday, 7:30 till 12:00 midday Saturday and no opening on Sundays and Bank holidays. It is noted that there has been a significant number of representations received with concerns raised about noise both from the dogs and traffic disturbance. Concerns have also been raised about the effect on the tranquillity of the adjacent fishing lake.
- 10.15 Whilst any decision notice shall include a condition requiring a noise report to be submitted, it is important to note that it is not the intention of the noise report mitigation measures to eliminate all noise and disturbance from a development but to ensure it is kept to an acceptable level. As this development is also within the Green Belt and considering the other surrounding uses, including the fishing, it is reasonable to restrict, by condition, the hours of opening to those requested by the applicant. A condition is also recommended to be included with any approval to the effect that the kennels are not be for overnight use.

Landscape issues

- 10.16 The proposals are to retain the existing planting to the entrance to the building and provide an additional landscaping area between the proposed all weather play area and the car park. This would be appropriate and assist in preventing any disturbance of dogs using this area from traffic movements within the car park. It may be that some form of close boarded fencing is required along this boundary to help with noise reduction but this would form part of the mitigation measures which would be required as part of the noise report detailed above.
- 10.17 No details of the type of planting along this boundary are provided therefore additional planting information is required for this area which can be dealt with by condition.

Highway issues

- 10.18 The site already has a parking area and reasonable access from both Highgate Lane and Jackroyd Lane. The plans show there would be 14 parking spaces directly adjacent to the entrance to the building.

10.19 KC Highways DM have been consulted and have made the following comments:

- The proposed number of parking places is sufficient for the number of kennels and for staff parking.
- The original application for the golf driving range restricted the access from Jackroyd Lane. This should again be repeated by condition and details submitted showing how traffic would be controlled.
- The proposed waste storage and collection area is suitable and access for service vehicles adequate. This should also be the subject of a condition.

Drainage issues

10.20 There are no alterations to the building which would affect the existing drainage arrangements for the building. With regard to foul drainage, there are no staff facilities proposed in this building however there are facilities on the wider site owned by the applicant.

Representations

10.21 As noted above there has been a total of 25 objections received.

The issues raised are addressed as follows:

- No clarification over what dog day care facility is.
Response: *There is a detailed supporting statement which is available on the Council website explaining how the facility will operate. This has also been briefly covered in the report.*
- Concerned about noise from barking dogs during exercise and pick up.
Response: *This has been addressed in the body of the report.*
- Will the building be insulated to protect against noise?
Response: *The noise report which will be required by condition will determine the appropriate measures to be taken to mitigate against noise.*
- Will there be overnight boarding?
Response: *The applicant has confirmed that overnight boarding would not take place. A condition is recommended restricting the hours of use of the site.*
- Disturbance caused to tranquil fishing lake.
Response: *A noise report will be required to be submitted to show how the development would prevent noise disturbance to surrounding residential properties. This should also help to prevent any noise disturbance to the users of the fishing lake. It is important to point out however that it is not the intention of noise reports to eliminate noise completely but to ensure it is kept at an acceptable level.*
- How will waste be dealt with?
Response: *This is dealt with in the report - additional information is required.*
- Inappropriate development in the Green Belt.
Response: *The principle of the development is considered to be acceptable as set out above.*
- No mention of opening hours.
Response: *These details have been submitted and assessed in the report.*

- Jackroyd Lane is a poor access.
Response: *Access will be restricted to Highgate Lane.*
- Unsuitable location for dog kennels.
Response: *This has been assessed in the report.*
- Disturbance from additional traffic.
Response: *This has been assessed in the body of the report.*
- Poor water supply to the site.
Response: *The water supply to the site would be a private matter.*
- No mains sewers.
Response: *The applicant owns other facilities in the wider site.*
- No details of planting provided.
Response: *This assessed in the report and a condition shall be included with any permission.*

Planning obligations

10.22 The site is below the threshold for any financial contributions.

Other Matters

Coal Mining Legacy

10.23 The site is within a High Risk coal mining area, and a Coal Mining Risk Assessment has been submitted. The Coal Authority has requested conditions are imposed requiring an intrusive survey and remediation work if required. As the proposals include alterations which will require some ground works these conditions are considered reasonable.

Unexpected Contamination

10.24 Due to the former use of the site as a farm, there is the risk of some ground contamination. Environmental Health have therefore asked for a condition to be included regarding the reporting of any unexpected contamination.

Waste disposal

10.25 As there are other public uses of the site and a nearby fishing lake it is important that the waste is disposed of correctly. The supporting information states that the applicant has identified “a number of environmentally friendly, safe solutions” to the disposal of waste. The information goes on to state that the waste will be disposed of correctly following current environmental guidance. However this does not provide the detail necessary and as such a condition should be included, should permission be granted, to require additional information regarding the disposal of waste.

11.0 CONCLUSION

11.1 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.

The proposals would provide a re-use for a building in the Green Belt for which there has been an identified demand. Subject to appropriate conditions any harm otherwise caused by the development can be made acceptable by the required mitigation measures and hours of opening.

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.

12.0 CONDITIONS

1. Timescale for implementing permission
2. Development to be carried out in complete accordance with the plans and specifications
3. Noise report to be submitted before commencement of any construction work.
4. Hours of opening restricted to 07:30 till 19:00 Monday to Friday, 07:30 till 12:00 midday Saturday with no opening on Sundays and Bank Holidays.
5. The kennels shall not be used for overnight stays.
6. Intrusive site investigation and mitigation measures to be carried out before commencement of construction work.
7. Reporting of unexpected contamination.
8. No access to be taken from Jackroyd Lane.
9. Traffic statement to show how access to the development would be controlled.
10. Parking to be provided in accordance with submitted details.
11. Details of waste disposal method
12. Waste storage and collection area to be provided in accordance with submitted details
13. Landscaping details to be submitted.

Background Papers:

Application and history files.

94/90300 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=94%2F90300>

96/92380 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=96%2F92380>

2015/91253 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F91253>

2017/91890 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F91890>

2018/92175 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F92175>

Certificate of Ownership – Certificate A signed: