
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 21-Oct-2021

Subject: Planning Application 2021/92465 Change of use from agricultural land to private dog exercise facility Land south of, Chain Road, Slaithwaite, Huddersfield, HD7 5TZ

APPLICANT

A Senior

DATE VALID

29-Jun-2021

TARGET DATE

28-Sep-2021

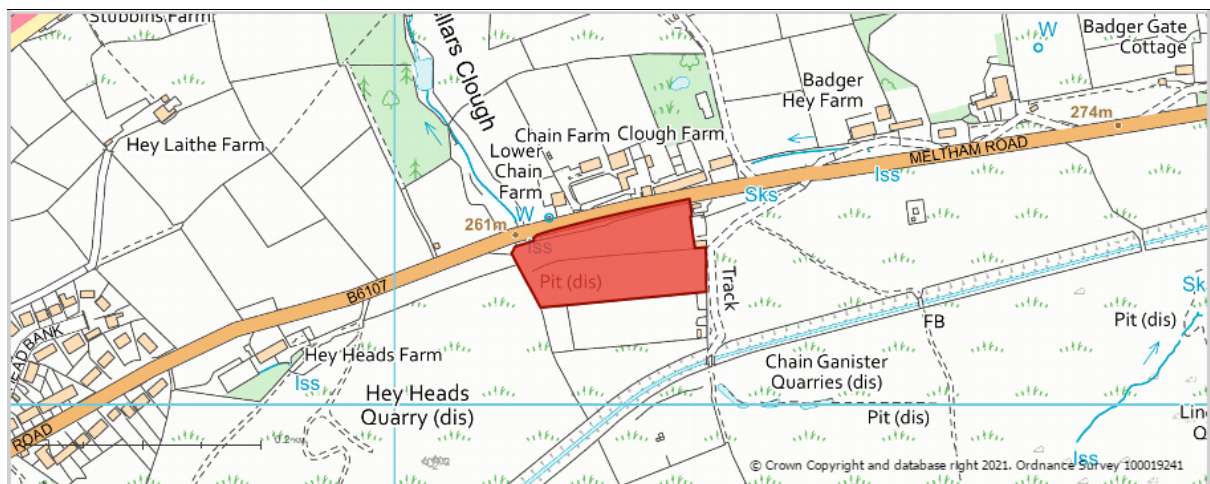
EXTENSION EXPIRY DATE

29-Oct-2021

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<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: Colne Valley

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION

- 1.1 This is an application for full planning permission (reference 2021/92465), for the change of use from agricultural land to a private dog exercise facility at land to the south of Chain Road in Slaithwaite.
- 1.2 The application is brought before Strategic Committee for determination in accordance with the Council's Scheme of Delegation (Section A, 1, e) as the application is for non-residential development where the application site boundary exceeds 0.5ha in size. The application site extends to 0.9ha.

2.0 SITE AND SURROUNDINGS

- 2.1 Land south of Chain Road, Slaithwaite, Huddersfield, HD7 5TZ
- 2.2 The application site relates to a parcel of land to the south of the B6107 Meltham Road (opposite Chain Farm). The site is steeply sloping and, until relatively recently, was used as low level non-intensive agricultural grazing land. The site is just below 1 hectare in size and is bounded by dry stone walls and chicken wire fencing. Access to the parcel of land is via an existing field gate on the western side of the site. The site lies in a rural location, with open fields to the east, south and west. Chain Farm is located to the north along with a number of terraced properties.

3.0 DESCRIPTION OF PROPOSAL

- 3.1 The application seeks planning permission for the change of use from agricultural land to private dog exercise facility (Use Class Sui-Generis). The proposals also include the retention of the existing fencing enclosures around the site.

Officer note: It is important to note that the dog exercise facility is already up and running and therefore, this application is for retrospective approval.

4.0 RELEVANT PLANNING HISTORY

- 4.1 There is no relevant planning history at the site or adjacent sites.

Pre-application Advice

- 4.2 2020/20485 – For the change of use from agricultural land to a private dog exercise facility with associated minor development. This pre-application was similar to the submitted application although the pre-application also sought advice in respect to the inclusion of access steps within the site, the widening and improvement of existing hardstanding area, and the construction of a pressure treated shed to provide shelter for visitors.
- 4.3 The Council concluded that in principle the change of use to a private dog exercise facility might be acceptable although this would be dependent on the amount of additional development proposed (e.g. shelter, access steps). The proposed engineering works to extend the off-street parking area, steps and the creation of a shelter facility were considered to be inappropriate development in this Green Belt setting. Officers did state that the retention of the existing chicken wire fencing would be acceptable although the new fencing and gates provided to the front of the site were considered to be incongruous and out of character with the rural location. It was therefore concluded that whilst the principle of a private dog walking facility might be acceptable, the associated operational development proposed alongside this change of use could cumulatively be perceived as more than is reasonably required for the proper functioning of the use of the land to which it is associated.

5.0 HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED

- 5.1 Amendments were sought to the original proposals as the Council's highways officer requested additional information from the applicant in the form of a swept path analysis.

6.0 PLANNING POLICY BACKGROUND

- 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).
- 6.2 The application site is unallocated in the Kirklees Local Plan but it is located within the Green Belt, a twice buffer zone and a within a Site of Special Scientific Interest Impact Risk Zone. It is also important to note that the Wildlife Habitat Network Combined Area is located to the east, south and west of the site. There are Grade II Listed Buildings to the north.

6.3 Kirklees Local Plan (LP):

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP3 – Location of new development
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP34 – Conserving the water environment
- LP35 – Historic Environment
- LP52 – Protection and Improvement of Environmental Quality
- LP56 – Facilities for outdoor sport, recreation and cemeteries

6.4 National Planning Policy Framework (NPPF):

- Chapter 6 – Building a strong competitive economy
- Chapter 7 – Ensuring the vitality and viability of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed 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
- Chapter 16 – Conserving and enhancing the historic environment

Other Guidance

- Kirklees Local Plan Supplementary Planning Document – Highways Design Guide

7.0 PUBLIC/LOCAL RESPONSE

Neighbour Letters – Expired 9th August 2021.

Site Notice – Expired 4th August 2021.

Press Notice – Expired 6th August 2021.

79 representations have been received to date in support of the proposals. Comments are outlined below.

- It has a value to the community;
- The site provides a much-needed resource that allows reactive dogs to be exercised safely;
- The hours of use at the site are restricted to further limit any inconvenience to adjacent neighbouring properties;
- There are a lot of visitors and tourists to the area, which is fantastic for local business, visitors that bring their dogs with them can use the facility knowing their dogs can also have safe off lead use of the field;
- It would be a massive shame for the large clientele they have built up as well as for the business owners themselves, if permission was denied;
- The perimeter fence and fields are checked every other day to ensure they are in good order and safe for use;
- It has been beneficial to use the field during lockdown to assist with social distancing;
- The owners make sure that people visiting treat the field respectfully and ensure that rules are upheld so that neighbours aren't disturbed and that dog waste is cleared up;
- The land does not encroach on the stunning location and the fence is inoffensive;
- The parking does not require noisy manoeuvres;
- This is something a lot of people have wanted and it is the best one around;
- The owners are more than accommodating and welcoming;
- It is peaceful and the views are superb;
- Convenient online booking system;
- The site would benefit from some steps for better access;
- The business keeps income being generated in Kirklees;
- High fencing provides security for the walkers and their dogs;

- Good for mental health and wellbeing;
- It will be a terrible shame if we can't take our dogs there anymore;
- The facility has a natural spring which dogs can cool off or drink;
- The field is a much needed asset to Marsden;
- This site encourages dogs to roam in a secure environment rather illegally on the surrounding moors, illegal exercising of dogs on the moor causes a higher risk of wild fires, and impact on livestock and wildlife;
- The Council should allow many more fields like this;
- When dog theft is on the rise a secure field is one of the best places to go;
- Other fields are often booked or require long distance travel;
- There are a lot of open fields and moorlands in Marsden but they are farmed and also restricted during nesting season. This field also reduces farmers having issues of live stock being attacked or worried;
- Access to the field can be easily used without the need to reverse on the main road itself;
- Whilst there is plenty of outdoor space in Slaithwaite there is also a large number of other dog users and this can be problematic;
- The field is also currently covered in wildflowers with a number of bees, the lack of grazing is increasing the flora and insect population which can only be a good thing;
- The land is well cared for and secure access and parking is provided.

2 representations have also been received in objection to the proposals. Comments are outlined below:

- Since the dog field has opened the layby has been used for extra parking by people using the field as not enough parking has been provided. A sign should be erected to stop this happening and also a sign on the main road to slow cars down when passing as visitors reverse out of the field;

Officer note: Noted. However, the Council's Highways officers have been consulted and raised no objections to the amount of parking provided at the site. Their comments can be viewed under the consultation responses section of this report.

- Access visibility is severely substandard and is likely to increase the risk of accident;

Officer note: Noted. However, the Council's Highways officers have been consulted and raised no objections to the access or egress to the site. Their comments can be viewed under the consultation responses section of this report.

- The site is not sustainably located in terms of access by transport other than car;

Officer note: Noted. However, there are a number of bus stops adjacent to the application site, the site is accessible by bicycle, and is a 24-minute walk from Marsden Station. Although given the nature of the use of the site it seems reasonable that dog owners would use a private vehicle to get to the site as walking would defeat the purpose of the facility. Highways officers have been consulted on the proposals and raise no objections.

- The application states that 2 vehicles per hour could be expected as a result of activities on the site, but this could be more;

Officer note: Noted. Highways officers were consulted on the proposals and their comments can be found within the highways section of this report.

- Vehicles unable to park either within the site or in the layby park on the carriageway;

Officer note: Noted. Highways officers were consulted on the proposals and their comments can be found within the highways section of this report.

- The extensive operational hours of the exercise facility mean sustained and prolonged noise is generated for up to 15 hours a day, 7 days a week from shouting, whistling, barking and cars in the exercise field;

Officer note: Noted. The Council's Environmental Health officers were consulted on the application and raised no concerns in respect to noise pollution although a condition is recommended to restrict the hours of operation and the amount of dogs on site at any one time.

- The field is situated just 14.8m away from adjacent dwelling Lower Chain Farm which is an invasion on the occupiers privacy, with two thirds of the field overlooking this property;

Officer note: Noted. This is discussed in more detail within the residential amenity section of this report.

- The proposed dog facility is having adverse effects on horses owned by neighbouring properties. The noise and activity generated by multiple dogs has caused these horses great distress;

Officer note: Noted.

- The existing sheep netting and chicken wire fence creates an industrial look to the area and has a detrimental impact on the peaceful location in which it is situated.

Officer note: Noted. However, this style of fencing can be found throughout the immediate vicinity, and is considered to be the least visually intrusive style given the nature and purpose of the site, and to allow the land to serve its proposed use.

Parish/Town Council Comments

N/A.

Local Ward Members

Consulted - no comments have been received to date.

8.0 CONSULTATION RESPONSES

8.1 KC Ecology Unit – No comments have been received within statutory timescales.

8.2 **KC Environmental Health** – Comments received 27th August 2021. No objections to the proposals subject to conditions relating to hours of use, use of artificial light and the number of dogs allowed on site at any time.

8.3 **KC Highways Development Management** – Comments received 9th July 2021. No objections but request further information in respect to access, parking and turning arrangements.

Officer note: Following receipt of a swept path analysis (drawing no. 186-55-400), 2 parking spaces have been provided, which are considered to be sufficient for the site users. Highways consider the access, parking and turning arrangements to be acceptable and therefore raise no objections subject to a condition relating to surfacing and draining. However, it is in officer's opinion that the proposed condition would not be necessary in this instance as the hardstanding does not form part of this application and was undertaken under permitted development rights many years ago.

8.4 **KC Conservation & Design** – Comments received 24th September 2021. No objections to the proposed development.

9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact of the proposed development upon the privacy and amenity of neighbouring properties
- Impact on highway safety
- Other matters
- Conclusion

Principle of Development:

9.1 The site is allocated as Green Belt on the Kirklees Local Plan. As such the proposal has been assessed having regard to NPPF Chapter 13, Paragraph 148, which advises that planning authorities should ensure that "substantial weight" is given to any harm to the Green Belt and that inappropriate development should not be approved unless very special circumstances can be demonstrated. As relevant to this application, under Paragraph 150 there are a number of forms of development that can be deemed as being appropriate in the Green Belt as 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 and retention of existing chicken wire fencing. 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

9.3 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 to a significant degree. 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.

- 9.4 Taking the above into consideration, it is noted that the site is currently bounded by dry stone walls and chicken wire fencing. The applicant seeks to retain these existing enclosures to prevent dogs escaping into the road or into adjacent fields. This appears to be acceptable as the land seems to have always been separated by such enclosures and the existing fencing is considered to be lightweight and be of a similar style to adjacent types of fencing found throughout the immediate vicinity. 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.
- 9.5 It does however appear that to the front of the site, the gated access does include a more modern pressure treated timber fence and new metal pedestrian and vehicle access gates. The pressure treated timber fence is considered to appear incongruous in this location and detract from the openness of the Green Belt. It is therefore deemed reasonable to include a condition that requires the applicant to replace this portion of fencing to match the existing chicken wire fencing found throughout the rest of the site. The applicant has confirmed acceptance of such a condition as highlighted within the submitted Planning Support Statement at paragraphs 3.6 & 3.7. This alteration would help to provide a more sympathetic appearance, which is reflective of the area in which the site is located.
- 9.5 Moving on to the intensity of use, visual intrusion and disturbance from noise, light and general activity. The applicant hopes to open the site up to customers 7 days a week between 7am` and 10pm. 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. It is considered that, subject to these mitigating conditions, the proposals are deemed to be acceptable in principle and would not impact on the openness of the Green Belt to a significant degree.
- 9.6 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 within guidance within the NPPF.

Impact on Visual Amenity and Heritage Assets:

- 9.7 Section 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 most importantly 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.
- 9.8 The change of use from agricultural grazing land to private dog exercise facility has resulted in a limited amount of physical changes to the appearance of the site. As discussed previously, the chicken wire fence that has been erected around the site is considered to be lightweight and not visually intrusive given the site's location, adjacent to similar style fencing. A condition is recommended, however, to require that the modern pressure treated timber fence to the front of the site is replaced with matching chicken wire fencing to ensure that the proposals are reflective of their rural location. Subject to this condition, the proposal is considered to achieve a sufficiently high- quality design.

- 9.8 To the north east of the site there are a number of Grade II Listed Buildings (1-3 Chain Road). Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities must, in considering the impact of a development on Listed Buildings have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 9.9 Furthermore, Chapter 16 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. If harm would result this should not be allowed without a proportionate justification. This approach is affirmed by Policy LP35 of the Kirklees Local Plan, and also LP24(a) which states that the form, scale, layout and details of the development must respect the character of heritage assets.
- 9.10. Given the nature of the proposal, the Council's Conservation & Design officers were consulted. They raise no objection to the scheme as the development does not include any substantial structures and is primarily a change of use of land. It is not considered that the proposed change of use would have any direct or indirect impact on the experience of the nearby listed buildings, or any other heritage assets.
- 9.11 For the reasons set out above, the proposals are considered to accord with the requirements of policies LP24 and LP35 of the Kirklees Local Plan and Chapter 12 and 16 of the National Planning Policy Framework.

Impact on Residential Amenity:

- 9.12 Sections B and C of LP24 state that alterations to existing buildings should:
- "...maintain appropriate distances between buildings' and '...minimise impact on residential amenity of future and neighbouring occupiers"*.
- 9.13 Further to this, paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.

Impact on Lower Chain Farm and dwellings located on Meltham Road (nos. 1-5)

- 9.14 These neighbouring dwellings are located to the north of the application site and given the nature of the proposals and scale of works, it is not considered that the proposals would appear overbearing or cause undue overshadowing. However, it is acknowledged that concerns have been raised by residents with regards to loss of privacy and overlooking. Separation distances from these adjacent properties to the application site vary from between 10m (at the bottom of the site along the northern boundary) – 84 metres (at the top of the site along the southern boundary). Whilst it is acknowledged that, in those cases where the separation distance is around 10m, views towards these dwellings may result in overlooking, however, given the nature of the use of the site, it is not typical that dog walkers would stand at the northern boundary of the site for a prolonged period. They are likely to walk around the field and up to the top of the site (towards the southern boundary) where there is a wooden bench and small dog agility course provided. It is therefore considered more likely that they would

spend the majority of their time in the southern portion of the site, where the separation distances from these adjacent neighbouring dwellings is greater. It is therefore considered that the potential for overlooking would not be detrimental in this instance to recommend refusal of this application.

Concerns have also been raised by neighbouring properties in respect to noise and light emanating from the proposed use. The Council's Environmental Health officers were consulted on the proposals and recommended conditions to restrict the hours of operation from 7am to 10pm with a maximum of 10 dogs allowed on site at any time. A condition is also proposed that no external lighting is allowed at the site. Environmental Health officers consider these conditions to be sufficient in mitigating any concerns in respect to noise and light pollution.

- 9.15 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:

- 9.16 Paragraph 111 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.
- 9.17 The application site utilises an existing gated access from Chain Road, in which there is a lay by area to the north allowing visitors to stop and open the gate without needing to stop in the highway. Internal turning has been demonstrated within the submitted swept path analysis drawing (no. 186-55-400) and 2 parking spaces have been presented within the hardstanding area. Whilst representations have been received in objection to the development specifically in terms of highway safety, the Council's Highways officers were consulted on the proposals and consider the access, parking and turning arrangements to be acceptable. Therefore, they raise no objections to the proposals.
- 9.18 For the above reasons it is considered that the scheme does not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22, and the guidance contained within the National Planning Policy Framework.

Other Matters:

Waste Management

- 9.19 In respect to dog waste at the site, a litter bin is provided adjacent to the gate at the entrance of the site. Within the submitted Planning Support Statement it is stated that the business is entering into a contract with a professional specialised service provider who remove dog waste from such facilities and also provide a bin receptacle. Whilst this is acceptable the precise details of how animal waste will be disposed of will be required by condition.

Biodiversity

9.20 Whilst no comments have been received by the Council's Ecology Unit an Ecological Impact Assessment has been provided by the applicant's agent, undertaken by MAB Environment & Ecology Ltd. April 2021. This report concludes that the Ecological Impact Assessment has not identified any significant impacts due to the proposed development, and therefore no specific mitigation is required. However, the enhancement measures outlined in Section 8 of the report will help to secure positive gains to local biodiversity when compared to baseline conditions. It is therefore considered that applying a condition which requires these enhancement measures to be undertaken by the applicant and retained thereafter would be sufficient in this instance.

Climate Change

9.21 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

9.22 As the proposals simply seek a change of use to the land from agricultural to a private dog exercise facility and the retention of existing fencing, it is not considered that the proposals would have a significant impact on climate change. Therefore, the proposed development is considered to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

9.23 There are no other matters for consideration.

10.0 CONCLUSION:

- 10.1 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.
- 10.2 Officers conclude that the principle of the change of use from agricultural grazing land within the Green Belt to a private dog exercise facility is acceptable and in accordance with paragraph 150 of the National Planning Policy Framework. Whilst some concerns were raised in respect to noise, light and parking/access to the site, the Council's Highways officers have concluded that there are no concerns in respect to highways safety and that the proposals accord with local plan policies LP21 and LP22. Conditions have also been recommended by the Council's Environmental Health team who believe that these conditions would mitigate the impacts of the proposal so that there is not an unacceptable impact upon residential amenity of occupants of residential properties in the locality.

10.3 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.

Background Papers:

Application and history files

Available at: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/92465>

Certificate of Ownership

Certificate A signed.

Conditions & Reasons:

1. Hours of operation from 07:00am - 22:00pm Monday - Sundays including Bank Holidays.
2. No external lighting at the site.
3. Replacement of modern pressure treated fencing to the front of the site (within 3 months).
4. Ecological enhancements to be provided within 3 months as recommended within Ecological Impact Assessment (April 2021) undertaken by MAB Environment & Ecology Ltd.
5. A scheme for the disposal of animal waste shall be submitted to the council for agreement