
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2022

Subject: Planning Application 2021/91015: Change of use of grazing land to dog exercise area at Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU

APPLICANT

C & J Ives

DATE VALID

18-Mar-2021

TARGET DATE

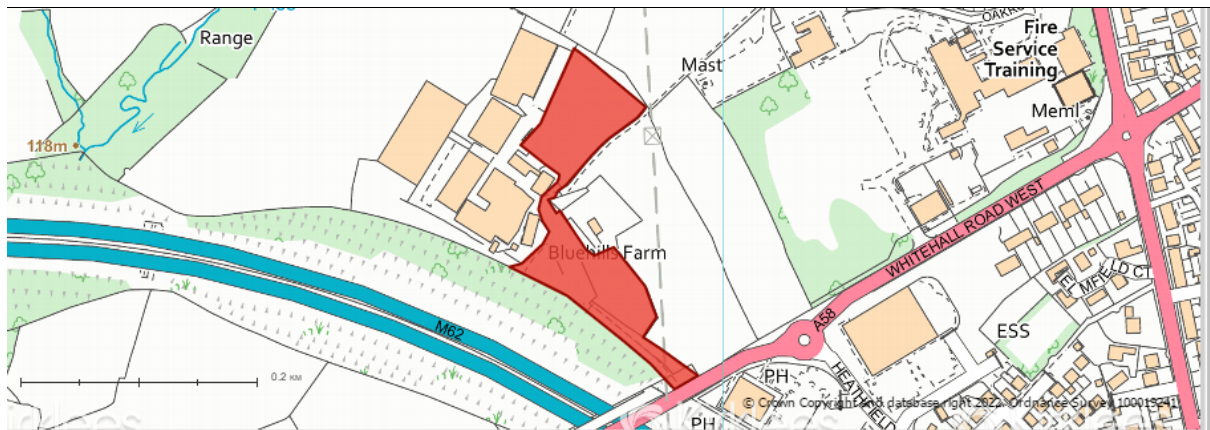
13-May-2021

EXTENSION EXPIRY DATE

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

[Link to public speaking at Committee](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

APPROVE

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 application has been brought before the Strategic Planning Committee in accordance with the Council's Delegation Agreement because the site exceeds 0.5ha in size and the proposal is non-residential.

2.0 SITE AND SURROUNDING

- 2.1 The application relates to a 0.6 hectare field associated with Blue Hills Farm. Blue Hills Farm is a working farm which has diversified commercially to contain a café, farm shop and a play barn.
- 2.2 The site itself comprises a grass field set to the east of the farm buildings. It slopes down from the north towards the south. Existing boundary treatments consist of fences and a dry stone wall. Public Footpath SPE/14/20 runs within the south east and north east perimeters of the field. The site is bounded by fields to the north and east, which are also owned by the applicant. The farmstead adjoins the site to the west. To the south of the site is another field, which is allocated for housing in the Kirklees Local Plan (HS93).
- 2.3 Entry to the field is via the existing access, which also serves all the amenities of the farm. The site includes existing unmarked parking areas to both sides of the access, which includes space for approximately 30 vehicles. The access is served from the A58 Whitehills Road West.

3.0 PROPOSAL

- 3.1 The application seeks full planning permission for the change of use of grazing land to a dog exercise area.
- 3.2 There will be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application.
- 3.3 The agent has stated that the proposal would see the field used as a dog park by a maximum of three dogs at any given time. It is understood that the applicant does not wish to host any dog shows or events from the site.

- 3.4 The applicant has stated that operating hours would be from sunrise to sunset each day at present, and between 0700 and 1900 once the first house is occupied on the adjacent site allocated for housing.
- 3.5 Vehicular parking would be provided in the existing car park for Blue Hills Farm.

4.0 RELEVANT PLANNING HISTORY

4.1 Application Site:

None.

4.2 Relevant Planning History from Adjacent Sites:

2019/90527 - Outline application for the erection of up to 127 dwellings, with details of access for Land at, Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU – Conditional Outline Permission Granted. No reserved matters application has been received at the time of writing. This application was granted on 9th December 2019 and is extant until 8th December 2022.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 Given the application site is set next to an allocated housing site, which benefits from live outline permission, officers had concerns about whether the proposed use would prejudice this housing allocation. As such, officers requested the submission of a noise impact assessment based upon the provisional plan provided under the outline permission. The agent submitted an appropriate noise impact assessment in September 2021. The agent has also suggested conditions relating to the implementation of noise mitigation measures prior to the occupation of dwellings on the adjacent site. Officers also sought clarity about how the site would operate, which was provided by the agent.
- 5.2 The applicant has been requested to amend the red line boundary for the purposes of accurately displaying the official parking areas. An update on this matter will be provided in the committee update.
- 5.3 No other information has been requested nor have any amendments been sought.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 20th July 2021).

Kirklees Local Plan (2019):

- 6.2 LP1 - Presumption in favour of sustainable development
LP10 - Supporting the rural economy
LP21 - Highway safety and access

LP22 - Parking
LP24 - Design
LP28 - Drainage
LP30 - Biodiversity and Geodiversity
LP32 - Landscape
LP56 - Facilities for outdoor sport and recreation

National Planning Policy Framework (July 2021):

- 6.3 Chapter 2 - Achieving sustainable development.
Chapter 6 - Building a strong, competitive economy.
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.

Supplementary Planning Guidance / Documents:

- 6.4
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
 - Highway Design Guide SPD (2019)
 - Planning Applications Climate Change Guidance (2021)
 - Biodiversity Net Gain Technical Advice Note (2021)

7.0 PUBLIC / LOCAL RESPONSE

- 7.1 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 23rd April 2021. No representations were received.

8.0 CONSULTATION RESPONSES

- 8.1 Below is a brief summary of the consultation responses received. These comments will be discussed in further detail where relevant later on in the assessment.

KC Highways Development Management – no objections.

KC Environmental Health – no objections subject to conditions relating to: the submission a noise mitigation scheme; hours of customer use; the reporting of unexpected contaminated land; and, no external artificial lighting.

9.0 MAIN ISSUES

- Principle of Development in the Green Belt and Visual Amenity
- Residential Amenity
- Highway Safety and Public Right of Way (PROW)
- Ecology
- Carbon Budget
- Representations

10.0 APPRAISAL

Principle of Development in the Green Belt and Visual Amenity

- 10.1 The site is allocated as Green Belt in the Kirklees Local Plan and therefore consideration needs to be given to Chapter 13 of the National Planning Policy Framework. Paragraph 149 of the National Planning Policy Framework indicates that the provision of appropriate facilities for outdoor sport and outdoor recreation could be acceptable in the Green Belt so long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. LP56 of the Kirklees Local Plan reiterates this policy, stating that proposals should ensure that the scale of the facility is no more than what is reasonably required for the proper functioning of the enterprise, and the facility is unobtrusively located and designed to not introduce a prominent urban element into the countryside, including any new or improved access and car parking areas.
- 10.2 In this instance, the proposed use for dog training is considered to be outdoor recreation. The site would be operated by the occupier of Blue Hills. There would be a maximum of three dogs using the site at any one given time. The proposed development does not require the improvement of the access or provision of any additional parking. The proposal also does not require any physical additional or alterations to the field. Therefore, it is considered that the openness of the site would be preserved, and the proposal would not affect the reasons for including land within the Green Belt. Furthermore, given the scale of the facility, it is clearly no more than what is reasonably required to operate the business. No artificial lighting is proposed either, which helps to prevent harm. Therefore, the proposed use is considered appropriate in the Green Belt as set out in Chapter 13 of the NPPF and Policy LP56 of the Kirklees Local Plan. The lack of physical alterations means the development would not be out of character with the rural setting, thus according with Local Plan policy LP24 and Chapter 12 of the National Planning Policy Framework also.
- 10.3 Furthermore, the economic benefits of the development are supported by local and national policy. Paragraph 84 of the National Planning Policy Framework states that 'planning policies and decision should enable: (b) the development and diversification of agricultural and other land-based rural businesses.' As can be seen by the wider use of Blue Hills Farm, the site has successfully diversified without harm to the Green Belt. The proposed dog park would further diversify the site, adding as a boost to the rural business without any harm to the Green Belt visually given the proposal does not include any physical alterations or additions. The creation of a dog park would therefore help support the rural community as per the aims of LP10 of the KLP.
- 10.4 For the reasons set out above, subject to a condition for no artificial lighting, the principle of development in the Green Belt and visual amenity of the development is considered acceptable.

Impact on Residential Amenity

- 10.5 Local Plan Policy LP24 sets out that proposals should ensure a good standard of amenity for neighbouring and future occupiers. At present there are no dwellings within 200m of the application site, except for the farmhouse of Blue Hills Farm. The farmhouse is set adjacent to the car park, and directly next to the farm shop, which creates a relatively high level of disturbance already. It is considered that the proposed dog park, by virtue of it only hosting up to three dogs at a time, would not cause any further detriment to the occupants of the farmhouse given that already caused by the existing use of the farm site.
- 10.6 With regard to future occupiers, the field directly to the south east of the site is allocated for housing. It has been subject to a successful outline planning application, whereby the permission is still live. At the time of writing, a reserved matters application has not been received. Nonetheless, the impact on this allocated site must be considered. On the basis that the dog park would not be used by any more than three dogs at any given time, the proposed harm through noise and disturbance would be limited.
- 10.7 To further limit the harm, however, Environmental Health recommend an hours of use condition for between 0800-1600 April to September and between 0800-1800 October to March. Officers agree that an hours of use condition is necessary. However, it is considered that the hours suggested by Environmental Health are too restrictive and unreasonable given the level of activity, thus failing the six tests for conditions set out within the National Planning Policy Framework – that conditions must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Officers recommend a condition for no operations in the field outside the hours of 0700-1900 all year round, which is considered more reasonable. This also takes into account the close proximity of the M62, West Yorkshire Fire and Rescue Service Headquarters and the current uses of Blue Hills Farm, which would likely cause more 'disturbance' to the future houses on the allocated site than the proposed dog park would.
- 10.8 A condition for no artificial lighting will also be applied as this prevents harm from light to neighbouring dwellings.
- 10.9 KC Environmental Health have also sought the submission of a noise mitigation scheme. They state that the scheme should 'include details of the maximum number of dogs at any time, the noise mitigation measures that will be used at the proposed development to control noise from dog(s) barking and it shall demonstrate that the noise will not cause a loss of amenity at nearby noise sensitive premises.' However, the number of dogs has been provided (up to three) and officers cannot reasonably see a measure which could 'control noise from dog(s) barking' that could be reasonably be delivered given the low level of development. For this reason, a condition for a noise mitigation scheme will not be sought as it cannot be considered necessary or reasonable as per the six tests for planning conditions set out above.

- 10.10 Subject to conditions limiting the number of dogs to three, limiting the use of the park to between the hours of 0700-1900, and no artificial lighting, the proposal cannot be reasonably considered to harm or prejudice the ability for the allocated housing site to be developed to its full potential. Furthermore, as the housing site and application site are currently under the same ownership, it would not be in the interests of the applicant to prejudice the housing site either, which offers further confidence to the authority.
- 10.11 For the reasons given in paragraphs 10.5 through to 10.10, the proposed development is considered to accord with relevant policy in respect to residential amenity.

Highway Safety and Impact on the Public Right of Way (PROW)

- 10.12 This application is for the change of use from grazing land to a dog exercise area at an existing farm with an access on to A58 Whitehills Road West, a 30mph two-way single carriageway main distributor with a hatched central reserve, footways on both sides and street lighting present. There is a bus stop box opposite the site entrance and 'No Waiting at Any Time' with 'No Loading at Any Time' TRO markings to the west of the access over the motorway bridge.
- 10.13 PROW footpath SPE/14 runs along the access to the site and is also adjacent to the proposal site. The PROW footpath would have to remain protected and unobstructed by the application as per legislation outside of the planning process. However, there is no indication that it would be affected by the proposal. Nonetheless, the obstruction of the PROW will be set out via a footnote.
- 10.14 The access is existing and will serve the proposal site and the existing farm and farm shop. No trip generation details were provided with the application. However, considering that Officers seek to impose a condition to limit the number of dogs using the field, this permission would not result in the hosting of dog shows/events in any event. Thus, the proposals are not expected to generate additional traffic that could be considered to have a severe impact on the operation and efficiency of the local highway network. The car park is quite large and sufficient parking spaces are likely to be available for the proposed low-level use. KC Highways agree that as the dog exercising arena is not to be used for displays/shows, a parking management plan is not required.
- 10.15 For the reasons above, the proposed development accords with Local Plan policies LP21, LP22 and LP23 with regard to highways safety, access, parking and the impact on the PROW. The proposal also accords with supplementary planning documents and National Policy with regard to Highway Safety and is thus considered acceptable in regard to this matter.

Ecology

- 10.16 The field is currently grassed. It does not have a watercourse running through it or have any obvious habitat. It is also bound by existing boundary treatments on all sides and is not part of a habitat network or corridor. The proposal will also not result in any built development being erected. Given that the proposed use is for a dog walking facility, combined with the points above, it can be considered that the development would not result in any significant loss or harm to biodiversity through avoidance, thus according with Local Plan policy LP30 and paragraph 180 of the NPPF. Given this, the proposal is considered acceptable with regard to ecology.

Climate Change

- 10.17 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 predates 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. In this case, carbon reduction measures are considered unnecessary given that the proposal is solely for a change of use, given the limited scale of the proposal and that it utilises existing parking facilities. It would be unreasonable, as per the six tests for conditions, to seek a carbon budget related conditions for these reasons.

Contaminated Land

- 10.18 The submitted Design and Access Statement prepared by FM Lister & Son dated 03 March 2021 makes reference to a fence being erected. Whilst the applicant states this is permitted development, no detail has been given on the construction of such. The development is adjacent to potentially contaminated land (our map ref 21/2) and a condition is recommended for any unexpected contamination. Subject to this, the proposal can be considered to ensure the safety of the end user and accord with Local Plan policy LP53 with regard to contaminated land, and all relevant national policy and guidance.

Representations

- 10.19 As a result of the publicity period, no representations were received.

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.

- 11.2 The proposed development accords with the purposes of national and local policy in regard to development in the green belt and supporting the rural economy through agricultural diversification. The proposal will cause no visual harm to the rural character of the area, or harm the amenity of neighbouring or future occupiers, including the forthcoming housing development.
- 11.3 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 it is therefore recommended for approval.

12.0 CONDITIONS - Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Standard timeframe for commencement of development - 3 years.
2. In accordance with the approved plans.
3. Operations between 07:00-19:00 Monday to Sunday.
4. A maximum of three dogs using the exercise park at any one time.
5. No artificial lighting.
6. Reporting of unexpected contaminated land.

Background Papers:

Certificate of Ownership – Certificate A signed: 03/03/2021

[Link to application details](#) – Link to application details.

[Link to application details](#) – Link to Outline Application on the neighbouring housing site (2019/90527)