
Report of the Head of Strategic Investment

STRATEGIC PLANNING COMMITTEE

Date: 10-Aug-2017

**Subject: Planning Application 2017/90096 Change of use of land for use as
scrambler bike track and formation of hard standing for parking and access
land adj, New Hey Carrs, New Hey Road, Scammonden, Huddersfield, HD3 3FT**

APPLICANT

Pogson Brothers Ltd

DATE VALID

11-Jan-2017

TARGET DATE

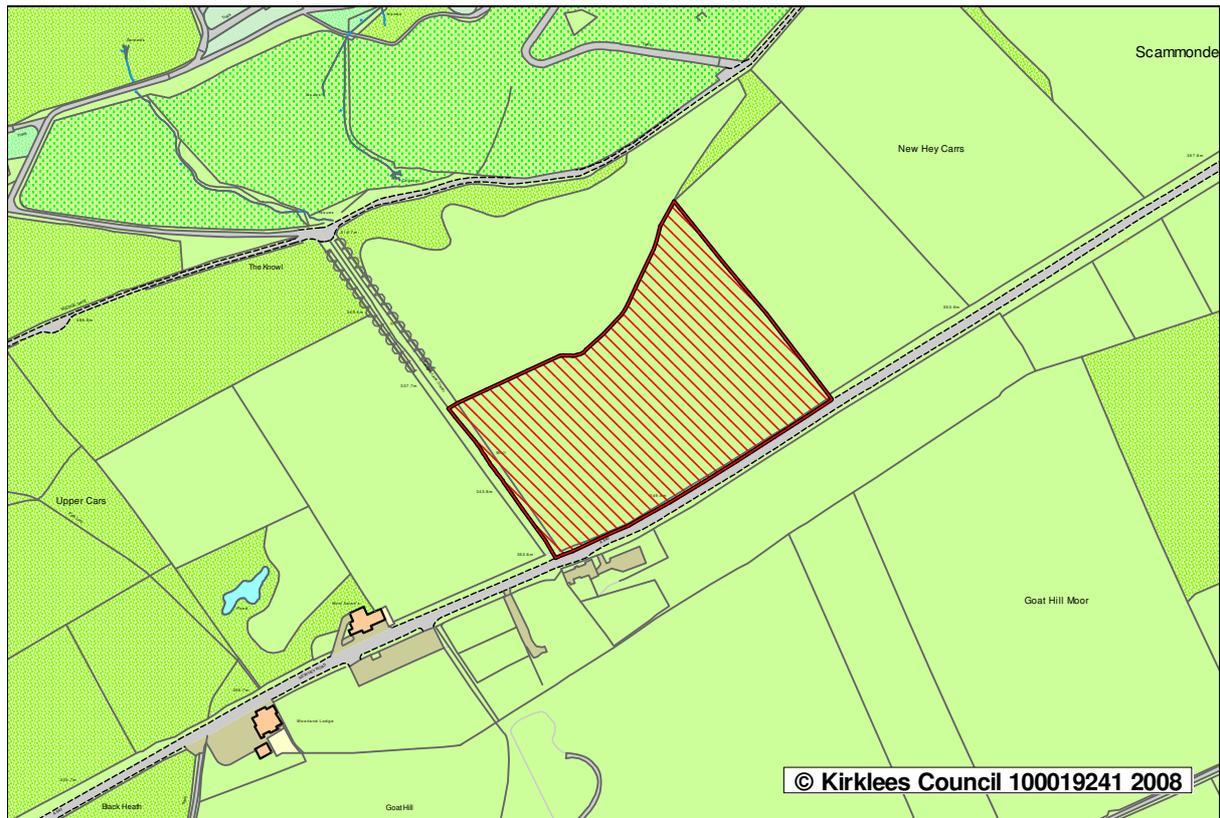
08-Mar-2017

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.

<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

No Ward members notified

RECOMMENDATION: Refuse

1.0 INTRODUCTION:

1.1 This application is brought to the Strategic Planning Committee as the proposal is non-residential and exceeds 0.5ha in site area.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is located approximately 3 kilometres north west of Slaithwaite town centre on open land off New Hey Road. The application site is a single field which appears to have historically been used as agricultural rough pasture and occupies an area of approximately 3.2 ha. The site is bounded to the south by New Hey Road and to the west by Public Right of Way (PROW) Col/170/10. The area surrounding the site is a combination of sparsely populated open moorland to the north and west and rough/improved pasture to the east and south. The site falls within a wider area which is allocated as Green Belt in the adopted Unitary Development Plan and is close to the South Pennines Special Protection Area (SPA) and Special Area of Conservation (SAC) which is located approximately 1km to the west.

3.0 PROPOSAL

- 3.1 The applicant proposes to change the use of the land to allow organised motorcycle scrambling and the formation of a hard standing area in the south west corner of the site for parking and access.
- 3.2 The applicant has indicated that he proposes to use the site for up to 25 events per year and that these events would operate between 09:00 and 17:00.
- 3.4 Access would be taken directly from New Hey Road onto a hardstanding area measuring approximately 60m x 45m which would be constructed using crushed sandstone.
- 3.5 The applicant has indicated that this proposal would not involve any re-profiling of the land and that all welfare facilities would be provided using mobile plant and equipment which would be removed from site between events.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 None

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 None

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 weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. 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 (2012), these may be given increased weight. Officers consider considerable weight can be afforded to the Publication Draft Local Plan. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

EP4 – Noise generating development

EP6 – Existing and projected noise levels

T10 – Highway Safety

R13 – Development affecting public rights of way

6.3 Kirklees Publication Draft Local Plan (KPDLP): Submitted for examination April 2017

PLP 21 – Highway safety and access

PLP 30 – Biodiversity and Geodiversity

PLP32 – Landscapes

PLP51 – Protection and improvement of local air quality

PLP52 – Protection and improvement of environmental quality

6.4 National Planning Policies:

Section 9 – Protecting green belt land

Section 11 – Conserving and enhancing the natural environment

6.5 Other Guidance/legislative considerations

Planning Practice Guidance – Natural Environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by the erection of site notices in the vicinity of the site the mailing of 6 neighbourhood notification letters and an advertisement in the Huddersfield Examiner. This resulted in 22 representations from members of the public being received with regard to this proposal and the issues raised can be summarised as follows:

- The proposal would be detrimental to highway safety in the area
- Noise resulting from activities at the site would adversely affect nearby residents
- The development would be contrary to Green Belt policy
- The proposed activities would destroy agricultural land
- The proposal would attract ancillary activities such as toilets and food sales etc.
- The enjoyment of users of nearby public rights of way would be adversely affected.
- The proposal would detrimentally impact on the visual amenity of the area and degrade the local landscape
- The local ecology would be adversely affected by this proposal
- Local water courses would become polluted as a result of the proposed activities
- Activities are likely to generate dust during dry periods which will have a negative impact on the local environment and the amenity of the area.

7.2 Cllr Bellamy forwarded an e-mail on 7 February 2017 with regard to this proposal making the following observations:

*“ ...I have some concerns with regards to this application
 The application site looks close to a public highway is this likely to cause problems there are also many footpaths and livestock in the vicinity is there likely to be an issue with noise, I have also been contacted by several residents in the vicinity who also have concerns with regards to these issues and wildlife,
 If you are minded to accept this application could I please ask that it is referred to sub planning committee for determination and includes a site visit so members can see the effect it would have on the landscape and surrounding area,
 My reasons for the request are relationship to wildlife and livestock in the area, and issues with regards to parked vehicles with trailers is the proposed hard standing enough for an event, and is this inappropriate development in the green belt,...”*

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K C Highways DM – object as insufficient information has been provided to fully assess the impact the development would have on the local highway network

8.2 Non-statutory:

K C Environmental Health – object as this proposal would lead to noise nuisance to nearby residents which would result in an unacceptable loss of amenity.

K C Biodiversity Officer – object as insufficient information has been provided to assess the impacts to local ecology and on the nearby South Pennines Special Protection Area

Yorkshire Water – No objection subject to a planning condition which details how the water infrastructure crossing the site would be protected

9.0 MAIN ISSUES

- Principle of development
- Local amenity
- Highway issues
- Drainage issues
- Ecological issues
- Representations
- Other matters

10.0 APPRAISAL

10.1 Principle of development

10.2 The site is located within the Green Belt and it is therefore considered that the key consideration is first whether the proposed development is appropriate development within the Green Belt and second, if not, whether there are any very special circumstances which clearly outweigh the harm that would be caused to the Green Belt by reason of inappropriateness or by any other harm.

10.3 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.

10.4 Paragraph 87 of the NPPF confirms that inappropriate development within Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 goes on to say that when considering any planning application, local planning authorities

should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

- 10.5 Paragraph 89 of the NPPF lists a number of exemptions which are not considered to be inappropriate development and paragraph 90 lists forms of development which can be considered to be appropriate subject to the openness of the Green Belt being preserved and there being no conflict with the purposes of including land within the Green Belt.
- 10.6 However, the development referred to in paragraphs 89 and 90 are specifically defined and changes of use within the Green Belt are not included. Consequently this proposal must therefore be considered to represent inappropriate development and very special circumstances would therefore need to be demonstrated to justify the approval of this application.
- 10.7 The applicant has not provided any details of very special circumstances to support this proposal and as a consequence the principle of this development is unacceptable.
- 10.8 Due to the stage the emerging Local Plan has reached with regard to the examination process, it must now be given considerable weight in the consideration of planning applications. The implications of this proposal on the emerging plan must therefore be considered. The site continues to be included in the Green Belt in the emerging Local Plan but has not been allocated for any specific purpose. It is therefore considered that the above assessment with regard to Green Belt policy accords with the emerging local plan.
- 10.9 Local Amenity
- 10.10 The site is located within an area that is predominantly rural in character. However there is a small group of residential uses to the south west, the nearest being approximately 140 m from the site. Further isolated residential properties and farmsteads are located at greater distances to the east of the site (approximately 400m). The site has historically been used for the grazing of livestock and comprises rough and improved pasture. This proposal would introduce an activity which could potentially cause nuisance to residents or other businesses nearby.
- 10.11 The proposal would involve the regular use of motorcycles in an area which has a relatively low noise climate. No supporting information has been provided to indicate how the impacts of noise associated with this proposal would affect the locality or how noise generated could be mitigated. It is therefore considered that this proposal does not accord with UDP policies EP4 and EP6, KPDL policy PLP52 or guidance contained in Section 11 of the NPPF with regard to potential noise nuisance.

- 10.12 The character of the area in the vicinity of the site is predominantly rural and is formed principally from rough and improved pasture and open moorland but includes a number of large water bodies, an example being Scammonden water to the north. Consequently the visual amenity of this area is pleasant and has an open and wild character. This proposal therefore has the potential to significantly affect visual amenity in the area.
- 10.13 The site is open and can be seen at distance from the surrounding landscape and organised events such as those proposed in this application would be visible both at close quarters from nearby public rights of way and New Hey Road (A640) and at distance from higher ground to the east and from the other side of the valley from Saddleworth Road (B6114). It is considered that such activities, including the siting of ancillary facilities would be prominent within the landscape and create a discordant feature which would detrimentally affect the visual amenity of the area. It is therefore considered that this proposal would not accord with Policy PLP 32 or Section 9 of the NPPF with regards to its potential impact on the visual amenity of the area.
- 10.14 This proposal would generate dust in dry conditions which could have a detrimental impact on the amenity of the area. The principal potential sources of airborne dust associated with the proposed operations, in the absence of mitigation, would result from motorcycles tracking over areas denuded of vegetation and windblown dust from such areas. The applicant has not provided any information to indicate the likely effects associated with dust generation or how the generation of dust would be mitigated against. It is therefore considered that this proposal would not accord with KPDLP policies 51 and 52 or with Section 11 of the NPPF.
- 10.15 Highway issues
- 10.16 As previously indicated the site has historically been used for grazing livestock and includes an existing agricultural access off New Hey Road which the applicant proposes to use in connection with this proposal.
- 10.17 Whilst it is likely that the necessary sight lines could be achieved at the junction of the access with New Hey Road, no information has been provided with regard to improvements to the site access or regarding the numbers of people likely to attend the events. Furthermore, only basic information has been provided with regard to the construction of the proposed parking area.
- 10.18 PROW Col/170/10 forms part of the application site and is immediately adjacent to the proposed access and parking area. The applicant has provided no information as to how pedestrians using the access would be protected from the development and the experience of users of this route would be diminished during the proposed organised events.
- 10.19 It is considered that insufficient information has been provided to fully assess the affect this development would have on the local highway network and as a consequence this proposal would not accord with UDP policy R13, T10 and KPDLP policy PLP21.

10.20 Drainage and flood risk issues

- 10.21 The application site is located in Flood Zone 1 and is therefore at low risk of a flooding event. The site is currently in agricultural use and therefore existing drainage facilities are likely to involve drainage dykes and natural water courses which drain towards Scammonden Water to the north. Records also indicate that highways drainage measures cross the site and discharge into an open water course on the northern boundary of the site.
- 10.22 The proposed activity has the potential to affect drainage regimes in the vicinity of the site by increased run off and subsequent sedimentation of drainage systems. However, the applicant has not provided any information to indicate how this proposal would affect drainage in the vicinity of the site or how any impact would be mitigated.

10.23 Ecological issues

- 10.24 The site is approximately 1.2km from the South Pennine Moors Phase 2 Special Protection Area (SPA) and records of golden plover exist for the area surrounding the site, including around Scammonden Water to the north of the site.
- 10.25 Golden plover is a designated feature of the SPA and during the breeding season will forage on habitats outside of the SPA. Preferred foraging habitat is relatively undisturbed pasture with sufficient invertebrate prey. Based on the available information the habitats would appear to be suitable for use by golden plover, which forage during the day and night and fly up to 7 km from the nest site.
- 10.26 Due to the potential for impacts to land connected to the SPA in respect of golden plover a Habitat Regulations Assessment is required to support the application. Any proposed development that is determined likely to have a significant adverse effect on the integrity of a European protected site will proceed to the second stage of HRA and must be subject to an Appropriate Assessment. Appropriate Assessments (AA) relating to planning applications in Kirklees are undertaken by Kirklees Council, using information submitted by the applicant. However, the applicant has not provided an ecological assessment which can be used to inform an AA and it is therefore considered that this proposal does not accord with KPDLP policy PLP30 or Section 11 of the NPPF.
- 10.27 Members should note however, that Class B, Part 4, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 allows the temporary use of land for motorcycle racing for up to 14 days in any calendar year without the need for a grant of express planning permission. Consequently, the applicant may take advantage of these rights should he wish. In fact, evidence indicates that events have taken place on several occasions this year already resulting in investigations being initiated by the Council's Pollution and Noise Control (PNC) team. Officers from the PNC team have witnessed noise nuisance being caused during two of these events.

10.28 Representations

22 representations have been received with regard to this proposal, the issues raised and associated responses are summarised as follows:

The proposal would be detrimental to highway safety in the area

Response: This matter has been considered in the section titled “Highways Issues”

Noise resulting from activities at the site would adversely affect nearby residents.

Response: This matter has been considered in the section titled “Local Amenity”

The development would be contrary to Green Belt policy

Response: This matter has been considered in the section titled “Principle of development”

The proposed activities would destroy agricultural land

Response: Whilst this proposal would result in the limited loss of agricultural land, the land concerned is poor quality grazing land and there is a significant amount of this type of grazing land in the vicinity. Furthermore between events this land could potentially support grazing for temporary periods.

The proposal would attract ancillary activities such as toilets and food sales etc.

Response: The applicant has indicated that any ancillary facilities would only be brought to the site when events took place and would be removed once the event finished. Consideration of the impact of such facilities is included in the Section titled “Local Amenity”

The enjoyment of users of nearby public rights of way would be adversely affected.

Response: This matter has been considered in the section titled “Highway Issues”

The proposal would detrimentally impact on the visual amenity of the area and degrade the local landscape.

Response: This matter has been considered in the section titled “Local Amenity”

The local ecology would be adversely affected by this proposal.

Response: This matter has been considered in the section titled “Ecological issues”

Local water courses would become polluted as a result of the proposed activities

Response: This matter has been considered in the section titled “Drainage and flood risk issues”

Activities are likely to generate dust during dry periods which will have a negative impact on the local environment and the amenity of the area.

Response: This matter has been considered in the section titled “Local Amenity”

11.0 CONCLUSION

- 11.1 It is considered that this development is inappropriate development within the Green Belt and, as a consequence, in order to justify this proposal very special circumstances need to be demonstrated to clearly outweigh the harm caused to the Green Belt. The applicant has, however, failed to provide any such reasons.
- 11.2 It is considered that the development would conflict with the key features of the existing landscape and would adversely affect the character of this locality. The development would give rise to significant adverse effects on local visual amenity and due to a lack of supporting information, the proposal’s impact on local amenity as a result of noise and dust, the local highway network and drainage cannot be fully assessed.
- 11.3 Furthermore the application site is situated close to the South Pennines Special Protection Area (SPA), which is a European designated site designed to protect endangered and vulnerable bird species. Officers consider that the applicant has failed to demonstrate that this proposal would not have a detrimental impact on the integrity of the SPA and bird species it is designed to protect.

12.0 Reasons for refusal

1. The site lies within an area of designated Green Belt within which it is intended that new development be severely restricted. The proposals would constitute inappropriate development and it is considered that there are no very special circumstances which would clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm. As such the proposals are considered contrary planning policy guidance in Section 9 of the National Planning Policy Framework.

2. The applicant has failed to demonstrate that the proposed development would maintain the integrity of the nearby South Pennines Special Protection Area (SPA) which is a European Designated Site. In particular the impact upon bird breeding and foraging areas as a result of disturbance and displacement which would detrimentally impact upon the breeding bird assemblage of the South Pennines SPA. As there are no imperative overriding reasons to allow this development in this position, the proposal would therefore be contrary to Kirklees Publication Draft Local Plan policy PLP 30 and planning policy guidance contained in Section 11 of the National Planning Policy Framework.

3. The applicant has failed to demonstrate that this development would not have a detrimental impact on the amenity of the area as a result of noise and dust resulting from the proposed activities. The proposal would therefore be contrary to Unitary Development Plan Policies EP4 and EP6, Kirklees Publication Draft Local Plan policies PLP51 and 52 and Section 11 of the National Planning Policy Framework.

4. The applicant has failed to demonstrate that this development would not have a detrimental impact on Highway Safety in the vicinity of the site, including that of a public right of way which is contrary to Unitary Development Plan policies R13, T10 and Kirklees Publication Draft Local Plan policy PLP21.

5. It is considered that the proposed use in this prominent location would create discordant feature within the local landscape which would have a significant detrimental impact on the area's distinctive wild and remote landscape character and therefore adversely affect the visual amenity of the area. This would be contrary to Kirklees Publication Draft Local Plan policy PLP32 and planning policy guidance contained in Section 11 of the National Planning Policy Framework.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90096>

Certificate of Ownership – Certificate A signed 18.12.16