
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 09-Feb-2023

Subject: Planning Application 2022/92368 Change of use of building and land from equestrian to dog care centre Land off, Liley Lane, Grange Moor, Huddersfield, WF4 4EN

APPLICANT

L Vickerman, Happy

Hounds HQ

DATE VALID

13-Jul-2022

TARGET DATE

07-Sep-2022

EXTENSION EXPIRY DATE

02-Dec-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Kirkburton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed change of use to dog day care centre, by reason of the proposed sub-standard visibility at the junction with Liley Lane, and the lack of control over the number of vehicles travelling to and from the site, would cause harm in terms of highway safety. To permit the proposed development would be contrary to Policies LP21 and LP22 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

2. It has not been demonstrated that adequate mitigation measures would be provided that would safeguard nearby sensitive receptors (neighbouring residential properties) from noise associated with the proposed change of use. To permit the proposed development would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan and paragraphs 174 and 185 of the NPPF.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to the significant volume of local opinion (36 representations). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to an area of land off Liley Lane in Grange Moor. It is accessed via a private driveway which slopes downhill from Liley Lane. The site contains a stable building and horse manège (outdoor riding arena), as well as a parking area for two vehicles.

2.2 The site is located in a semi-rural area, although there are neighbouring dwellings. From the northwest through to the northeast are grassed fields also owned by the applicant. The site is within the designated Green Belt on the Kirklees Local Plan. There are no listed buildings or Public Rights of Way (PROW) within close proximity to the site.

3.0 PROPOSAL:

3.1 The applicant is seeking planning permission for the change of use of building and land from equestrian to dog care centre. For clarity, this application is retrospective.

3.2 There would 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 applicant has stated that the dog day care centre would accommodate up to 20 dogs at a time.
- 3.4 The applicant has stated that the opening hours would be 9.30 – 14.30, Monday – Friday. It has also been stated that a “pick up and drop off” service would operate, so that customers would not bring their dogs to the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

91/02427 – Erection of stable block and formation of all weather surface manege. Conditional full permission.

2013/91282 – Erection of stables and hay store. Conditional full permission.

COMP/22/0028 – Alleged unauthorised business use (dog day care).

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Officers requested additional information regarding the proposed business operation, which was received. The applicant was also asked to confirm that no external changes would be made to the site as part of the application.
- 5.2 Following the KC HDM response, further details/additional plans were requested, including an amended red line boundary, visibility splays, and parking spaces. These were received. However, KC HDM consider the visibility splay unacceptable and have objected on these grounds.
- 5.3 Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. No information was submitted regarding noise management/mitigation, despite negotiations between the applicant and agent during the course of the application.

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 27th February 2019).

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
LP30 – Biodiversity and geodiversity
LP52 – Protection and improvement of environmental quality
LP56 – Facilities for outdoor sport and recreation in the Green Belt
LP60 – The re-use and conversion of buildings in the Green Belt

Supplementary Planning Guidance / Documents:

- 6.3 Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)
Highways Design Guide (adopted 4th November 2019)

National Planning Guidance:

- 6.4 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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour letters, giving until 29th August 2022 to comment on the initial plans. As a result of the above publicity, 7 representations were received, 5 in objection (3 from the same address) and 2 in support. These have been published online. The material considerations raised are summarised as follows:

- Retrospective application
- Impact on the Green Belt
- Not in keeping with local area
- Noise
- Odour
- Number of dogs on site
- Highway safety
- Waste
- Overnight boarding of dogs

- 7.2 Amended plans were advertised by neighbour letters giving until 1st November 2022 to comment. 29 further representations were received, 9 in objection and 20 in support. These representations have also been published online. The following additional material considerations were raised:

- Erection of fencing
- Biodiversity
- Opening hours
- Enclosure of separate field

- 7.3 Other matters raised in the representations are not material planning considerations and as such will not be discussed further.

- 7.4 Kirkburton Parish Council confirmed that had no comment.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None.

8.2 Non-statutory:

KC Animal Health – confirmed applicant holds license for up to 24 dogs at day care, expires September 2023.

KC Environmental Health – recommended conditions relating to hours of use and noise mitigation scheme.

KC Highways Development Management – object due to visibility issues.

KC Waste Planning – provided comments relating to waste storage and collection which are addressed within this report.

9.0 MAIN ISSUES

- Principle of development in the Green Belt and Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Planning obligations
- Other matters
- Representations

10.0 APPRAISAL

Principle of development in the Green Belt and Impact on visual amenity

Sustainable development

- 10.1 Policy LP1 of the Kirklees Local Plan and paragraph 11 of the National Planning Policy Framework outline a presumption in favour of sustainable development. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This will be explored.
- 10.2 Paragraph 8 of the National Planning Policy Framework identifies the objectives of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout.

Impact on the Green Belt

- 10.3 The site is within the designated Green Belt on the Kirklees Local Plan. Therefore, the impact of the development on the Green Belt needs to be assessed.
- 10.4 The National Planning Policy Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The National Planning Policy Framework also identifies five purposes of the Green Belt. Paragraph 147 of the National Planning Policy Framework states that inappropriate development should not be approved except in “very special circumstances”.

- 10.5 Paragraphs 149 and 150 of the National Planning Policy Framework set out that certain forms of development are exceptions to “inappropriate development”.
- 10.6 The proposal would also involve the re-use of a building of permanent and substantial construction (stables). Therefore, Policy LP60 of the Kirklees Local Plan is relevant, which states that: *“Proposals for the conversion or re-use of buildings in the Green Belt will normally be acceptable where;*
- a. the building to be re-used or converted is of a 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;*
 - c. the design and materials to be used, including boundary and surface treatments are of a high quality and appropriate to their setting and the activity can be accommodated without detriment to landscape quality, residential amenity or highway safety.”*
- 10.7 The associated manège would be subject to a change of use as set out in paragraph 150 (e) of the National Planning Policy Framework. This could be considered not inappropriate provided it preserves openness and does not conflict with the purposes of including land in the Green Belt.

Whether the proposal is inappropriate development in the Green Belt

- 10.8 In terms of LP60 (a), the building to be re-used is a stable block which was approved under 91/02427. This is constructed from breeze block with corrugated metal cladding to the upper part and a corrugated metal roof. This is considered to be “permanent and substantial construction”.
- 10.9 In terms of LP60 (b) and (c), there would be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application. Parking would be provided for two vehicles; however, this would be on existing hardstanding. It is noted that the applicant has stated that a “pick up and drop off” service would operate, so that customers would not bring their dogs to the site. On this basis, there would be no need for further parking facilities. Therefore, LP60 (b) and (c) are satisfied.
- 10.10 In terms of paragraph 150 (e), there would be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application. The manège itself has previously been granted permission under 91/02427. Therefore, there would be no harm to openness or conflict with the purposes of including land in the Green Belt.
- 10.11 In terms of the change of use, it is considered that the principle of exercising dogs is not dissimilar to the principle of exercising horses. Therefore, it is only the number of animals which would increase, along with a change to commercial use (the stables and manège were conditioned for private use only). These matters will be explored in the report below.

- 10.12 Therefore, it is considered that the proposed use is considered appropriate in the Green Belt as set out in Chapter 13 of the National Planning Policy Framework and Policy LP60 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 Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
- 10.13 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 decisions should enable *“the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings”*. The proposed dog day care centre would provide a boost to the rural economy without any harm to the Green Belt (as discussed previously), as per the aims of LP10 of the Kirklees Local Plan.
- 10.14 The proposal shall now be assessed against all other material planning considerations, which will be addressed below.

Impact on residential amenity

- 10.15 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.
- 10.16 There are two neighbouring residential properties, Paper Hall Farm to the northwest (approximately 40m away) and Raikes Farm to the south (approximately 15m away).
- 10.17 As there are no physical additions or changes proposed to the building or manège, it is considered that there would be no detrimental impacts on neighbouring properties by way of overshadowing, overlooking, or overbearing.
- 10.18 KC Environmental Health were consulted. They recommend an hours of use condition for between 9.30 – 14.30 Monday to Friday, in line with information provided by the applicant, should members be minded to approve. This would, to some degree, mitigate harm to residential amenity.
- 10.19 KC Environmental Health note that no detailed information has been submitted in regard to how the dogs will be managed on the site (including barking dogs and the maximum number of dogs outside at any one time), which have the potential to create noise, which could result in a loss of amenity to nearby sensitive receptors. Whilst KC Environmental Health do not object to the proposed development, they require detailed information in the form of a noise mitigation scheme and therefore recommend a condition. However, this condition requires the information to be submitted “before the development is brought into use”. Given that this application is retrospective, this could be amended to be time-limited post-decision (for example, information to be submitted within six weeks), should members be minded to approve. However, Officers have significant concerns about recommending the application for

approval in the absence of this information, given that the application is retrospective, the number of dogs that would be on site (up to 20 proposed but they hold a license for up to 24 dogs), the proximity to neighbouring dwellings and objections received in relation to noise disturbance which is currently being experienced. Notwithstanding the KC Environmental Health response, Officers consider that it has not been demonstrated that adequate mitigation measures would be put in place to protect the amenity of nearby sensitive receptors (neighbouring residential properties) from noise associated with the proposed change of use. On balance, it is considered that to approve the application without this information would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan and paragraphs 174 and 185 of the NPPF.

Impact on highway safety

- 10.20 KC Waste Planning were consulted. Their response highlights that there are no details relating to waste management on the application form or on the submitted site plan. Therefore, they recommend a condition for details of waste storage and disposal to be submitted (should members be minded to approve).
- 10.21 The dimensions of the access driveway have been demonstrated. The applicant has stated that the opening hours would be 9.30 – 14.30, Monday – Friday. It has also been stated that a “pick up and drop off” service would operate, so that customers would not bring their dogs to the site. The submitted site plan demonstrates parking and turning for two vehicles, which would be used for this “pick up and drop off” service.
- 10.22 KC HDM have been consulted. A plan showing visibility splays tying into the nearside carriageway edge of Liley Lane has been submitted. KC HDM note that the visibility splays shown are 2.4m x 65m, which is not in accordance with “Design Manual for Roads and Bridges” recommendations for a 40-mph speed limit - 90m is the recommended distance. In any case, the sight lines should be based on speed surveys, as the speeds along Liley Lane may be more than the speed limit at this location. Furthermore, the sight line to the north is shown to run over land that is not within the red line boundary and therefore not within the applicant’s control. KC HDM officers object to the proposal on highway safety grounds due to the proposed sub-standard visibility at the junction with Liley Lane.
- 10.23 Moreover, KC HDM consider that the proposed arrangement would only be acceptable if it were conditioned that no dogs should be dropped off or picked up from the site. However, Planning Practice Guidance sets out that planning conditions should be used only where they satisfy the “six tests”; that is, that the condition is:
1. necessary;
 2. relevant to planning;
 3. relevant to the development to be permitted;
 4. enforceable;
 5. precise; and
 6. reasonable in all other respects.

- 10.24 It is considered that this condition would not be sufficiently enforceable, as it would be onerous to monitor. As such, this condition could not be applied. It is also noted from representations submitted in support of the application that customers do visit the site, even if only to initially view the site and facilities. However, this means that the proposed business operation would not be acceptable from a highway safety perspective, as there would be no control over the number of vehicles travelling to and from the proposed dog day care centre.
- 10.25 Therefore, Officers consider that the scheme would cause harm in terms of highway safety, and as such fails to comply with Policies LP21 and LP22 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

Other matters

- 10.26 Ecology - The site is located within a bat alert layer on the Council's mapping system. In this instance, as there are no works proposed, it is considered unlikely to have a detrimental impact on the bat population. Should members be minded to approve, it is recommended that a footnote be added to the decision notice to provide the applicant with advice should bats or evidence of bats be found during construction. This would accord with the aims of Policy LP30 of the Kirklees Local Plan, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the National Planning Policy Framework.
- 10.27 Carbon Budget – In this case, due to the nature of the proposal it is considered reasonable not to require the applicant to put forward any specific resilience measures.
- 10.28 There are no other matters considered relevant to the determination of this application.

Representations

- 10.29 Following the initial round of publicity, 7 representations were received, 5 in objection (3 from the same address) and 2 in support. The material considerations raised are summarised as follows:
- Retrospective application
 - Impact on the Green Belt
 - Not in keeping with local area
 - Noise
 - Odour
 - Number of dogs on site
 - Highway safety
 - Waste
- 10.30 **Officer comment:** The above concerns have been addressed within this report.
- Overnight boarding of dogs

- 10.31 **Officer comment:** The application is for change of use to dog day care centre. It has been assessed on this basis. The applicant has been informed that overnight boarding of dogs may require separate planning permission.
- 10.32 Following the amended plans publicity, 29 further representations were received, 9 in objection and 20 in support. The following additional material considerations were raised:
- Biodiversity
 - Opening hours
- 10.33 **Officer comment:** The above concerns have been addressed within this report.
- Enclosure of separate field
- 10.34 **Officer comment:** The application has been assessed on the basis of the submitted information, which states that there would be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application. The applicant has been informed that other alterations may require separate planning permission.

11.0 CONCLUSION

- 11.1 The application for change of use of building and land from equestrian to dog care centre at Land off, Liley Lane, Grange Moor, Huddersfield, WF4 4EN, has been assessed against relevant policies in the development plan, as listed in the policy section of the report, the NPPF, and other material considerations.
- 11.2 Officers consider that the proposed change of use would cause harm to highway safety due to the proposed sub-standard visibility at the junction with Liley Lane and control over the number of vehicles travelling to and from the proposed dog day care centre.
- 11.3 Officers also consider that it has not been demonstrated that adequate mitigation would be provided to safeguard the amenity of nearby sensitive receptors (neighbouring residential properties) from noise generated by the proposed use (in regard to dogs barking whilst being exercised etc).
- 11.4 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. As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92368>

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