

No.9	APPLICATION NO.	2019/0392/FUL
	LOCATION	Land On The South Side Of Jacksmere Lane Scarisbrick Lancashire
	PROPOSAL	Use of 6.6 acre field for dog walkers business including the raising of existing stock fencing to 1.6m (high); hardstanding area for parking and use of field shelter as dog walkers shelter.
	APPLICANT	Mr J McGee
	WARD	Scarisbrick
	PARISH	Scarisbrick
	TARGET DATE	12th August 2019

1.0 **REFERRAL**

- 1.1 The application was to be determined under delegated powers, however, Councillor J. Marshall has requested it be considered at Planning Committee to consider dog fowling and impact upon agricultural land.

2.0 **SUMMARY**

- 2.1 The proposed development to change the use of site for use by a dog walkers business and associated development is considered to be acceptable in principle and in compliance with Policy GN1 of the West Lancashire Local Plan. The proposal is considered to be appropriate to the location and will not have a significant impact on the character or appearance of the surrounding area or on the amenity of neighbouring properties. Suitable planning conditions will be added to any approval to ensure a controlled use of the site to safeguard the amenity of the adjacent properties and protect the openness and visual amenity of the Green Belt. The proposed development is considered to be compliant with the NPPF and Policies GN1, GN3 and IF2 of the West Lancashire Local Plan 2012-2027 DPD.

3.0 **RECOMMENDATION:** **APPROVE subject to conditions.**

4.0 **THE SITE**

- 4.1 The application site relates to a large area of land (6.6 acres) to the south side of Jacksmere Lane. The land is partially vacant with some areas used for sheep grazing. There is an existing field shelter centrally on the application site. The site is located within the Green Belt.

5.0 **THE PROPOSAL**

- 5.1 This application seeks planning permission for the use of the 6.6 acre field for a dog walkers business. The proposals will also include the installation of a ground stabilising mesh for car parking (3 parking bays plus one disabled bay), a gate set in 5m to allow vehicles to pull in from road, an increase in stock fencing to 1.6m and use of existing field shelter for the use by dog walkers.
- 5.2 Supporting information advises that customers will book the use of field via a website or by telephone. It is envisaged that there will be two dog walking fields, with the car parking area separating the two fields. Therefore two bookings could use the field at any one time. The dog walking facility will be used between the hours of 0700-2100 and will be used by a maximum of 6 dogs at any one time.

6.0 PREVIOUS RELEVANT DECISIONS

6.1 None.

7.0 CONSULTEE RESPONSES

7.1 Highways (04/07/2019) - No objections to the application and is of the opinion that the proposals should have a negligible impact on highway safety and capacity on the local highway network.

7.2 Environmental Health (15/10/2019) – Some concerns are raised as Environmental Health have had complaints in the past associated with the use of fields for dog training. The issues have been about voices of the trainers, whistles and barking. However a dog walking field, not used for formal training, is not likely to have these issues, except for some potential for barking.

Noise from the vehicle parking is unlikely to be an issue. The noise from the use of the field is very much dependent on the intensity of the use and each user: e.g. one or two users bringing their own dogs for a play is different from a trainer with a class of dogs and owners.

Recommend planning conditions if planning permission is granted in relation to hours of use, number of dogs that use the field at any one time, not using the field for commercial dog training and time of waste collection.

8.0 OTHER REPRESENTATIONS

8.1 Scarisbrick Parish Council
(05/07/2019) – Object on the grounds that:

Site is within the Green Belt;
Dog walkers business would require a change of use a business class;
Land will lose its 'best and most versatile' classification;
Should business cease or move the land will be reclassified as 'brownfield' and opened up to development.

(24/07/2019)-

Change of use from 'agricultural' to 'business'. The proposed use falls outside the definition of 'agriculture' as set out in sec 336 of the Town and County Planning Act 1990. In consequence planning policy EC2 applies in that the "irreversible development of open agricultural land will not be permitted";

Site is within the green belt;

Applicant failed to show that this is a sustainable development;

The business case outlined in the application would fail to return enough income to cover minimum wage requirements, business rates, waste disposal and other charges;

No new jobs will be created;

It should be noted that the Parish Council provide a similar free venue at Millennium Wood and there are multiple free dog walks in the immediate vicinity. It is a major concern to the Parish Council that the proposal is a pre-cursor or staged approach to an application to develop the site for housing;

The applicant has ticked 'No' to question 7 "Waste Storage and Collection". There will be animal waste and litter generated by users. Failing to identify and address this issue is a fundamental flaw within the application;

The applicant has failed to adequately address access within the application. The Parish Council believe that the vehicle access to the site is inappropriate for the proposed use. The entrance is too narrow and does not meet the required standard.

8.2 Three neighbour letters have been received, objecting on the grounds of:

No need for a dog walking business in Jacksmere Lane as there is sufficient dog walking available via public footpaths;

Jacksmere Lane is often used as a rat run for fast driving. The development will bring more cars and complicate the visibility and cause more accidents with cars stopping and moving off;

Not acceptable in the Green Belt – will destroy the openness, character and visual amenity;

Site is Grade 1 agricultural land;

Noise of dog barking and noise of cars stopping and driving;

Removal of land from green belt by giving it a commercial use;

Will fencing need to be higher?

No landscaping proposed.

9.0 SUPPORTING INFORMATION

9.1 None.

10.0 RELEVANT PLANNING POLICIES

10.1 National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and the West Lancashire Local Plan (WLLP) provide the policy framework against which the development proposals will be assessed. The application site is located within the Green Belt as designated in the West Lancashire Local Plan Proposal Map. The following policies are therefore relevant:

10.2 West Lancashire Local Plan 2012-2027 DPD
GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
IF2 – Enhancing Sustainable Transport Choice
EC2 – The Rural Economy

Supplementary Planning Document – Design Guide (January 2008)

National Planning Policy Framework (NPPF)

11.0 OBSERVATIONS OF DIRECTOR OF PLACE AND COMMUNITY

11.1 The main areas of consideration in determining this application are:

Principle of development

Location of development and highway consideration

Design and Appearance

Impact upon adjoining land uses including neighbouring properties

Loss of best and most versatile agricultural land

Other Matters

Principle of Development– Change of use of land in the Green Belt

- 11.2 Policy GN1 in the WLLP states that proposals for development in the Green Belt will be assessed against national policy and any relevant Local Plan policies. Under Section 13 of the NPPF the types of appropriate development in the Green Belt are listed. Paragraph 146 permits material changes of land (including use for outdoor recreation) and engineering operations subject to the preservation of the openness and avoidance of conflict with the reasons for including land in the Green Belt.
- 11.3 The use of the land would not, in itself, result in a loss of openness or conflict with reasons for including land in the Green Belt; however, the operational development required to support it (raising of the fence / erection of gate / parking areas) would cause a minor loss of openness. The proposed vehicle parking areas are shown to be formed by the use of a grass reinforcement mesh system which, as an engineering operation, will also result in a small impact on openness. Under the terms of paragraph 144, any harm to the Green Belt must be afforded 'substantial' weight and planning permission should not be granted unless very special circumstances exist and those circumstances outweigh the harm arising.
- 11.4 In assessing the Green Belt planning balance it is noteworthy that Section 13 of the NPPF also provides support for opportunities to provide access, outdoor sport and recreation (para 141); furthermore, para. 83c of the NPPF encourages sustainable leisure developments which respect the character of the countryside. Given this support, the limited harm arising from the grass reinforcement mesh system (which has been reduced significantly since first submission to ensure it is proportionate to the use of the site) and the fact that the fence has been kept of an open rural design common in rural green belt areas, I consider that the proposal would not conflict with the aims of Green Belt policy by keeping land permanently open. I therefore consider there are sufficient very special circumstances to warrant support of the principle of development.

Principle of Development – Flood Zone 3

- 11.5 The site lies partly in a flood zone 3 area however the proposed use of the site is classified as water compatible and therefore no sequential or exceptions tests are required and the principle of development is acceptable under the terms of the NPPG, NPPF and Policy GN3 in the WLLP.

Location of development and highway consideration

- 11.6 The general approach of the NPPF and Policies SP1 and GN3 in the WLLP is to site facilities where they are accessible to their intended users and be reached by sustainable travel means. The proposed development is somewhat remote from its intended dispersed catchment - particularly with respect to accessibility other than by private motor vehicle. The site is not in an easily accessible location and it is unlikely that users will rely on local bus services or be practical to access by cycle or walking.
- 11.7 The site benefits from an established access point on Jacksmere Lane affording good visibility in both directions. The amount of traffic generated is not considered significant and will not materially impact on highway safety or capacity in the locality. Furthermore, sufficient parking for the intended use is provided. The Highway Authority raises no objection to the scheme and is of the opinion that the proposals should have a negligible impact on highway safety and capacity on the local highway network. On that basis the proposal is considered consistent with the requirements of Policies GN3 and IF2 in the WLLP.

Design and Appearance

11.8 The development lies within the open countryside and by use of open bar boundary treatment and grass reinforcement mesh system the development protects the local rural characteristic in accordance with Policy GN3 and guidance in the WLBC Design Guide.

Impact upon adjoining land uses including neighbouring properties

11.9 Policy GN3 of the West Lancashire Local Plan (2012-2027) DPD allows development provided it retains reasonable levels of amenity and avoids conflict with adjacent land uses. I note objections from neighbouring properties which are highlighted in paragraph 8.2.

11.10 The proposals have been assessed by the Councils Environmental Protection team who have expressed concern in relation to issues from voices from trainers, whistles and barking. In this case, whilst the proposal is submitted as a commercial enterprise it is understood that it is not intended to provide commercial dog training – no dog agility equipment is proposed.

11.11 With respect to the noise generated from the use of the field, this is dependent on the intensity of the use. The submissions suggest that the field will be booked out by users via telephone or online bookings thereby avoiding an uncontrolled, intensive use or multiple users. The applicant has confirmed there will be a maximum of 6 dogs using the field at any one time. I consider this is capable of being legitimately controlled by planning condition. Subject to the imposition of suitable conditions, I do not consider the proposed use would result in significant noise and disturbance as the nearest residential properties are a minimum of 35m to the north of the site, on the other side of Jacksmere Lane.

11.12 It is not anticipated that noise from the vehicle parking is likely to be an issue.

11.13 Given the above, I consider that subject to suitable controls over the intensity and times of use, there is unlikely to be any significant impact on surrounding land uses including residential amenity to the properties to the north of the site.

Loss of best and most versatile agricultural land

11.14 Policy EC2 of the WLLP advises that the irreversible development of open, agricultural land will not be permitted where it would result in the loss of the best and most versatile agricultural land. The application site is Grade 1 agricultural land. As no major works are proposed other than a small area of hardstanding to the front of the site I do not consider the development of the site would prevent the land being returned for agricultural purposes in the future. The development would therefore comply with Policy EC2 of the WLLP.

Other Matters

11.15 In terms of animal waste the applicant has confirmed that 2 x 40ltr animal waste bins will be provided on site for a weekly pick up by a professional waste collector. No drainage issues are anticipated due to the provision of grasscrete surfacing for the parking areas.

12.0 CONCLUSION

12.1 Given the above the proposed development is considered to be compliant with the NPPF and Policies GN1, EC2, GN3 and IF2 of the West Lancashire Local Plan 2012-2027 DPD.

13.0 RECOMMENDATION

13.1 That planning permission be GRANTED subject to the following conditions and reasons:

Condition(s)

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference 'Proposed Parking Plan'; 'Proposed Site Plan' and proposed fence plan received by the Local Planning Authority on 09/09/2019.
3. The application site shall be used only for dog walking and exercising and associated parking and for no other purposes whatsoever including commercial dog training classes.
4. The application site shall not be used for more than six dogs at any one time.
5. Collections of waste from the site shall only take place between the hours of 08:00 and 20:00 Monday to Saturday and at no time on Sunday and Bank Holidays.
6. No lighting shall be installed on the site until details have first been submitted and agreed in writing with the Local Planning Authority.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Orders or statutory provision re-enacting the provisions of these Orders no means of enclosure other than those shown on the approved plans shall be erected or undertaken without the express written permission of the Local Planning Authority.
8. No jumps, ramps, obstacles or similar items for dog agility training or similar purposes shall be placed on the land at any time.
9. The car parking and manoeuvring areas shall be marked out in accordance with the approved plan, before the use of the premises hereby permitted becomes operative and permanently maintained thereafter.
10. No part of the development shall be commenced until the section 184 agreement under the Highways Act 1980 has been entered for the dropped crossing within the adopted highway. The dropped crossing to be constructed in accordance with a scheme and time scale that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority as part of a section 184 agreement, under the Highways Act 1980.

Reason(s)

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
3. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
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7. To safeguard the openness and visual amenity of the Green Belt and rural locality and so comply with the provisions of Policies GN1 and GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

8. To safeguard the openness and visual amenity of the Green Belt and rural locality and so comply with the provisions of Policies GN1 and GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
9. To allow for the effective use of the parking areas and to ensure compliance with Policy GN3 of the West Lancashire Local Plan.
10. In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway works are acceptable before work commences on site and to enable all traffic to enter and leave the premises in a safe manner without causing a hazard to other road users or damage to the existing highway.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policies in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document:
GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
IF2 – Enhancing Sustainable Transport Choice
together with Supplementary Planning Guidance and all relevant material considerations. Whilst the Local Planning Authority recognises that the proposal does not fully comply with Policy GN1 in the West Lancashire Local Plan 2012-2027 DPD it feels that special circumstances exist, namely not conflict with the aims of Green Belt policy by keeping land permanently open. It is considered that these special circumstances justify approval of the application as set out in the Officer's report. This report can be viewed or a copy provided on request to the Local Planning Authority.