

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE:** 17<sup>th</sup> February 2021

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<b>APPLICATION REF. NO:</b>	20/00910/CU
<b>STATUTORY DECISION DATE:</b>	9 <sup>th</sup> December 2020 (EOT 19 <sup>th</sup> February 2021)
<b>WARD/PARISH:</b>	HURWORTH
<b>LOCATION:</b>	Field at Copse Haven Roundhill Road Hurworth Moor DARLINGTON DL2 1QD
<b>DESCRIPTION:</b>	Change of Use from private field to commercial dog exercise area
<b>APPLICANT:</b>	MISS FIONA LENNOX

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**RECOMMENDATION: GRANT PLANNING PERMISSON SUBJECT TO  
CONDITIONS** (see details below)

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Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QHKUZMFPGBT00>

**APPLICATION AND SITE DESCRIPTION**

1. The application site is former agricultural land associated with an existing dwelling, situated on the east side of Roundhill Road, Hurworth. The site sits close to a complex of converted barns, which now consist of three dwellings, with the original Roundhill Farm farmhouse, situated to the south.
2. The applicant's dwelling is situated to the southern extent of the complex of converted barns and the applicant also owns the application site, which is to the south east of the dwelling. The site shares a boundary with both Roundhill Farmhouse, and land associated with the dwelling to the north, Meadowbrooke, as well as sharing a boundary with other land under the control of the applicant immediately adjacent to their residential curtilage.

3. The field, the subject of this application, is rectangular in shape, and the land, and that adjoining it is gently undulating with a gentle slope downwards in an easterly direction and upwards in a northerly direction. To the far east of the site and running north / south is Cree Beck. The site is enclosed at all boundaries by a mixture of post and rail timber fencing and thick hedgerows. An area to the far east of the site is categorised as being within Flood Zones 2 and 3 of the Environment Agency's Flood Risk Maps.
4. Planning permission is sought for the change of use of the land to a commercial dog exercise area, to include the following:
  - Space for three cars to be parked within the private land of the applicant where customers can park and have direct access to the field;
  - A maximum of three owners to be permitted to use the field at any one time, each with one to three dogs (three maximum);
  - The option for booking a slot for exclusive use where the customer does not want to be around any other dogs or people;
  - The provision of some temporary obstacles for the dogs to the eastern portion of the field as and when required, such as hoops to jump through, dog slalom poles, etc as well as the provision of toys for customers to use such as ball throwers and frisbees.
5. The supporting information states that there would be an online booking system in place for booking a half hour or hour slot in advance and customers could not just turn up without having made a booking. Although water would be supplied, dog owners would be fully responsible for their dogs during the time on the park. Owners would be asked to leave the premises as tidy as they find it and waste bags, and a bin would be provided to assist with this. Daily checking of boundary treatments and the cleanliness of the field would take place.
6. The supporting information states that the aim of the dog park is to have safe and secure place for owners to take dogs to:
  - be off lead and have a good run around in a safe environment;
  - not have issues with other dogs or people as it can be booked for the exclusive/sole use of one customer (especially important at the moment due to Covid-19);
  - do some dog training;
  - practice agility;
  - socialise dogs in a fun environment.
7. This is particularly beneficial for dogs that:
  - Are not good at recall when off the lead and so would not be able to exercise without the safety provided in an enclosed, managed space;
  - Do not like being around other dogs (exclusive use available);
  - Do not like being around other people (exclusive use available);

- Don't have access to a safe place to run off lead;
  - Have owners that perhaps have a disability or can't walk very far but know their dogs are exercising in a safe place;
  - Need socialising.
8. A proposed management plan has been provided and this will be discussed in the following sections of this report.

## **MAIN PLANNING ISSUES**

9. The main issues for consideration are:
- a) Principle of the proposed development.
  - b) Impact on residential amenity.
  - c) Impact on visual amenity.
  - d) Highway safety.
  - e) Flooding and Drainage.
  - f) Impact on wildlife.
  - g) Safety and security.

## **PLANNING POLICIES**

10. Relevant Local Plan policies include those seeking to ensure that new development:
- Is located within development limits, other than where the proposal relates to an agricultural or forestry need, for small-scale development beneficial to the rural economy or the needs of rural communities, and for countryside-related sports or recreation activities, provided such development does not have unacceptable harm to the character or appearance of the rural area (E2);
  - makes efficient use of land, buildings, and resources, reflects the character of the local area, creates a safe and secure environment, and provides vehicular access and parking suitable for its use and location (CS2).
  - Protects, and where appropriate enhances the distinctive character of the borough's built, historic, natural and environmental townscapes (CS14);
  - Ensures no net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity and the geological network through the design of new development, including public spaces and landscaping (CS15);
  - protects and, where possible improves environmental resources whilst ensuring that there is no detrimental impact on the environment, general amenity, and the health and safety of the community (CS16);

## **RESULTS OF TECHNICAL CONSULTATION**

11. No objections in principle have been raised by the Council's Highway's Engineer and Environmental Health Officer.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

12. Three letters of objection have been received, raising the following concerns:

- Poor access / highway safety issues.
- There have been accidents / incidents with vehicles on Roundhill Road.
- Due to the narrow width of driveway and electric gates, a situation could arise where vehicles are required to wait and / or back up to the public highway.
- Impact on residential amenity.
- Pets escaping from nearby properties have been killed on Roundhill Road.
- Lack of security and fear of crime.
- There are other such facilities nearby and this one is not needed.
- Impact on wildlife.
- How will waste be stored and disposed of?
- Inadequate boundary treatment.
- Field prone to flooding / poor drainage.

13. One additional letter has been received from a neighbouring resident (Roundhill Farm), raising the following issues:

- The field directly adjoins ours with just a simple low-level fence. This may need to be altered to ensure containment of dogs.
- We were led to believe all activity would be at the bottom of the site away from our property, but this is unclear from application.
- There is a gate at the lower end of the field (eastern) which is ours and cannot be used for access.

## **PLANNING ISSUES/ANALYSIS**

### **(a) Principle of the proposed development**

14. Saved Local Plan Policy E2 (Development Limits) requires most new development to be located within development limits, other than that for which there is an agricultural or forestry related need, for small-scale development beneficial to the rural economy or the needs of rural communities, or for countryside related sports or recreational activities, provided such development does not have an unacceptable harm to the character and appearance of the rural area. Paragraph 83 of the National Planning Policy Framework (NPPF) echoes much of this advice, supporting sustainable new development in rural areas.

15. It is considered that the proposed use is acceptable in principle in the context of the above policy, within this open countryside location. It is acknowledged that the site is not accessible by a range of transport modes, and that most of the users of the facility will travel to the site by private car. The nature of the proposed use is one however, where an isolated location is often required, away from the urban area, to ensure that the dogs and owners making use of this facility, can exercise their dogs in an open but safe environment without coming

into contact with other dogs and people, and this is often what makes such a facility attractive to its users.

16. Taking the above into account, paragraph 103 of the NPPF advises that although plans and decisions should ensure development that generates significant movement are located where the need to travel will be minimised, and the use of sustainable travel modes can be maximised, this needs to take account of policies elsewhere in the framework, particularly in rural areas. Whilst concerns regarding the sustainability of the proposal in terms of its location are noted, the small-scale nature of the proposed use is such that the use is unlikely to generate the significant movement to which the NPPF refers.

**(b) Impact on residential amenity**

17. The application site shares boundaries with two other properties. The first boundary, to the west, is that shared with Roundhill Farm farmhouse. The access gate to the field is close to this boundary and the main element of activity at any one time will be the maximum of three owners accessing the field. Thereafter, the main exercise area is beyond this, and whilst access is throughout the entire field, exercise and activities would be focussed towards the central / eastern portion of the field. The second boundary, to the north, is shared with the occupier of the northern element of the barn conversion, known as Meadowbrooke. The access to the site also immediately bounds the flank wall of the westernmost element of the barn conversion known as Waterside and also runs adjacent to the northern boundary of the curtilage surrounding Roundhill Farm farmhouse.
18. The occupier of Roundhill Farm farmhouse, who has their own private outdoor dog accommodation near to the field has not objected but considers that additional fencing is required along this common boundary. Whilst the existing post and rail fence, which has been extended upwards is considered to be sufficient at present for the applicant's own dogs, and the neighbouring dogs, it is considered that the additional activity in this location, albeit limited, would justify some more robust boundary treatment and the applicant has indicated a willingness to provide this. This would also assist in reducing any overlooking from dog owners into the private garden of Roundhill Farm farmhouse, which although not significant, would be over and above what would be expected in a private residential garden.
19. The field to the north of the application site is owned by the occupiers of the northern extent of the barn conversion complex, Meadowbrooke and separated by a post and rail fence. It is considered that whilst Meadowbrooke's dwelling and residential curtilage is significantly separated from the application site (in excess of 140m from the eastern end of the application site where the dwelling can be seen within the distance), and whilst the proposed business plan limits the number of dogs / owners, the increased activity would justify the need for more robust boundary treatment along this boundary, which again the applicant has indicated a willingness to provide. It is recommended that details of the proposed boundary treatment be required by planning condition should planning

permission be granted. Subject to this, it is not considered that the impacts on both of these neighbouring occupiers in terms of any loss of privacy or residential amenity would be at such a level as to justify refusal of planning permission on these grounds. It should be noted that the thick hedgerows to the southern and eastern boundaries would remain in situ.

20. Parking would take place within the applicant's own land, directly adjacent to the field, and would be extended from an area of hardstanding with the use of grasscrete or similar to provide a natural surface. It is recommended that the specific details of the surface be required by planning condition should planning permission be granted. It is not envisaged that the parking of up to three additional cars within the applicants own land, which is separated from the neighbouring properties, would give rise to significant levels of noise or disturbance for the neighbouring occupiers due to the location of the proposed parking, but also the site layout in relation to the neighbouring dwellings.
21. Access would be taken via the existing driveway, which as stated above, lies adjacent to the flank wall of the Waterside. Whilst the residents of Waterside have objected to the proposal on the grounds of the potential for noise and disturbance resulting from the vehicular movements along the driveway, it is considered unlikely that this will be significant. The driveway is narrow, and vehicles will be moving at a slow speed, and whilst there would be more activity than there is presently, and in the context of existing traffic noise from Roundhill Road, any increased activity would not be so significant as to justify refusing planning permission on these grounds given the controls suggested by the applicant as considered below.
22. The application has been submitted with a Noise Management Plan and a Business Case which details how the applicant envisages the business being run and how noise from barking dogs using the facility will be controlled. The applicant has set out several terms and conditions which users of the dog exercise area will have to abide by. This includes owners/customers of dogs that excessively and continually bark whilst around other dogs having to book a sole use session and for dogs that continue to bark, them being asked to leave. Contact details are also provided in relation to making a complaint.
23. The Environmental Health Officer has been consulted and considers that the approach set out in the Noise Management Plan and Business Case is reasonable in terms of dealing with potential noise problems associated with barking dogs using the facility. Whilst the Environmental Health Officer does not consider this should be controlled by planning condition, as expecting the Local Planning Authority to monitor compliance with the terms and conditions would not be feasible, planning conditions are recommended to secure the following:
  - That the use can only operate between the hours of 08:00-18:00 Monday to Sunday (including Bank and Public Holidays).
  - That there must be no kennelling of dogs overnight on the application site.

24. The ability of the business to operate in a manner which does not impact on the amenity of the nearby properties is, to a large extent dependent on the ability of the applicant to manage it effectively. The applicant and their family, through the supporting information and apparent from the site visit, are experienced dog owners and whilst it is clear from the supporting information that individual owners will be responsible for their dogs, a plan has been submitted which seeks to ensure that the scale of the proposal is controlled, but also that any unforeseen impacts arising can be quickly and effectively dealt with. As these controls are specific to the applicant, in this instance it is considered appropriate to limit any permission to the applicant, acknowledging that the use and management of the site by another person could give rise to an unacceptable impact on the residential amenities of neighbouring residents and a potential intensification of use.
25. In view of the limits placed on the nature of the use being proposed, and the potential for increased activity and potential disturbance should the use be intensified, it is also recommended that a planning condition be attached to any approval limiting the use to up to three customers at any one time, each with a maximum of three dogs, as proposed by the applicant.
26. Subject to these conditions, the proposal would have an acceptable impact on the living conditions of neighbouring occupiers and would comply with policy CS2 and CS16 in this regard.

### **(c) Impact on visual amenity**

27. The proposal would have very limited visual impact, being largely the use of the field, rather than any permanent structure within it, and therefore the overall visual impact would be limited to any temporary obstacles and toys provided for the dogs, and the boundary treatment. It is likely that the boundary treatment, to provide a degree of privacy, would be more solid than the existing post and rail fences. This would not however adversely impact the visual amenities of the locality, at either a site level or within the wider context, to a significant degree due to the site being well shielded by buildings and not being highly visible within the wider landscape due to both landform and natural features such as existing trees and hedgerows, particularly those on the eastern and southern boundaries. A planning condition is recommended to restrict the erection of any other temporary structures on the site associated with the proposed use, that would ordinarily be permitted development, without a planning application first being submitted.
28. Overall, the proposals are acceptable in respect of their impact on the visual amenities of the locality such that they do not conflict with Policy CS14 or CS2 in this respect.

### **(d) Highway Safety**

29. The facility will be accessed via an existing residential gated access located off Roundhill Road. Whilst this has visibility in each direction of less than the

recommended standard of 215m appropriate to a 60mph road, it is not practicable to improve this owing to the vertical and horizontal alignment of the adjacent highway. It is also expected that 85th %ile speeds will be significantly below 60mph. Police accident records show that there have been no recorded incidents in the past 5-year period. As such there is no reason to conclude that the access is fundamentally unsafe or unable to support the minor intensification of use expected with this application.

30. The supporting information offers explanation of how the facility will operate and be managed. The application states, *"There is space for 3 cars, over and above our own cars, in my gated driveway/garden for customers to park and have direct access to the field. The field is well away from the road. There is room to turn on the driveway so customers would not require reversing out of the driveway onto Roundhill Road. There will be a website with an online system for booking a half hour or hour slot in advance. Customers will have to book in advance and cannot just turn up. 3 owners maximum at one time can book and they can bring 1-3 dogs max each unless they book an exclusive/sole use session."*
31. The above would suggest that approximately 3 vehicles per hour would be a maximum number expected. The existing gates are set back from the highway for cars to pull fully off the highway in the interests of highway safety. As such, the Highway Engineer has raised no objections to the proposed development.
32. Whilst objectors have cited accidents within the last five years, and have disputed the response from the Council's Highways Engineer, the Highways Engineer has responded as follows:

*'The standard assessment period for looking at accident statistics is a rolling 5-year period. There is one 'Serious' recorded accident dated 28/05/2015 which is approximately 180m from the site access, as it is not directly attributable to the site access, i.e. not within the visibility splays of the site access, and outside of a rolling 5 year period I do not consider this to be justification for refusal or consistent with the industry standard of assessment.*

*The objection states that there has been an accident at a nearby location three weeks ago. Obviously, accident records are not updated and uploaded straight away, I believe that this is done on a three-monthly basis, and only where there is a personal injury collision (PIC). Damage to property is not included within statistics. Obviously, the cause is not known as of yet but, should it be evident that drink driving was a factor again this is not an engineering reason for refusal as it does not demonstrate an inherent problem with the local highway.*

*The minor incident dated 02/10/2019 is located approximately 600m from the site and again cannot be attributed to any fundamental issue with the highway at proximity to the site access. Given that within the past 5 years there is only one recorded minor incident, this does not demonstrate a significant road safety concern, or a sound reason for refusal, such as a pattern of accident attributable to a particular junction or blind crest etc.*



*Whilst many residents have anecdotal evidence of accidents when objecting to planning applications, and no doubt correctly, it is difficult to evidence as a ground for refusal or to apply a consistent approach to. As such Police PICs and Crash map which is derived from Police records is the only way to apply a consistent approach.*

*The issues of speeding and traffic generation were looked at extensively as part of the Roundhill Road major housing application and ultimately considered acceptable with the mitigation measures agreed, as such I do not wish to repeat this. When considering visibility from existing access points it is common for visibility splays not to meet DMRB standards, again the first point to look at is accident history, in this case this does not give cause for concern. A bend within a high-speed road also has the effect of reducing 85<sup>th</sup> percentile speed. In this case visibility suitable for 50mph traveling speed is (one step below).*

*The methodology used by the objector for traffic generation is not something I can really comment on "800 vehicles per month" I Highway terms traffic generation is assessed in terms of peak hour trips. I.e. 3 per hour, which does not demonstrate a severe impact'.*

33. Overall, and taking the above into account, the Highways Engineer has raised no objection to the development on highway safety grounds. The proposal is therefore considered acceptable and does not conflict with Policy CS2 in this regard.

#### **(e) Flooding and Drainage**

34. The Cree Beck runs along the eastern boundary of the site and whilst an area along this side of the site is categorised as being within Flood Zones 2 and 3, the Environment Agency has confirmed that there is no evidence of historic flooding taking place in that area. The applicant has submitted a simple Flood Risk Assessment which sets out the sources of flood risk, the level of risk for the proposed use, and mitigation measures. This is in line with advice from the Environment Agency in that assessments should be proportionate to the degree of risk.
35. Whilst neither the Environment Agency, nor the applicant has any record of flooding from this source, the nature of the use, which proposes no operational development on the field, is such that any flooding in the future will limit its use and the applicant will need to put measures in place to overcome such issues as they currently do in terms of the use of the land for exercising their own dogs. This includes the cancellation of appointments should flooding occur, and taking care to monitor any local flooding incidents, particularly during adverse weather conditions. Within the levels of vulnerability, amenity open, space, nature conservation and biodiversity and outdoor sports and recreation are considered by the Environment Agency to be 'water compatible' so the use of the field as a dog exercise area does not conflict with Policy CS16 in this respect.

#### **(f) Impact on wildlife**

36. One objection raised is the impact on wildlife, and within that, the objector has cited the impact on a family of deer who frequent the area, along with other wildlife. Whilst this is noted, the applicant currently uses the field to exercise their own dogs, and without planning permission, the field could legitimately be used for the keeping of livestock. As the proposed use would be limited both in terms of scale and hours of operation, but also in terms of the lack of physical change to the site, it is not considered that this would have a significant impact on wildlife also using and passing through the field and surrounding fields, at different times of the day. The proposal is therefore not in conflict with policy CS15.

#### **(g) Safety and Security**

37. A number of issues raised by objection relate to potential for security issues and the proposal potentially compromising the safety of residents as a result of strangers roaming nearby fields. Whilst this is noted, this would be a managed facility with customers paying to access a specific area of land, and whilst the responsibility of supervision of dogs lies with the individual owners, this will be assisted with the provision of more robust fencing such that it is unlikely that a customer would trespass onto adjacent land. The applicant lives close by the site and has a clear management policy which sets out the procedure for any issues or complaints and there is no evidence to suggest that safety or security issues would arise as a direct result of the proposal.

#### **PUBLIC SECTOR EQUALITY DUTY**

38. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

#### **CONCLUSION AND RECOMMENDATION**

39. On balance, the circumstances of the proposed use and its requirement for an open countryside location outweigh the concerns regarding the sustainability of the use in this location. On the basis of the information provided within the submitted application it is considered that the proposed use is unlikely to have an unacceptable impact on the amenities of surrounding properties, however in this instance, a personal permission is considered appropriate to ensure that the use of the site is managed in accordance with the submitted information. Subject to the planning conditions set out, there will be no unacceptable impact on the character or appearance of the surrounding area. The proposed development complies with the relevant policies in the development plan. It is therefore recommended that:

#### **PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. A3 Implementation Limit (3 years)
2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

Site Location Plan  
Plan No 1: Site Layout Plan

REASON – To define the consent

3. This permission shall be personal to Miss Fiona Lennox and family only and shall not enure for the benefit of the land. In the event of their vacating the premises the use shall revert to the use for agricultural purposes.

REASON - In granting this permission the Local Planning Authority has had regard to the special circumstances of the case and wishes to have the opportunity of exercising control over subsequent use in the event of Miss Fiona Lennox and family vacating the premises.

4. The use hereby permitted, shall operate from the site only between the hours of 08:00-18:00 Monday to Sunday (including Bank and Public Holidays).

REASON – In the interests of residential amenity.

5. The number of appointments or clients visiting the site shall be restricted to no more than three appointments at any one time with no more than three dogs present per client at the same time during the permitted hours of operation.

REASON – In the interests of residential amenity.

6. There shall be no kennelling of dogs overnight on the application site.

REASON - In the interests of residential amenity.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order), no development within Schedule 2, Part 4, Classes A to B of that order shall take place without the prior written consent of the Local Planning Authority.

REASON – In the interests of visual and residential amenity.

8. Prior to the commencement of the proposed use, details of the following shall be submitted to, and approved in writing by, the Local Planning Authority.
  - a) Boundary treatment.
  - b) Surface treatment for customer parking.

Thereafter the development shall be carried out in full accordance with the approved details, prior to the use commencing and shall be maintained as such thereafter.

REASON - In the interests of visual and residential amenity.