

1DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 14th June 2023

APPLICATION REF. NO: 22/01194/FUL

STATUTORY DECISION DATE: 26th December 2022

WARD/PARISH: HURWORTH

LOCATION: Field at Copse Haven Roundhill Road
Hurworth Moor DARLINGTON
DL2 1QD

DESCRIPTION: Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 5 (appointments/clients) attached to planning permission 20/00910/CU (Change of Use from private field to commercial dog exercise area) to permit a change in wording to allow only one booking at any one time, and to set out the number of adults and dogs permitted in the park at any one time (see supporting information)

APPLICANT: MISS FIONA LENNOX

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

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=RKM49VFP0BM00>

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. Planning permission was granted in February 2021 for the change of use of the field to a commercial dog exercise area (20/00910/CU).

2. Condition five of the above permission states:

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.

3. This application now seeks planning permission to amend the wording of the condition as follows:

Use of the facility shall be restricted to one booking/appointment at any one time, during the permitted hours of operation, and complying with the following rules: -

- *3 Adults maximum can bring 1- 6 dogs*
- *2 Children maximum (under the age of 14) can attend with each booking only if accompanied with adults*

REASON - In the interests of residential amenity.

4. The application states that this is due to the requirements of customers, which has become apparent through experience while running the business. Several examples are given of customers and their needs as part of the supporting information which are considered further below which would not be permitted under the existing condition.
5. The applicant has stated that she hopes that the new proposal is seen as preferential in the interests of residential amenity and an improvement compared to a mix of different groups and dogs not known to each other in terms of the permitted use, which allows three bookings at any one time, together with the advantages of less traffic movements to and from the site. The supporting information submitted with the application states:

'In the original planning permission application in 2020, we requested, and were subsequently granted, to allow three bookings or appointments at any one time, during the permitted hours of operation. We were at that time intending to open out several booking slots each week to allow for dog mixing and socialising, meaning 2 or 3 separate customers (bookings) could bring up to three dogs each for the same session/time slot. So far, however, we have not done very much of this, as since opening the park in January 2022, it has become apparent that customers mostly want sole use of the space, not to share with other people or dogs, so all our appointments are currently only available as single bookings. There have been people who have asked for socialising sessions, but currently we do not offer these mixed groups at all, it is all single booking per time slot and the website booking system reflects this exactly'.

'The majority of customers that wish to book the facility currently are 1-3 people with 1-6 dogs and arrive in one or two vehicles at the same time, but, importantly, they all know each other. Professional Dog walkers are obviously interested in using the field too and we would like to be able to offer this service, as we are a commercial dog field, but it would follow the proposed rules on numbers. It is rare that nine dogs are ever in the field at one time currently, even a dog walker usually only has around 6 or 7 dogs, so in the interest of residential amenity we are now proposing to accept only six dogs in the park at one booking (if the single slot proposal is accepted).'

'Another key point for us is around children coming to the field as many customers love to bring their kids or grandchildren with them, and we believe it is good for children to see their dogs running about and to take an interest in the training and exercising of their dog(s); it is supporting the promotion of a healthy lifestyle and taking ownership of their pet. Often the dog is the dog of the child and obviously they need a parent or carer to bring them along. We would therefore like to allow max two children under 14 to attend, when accompanied by adults. This will be more at the weekends when children are not at school or during school holidays but does not happen very often.'

MAIN PLANNING ISSUES

6. It is important to note, that the applicant's fallback position is the existing permission, which allows the limits set out above in paragraph 2 and therefore the principle of the use of the field for approved use, is not at issue. The only issues for consideration in the determination of this application is (1) the acceptability or otherwise of the amended condition in terms of whether it is sufficiently precise, enforceable and reasonable, (2) any consequences in terms of the impact on neighbouring occupiers in terms of residential amenity or (3) highway safety.
7. In terms of point one, the amended condition is sufficiently precise and unambiguous and provides a sound basis for enforceability / monitoring should any issues arise.

PLANNING POLICIES

8. Relevant Local Plan policies include those seeking to ensure that new development:
 - The proposal is sited, designed, and laid out to protect the amenity of existing users of neighbouring land and buildings and the amenity of the intended users of the new development (policy DC4).
 - The proposal provides suitable and safe vehicular access and suitable servicing and parking arrangements (policy DC1 and IN4).

RESULTS OF TECHNICAL CONSULTATION

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

RESULTS OF PUBLICITY AND NOTIFICATION

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

- Impact on residential amenity, noise and disturbance; loss of privacy.
- Increase in activity in the field.
- Proposal to allow more use by dog walking businesses.
- Owner does not monitor the use of the field.
- Highway safety.
- Applicant has flouted the current condition on several occasions.

PLANNING ISSUES/ANALYSIS

(a) Impact on residential amenity

11. As detailed in the committee report for the original application, the application site is very closely related to neighbouring properties, and it was considered by members in determining the original application, that for this reason, the use needed to be controlled by planning conditions.
12. Since that time, there have been several occasions where the neighbouring residents have complained to the Local Planning Authority regarding the loss of amenity associated with the use. This has however been in the context of the existing condition, the wording of which has provided some confusion to both the applicants and the neighbouring residents and has provided a challenge to officers in terms of monitoring compliance.
13. When the original application was granted, which allows only one person to attend per booking with up to three dogs, but up to three of those appointments at any one time (equivalent to three people and nine dogs), and the applicant had the experience of running the business for a prolonged period, it became apparent that in order to comply with the condition, the owner was having to turn away customers that had relatively simple requirements. As an example, a couple coming together to walk their one dog, does not technically adhere to the condition, which required only one person per appointment (notwithstanding that in this scenario, the applicant was allowed to take two additional bookings at the same time, with up to two people and six dogs).
14. The applicant has provided some additional examples of requested bookings as follows:
- *Male customer who owns six dachshunds wishes to bring them all together on his own and not always with his girlfriend, they are his dogs, he is not a dog walker*
 - *One person – could allow professional dog walkers with up to six dogs to attend on their own*
 - *2 people – could allow a husband/wife to attend with their family dog(s) vs currently only 1 person allowed if up to 3 dogs, most people like to attend with their*

partner/friend, and some enjoy bringing their kids or grandchildren too, e.g. my friend Steph and her husband Mike who love to come on a Sunday and have Amber the grey hound have a really good run around, also there is an older couple who love coming with their 2 grandchildren to exercise their dog.. We also have a couple who have two large German Shepherds and they prefer both there to manage their large dogs.

- *2-3 people – I have a lady who wants to bring her 12-year-old daughter who is the owner of the puppy and wishes to walk round the park with her and the puppy, obviously the mum must drive them to us, but she does not want to sit in the car whilst her young daughter exercises the pup*
 - *A customer who is partially sighted and does not drive, who has requested that she can come and walk their dog Luca, with her husband, who she relies on for assistance. The current condition excludes anyone who has any form of disability that cannot drive but wishes to enjoy the outdoors and experience their family pet running free in a secure environment.*
15. Whilst, if the scenarios above were allowed over and above the limits set by the existing permission, they would result in an intensity of the use, in order to set a limit on the use, the applicant now seeks that in order to facilitate the above types of situations, that the change in wording limits the use to one booking at a time instead of three. This would result in a natural reduction in vehicles to the site (only one traffic movement at any one time instead of a maximum of three) and a reduction in the number of dogs.
16. It is considered that in approving the original condition, it was never the intention of the Planning Committee to provide undue restrictions on the business, rather the condition was worded based on the information put forward by the applicant on how she considered the business would run, however in practice, it has not been possible to comply with the condition and the requirements of customers.
17. The applicant has stated that if this application is approved, the compliance with the condition will be monitored and that Dog Haven website will be updated to reflect the new condition, with a simple booking structure stating “maximum of 3 people with maximum of 6 dogs” per 25 mins or 55 mins slots. Terms and conditions of use of the park (as agreed to by customers at booking stage) will be updated and will also state that no dogs should ever be left on their own in vehicles. The website will reiterate to potential customers that the facility would not offer the three appointments at one time and the mixed groups; and would continue to only offer one booking per time slot, based on the limits set out in the condition.
18. Whilst the concerns from neighbouring residents are noted, the proposed amended wording provides a net reduction in activity and would therefore reduce impact on amenity currently allowed by the existing permission. The Environmental Health Officer has raised no objections. In view of the above, the proposed change of wording is acceptable in the context of policy DC4.

(b) Highway Safety

19. The original planning permission application submitted in 2020, requested, consent to for up to three bookings or appointments at any one time, during permitted hours. The requested change to the extant permission is informed by customer demand given that the site has now been up and running for some time and the applicant now has experience of what the market requires. The proposed changes would enable groups of friends/associates to make exclusive use of the site under one booking. The proposed changes do not demonstrate an increase in the permitted number of clients or intensification of use, rather they seek to make better use of the facility and enable groups of friends/families to use the site. The proposed variation is not considered significant regarding highway safety or traffic generation over the extant permission and will result in a natural reduction in vehicles entering the site at any one time. The Highways Engineer has raised no objections and the proposal is considered to comply with Policy DC1 and IN4 in this regard.

PUBLIC SECTOR EQUALITY DUTY

20. 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

21. The proposed variation of wording of condition will result in a net reduction in activity against the permitted allowances set out in the existing condition. Subject to the additional conditions set out in the original approval (including the personal permission, hours of operation and restrictions in respect of overnight kennelling) the amended proposal is considered to comply with the relevant policies of the Local Plan.

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

Site Location Plan

REASON – To define the consent

2. 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.

3. 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.

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

REASON - In the interests of residential amenity.

5. Use of the facility shall be restricted to one booking/appointment at any one time, during the permitted hours of operation, and complying with the following rules: -

- 3 Adults maximum can bring 1- 6 dogs
- 2 Children maximum (under the age of 14) can attend with each booking only if accompanied with adults

REASON - In the interests of residential amenity.

6. 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.

7. The existing customer parking and boundary treatment shall be permanently retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of visual and residential amenity.