

Item Number: 13
Application No: 19/00167/FUL
Parish: Nawton Parish Council
Appn. Type: Full Application
Applicant: Mr Linfoot
Proposal: Change of use of agricultural land to form 2no. dog walking fields to include formation of vehicular access off the A170 and hardstanding parking area.
Location: Land At Os Field 0081 Station Road Nawton Helmsley North Yorkshire
Registration Date: 12 February 2019
8/13 Wk Expiry Date: 9 April 2019
Overall Expiry Date: 13 June 2019
Case Officer: Alan Goforth **Ext:** 43332

CONSULTATIONS:

Initial consultation (access off Station Road)

Highways North Yorkshire	Recommend conditions
Environmental Health Officer	No comments received
Nawton Parish Council	Objection- VIUA, green infrastructure, detrimental to wildlife, other walks/routes available, traffic.

Re-consultation on revised details (access off A170)

Highways North Yorkshire	Recommend conditions
Environmental Health Officer	Recommend temporary permission
Nawton Parish Council	No further comments received

Re-consultation on revised details (surfacing, planting & stand-off from boundary)

Highways North Yorkshire	Any further comments will be reported at meeting
Environmental Health Officer	Any further comments will be reported at meeting
Nawton Parish Council	Any further comments will be reported at meeting

Neighbour responses: Mrs Helen Ward-Jackson, Mr Bobby Brewer, Mr Gordon Harrison, Mrs Naomi Thatcher, Mr Vinnie Thatcher, Mr Nicky Todd, Mrs Penny Harper, Mrs Patricia Passman, Miss Sophie O'Neill, John And Hazel Gittins, Mrs Deborah Cuming, Mrs Johanna Teasdale, Mrs Natalie Stevens, Mr Andrew Brown, Ms Amy Stonehouse, Mr Andrew Bowes, Mrs Emma Willoughby, Mr David Otterburn, Mr Michael Jackson, Mr & Mrs M Colley, Mr Sam Stevens, Mr Jed Dargan, Miss Donna Baines, Mr Leslie Helm, Mrs Catherine Jackson, Mr Nicky Todd, Mrs E Edwards, Mr Ronald Gordon, Mrs Ruth Gordon

SITE:

The application site comprises open agricultural land that amounts to 1.9 hectares situated outside of development limits on the eastern side of Nawton. The field is relatively level and was previously used

for grazing of sheep. The site is locally designated as a Visually Important Undeveloped Area (VIUA) and is also within an Area of High Landscape Value (AHLV). The A170 runs to the north of the site, Station Road to the west and south and Snape Hill is to the east.

There are residential properties to the west, south and east. The land to the north, beyond the A170, comprises the recreation ground. Numbers 14-22 (consecutive) The Sidings stand parallel to Station Road adjacent to the western boundary of the site. Numbers 1- 27 (consecutive) Station Road stand adjacent to the southern boundary of the site. There are four residential properties on Snape Hill adjacent to the eastern boundary of the site.

PROPOSAL:

Planning permission is sought for the change of use of agricultural land to form 2no. dog walking fields to include the formation of vehicular access off the A170 and hardstanding parking area.

The facility would comprise two separate fields comprising the west and eastern sides of the site. The proposed hours of use of the dog walking fields are 07:00-20:00 seven days a week, including Bank Holidays. Users would be able to book 30 or 60 minute time slots for dog walking. The facility would allow for both on and off lead exercise and this would be stipulated as part of the booking process. There would be a maximum of seven dogs per field at any one time (maximum of 14) and this would be controlled as part of the booking process.

Initially it was proposed that access was to be taken off Station Road via an opening in the western boundary of the field. The works would have involved the removal of the existing, established hedgerow and replanting of a new hedgerow. However, the access position was revised in order to retain the hedge. It is proposed that access to the site for pedestrians and vehicles would be in the northern boundary of the field off the A170. This would involve the closure of an existing field access in the northern boundary, installation of fencing and the removal of fencing to allow the creation of a new access to highways specification. Visibility splays of 2.4 metre x 90 metre to the west and 2.4 metre x 120 metre to the east can be achieved as shown on the proposed site plan. The access will lead to a parking and turning area comprising 15 parking spaces and the applicant has agreed to a grasscrete surface in this area as an alternative to hardstanding. In addition it has been agreed with the applicant that low level shrubs/hedgerow would be planted around the parking area at the site entrance.

The entrance gates would allow for separate pedestrian and vehicle access points. Access to the individual fields would be through 'air lock' gates with keypad entry system. The access code would be provided to users as part of the booking process.

The collection of dog waste would be the responsibility of users/owners and a dog waste bin would be located adjacent to the 'air lock' entrance/exit point. An employee of the applicant/operator would be responsible for unlocking and locking the main gate to the site and the emptying of the dog waste bin and general maintenance such as grass cutting.

The existing hedgerows, trees and fencing along the site boundary would be retained and 1.8 metre high timber post and wire mesh fencing (deer and rabbit proof) would be installed inside the field boundary. The proposed means of enclosure within the field constitutes permitted development and does not require planning permission. The fence line on the southern side of the field has been amended to create a 15 metre separation distance between the site boundary and the perimeter of the dog walking field.

The applicant intends to operate the facility on a non-profit making basis which, after costs, would make charitable donations from the surplus. The applicant has confirmed that they would be agreeable to an initial 1 year temporary permission.

POLICY:

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the

determination of this particular application comprises the following:

- The Ryedale Plan- Local Plan Strategy (2013)

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Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy

Local Plan Strategy -Policy SP9 The Land-Based and Rural Economy

Local Plan Strategy - Policy SP11 Community Facilities and Services

Local Plan Strategy - Policy SP13 Landscapes

Local Plan Strategy - Policy SP15 Green Infrastructure Networks

Local Plan Strategy - Policy SP16 Design

Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development

Local Plan Strategy - Policy SP20 Generic Development Management Issues

Material Considerations

National Planning Policy Framework 2019 (NPPF)

National Planning Practice Guidance 2014 (PPG)

REPRESENTATIONS:

The Authority has received 29 objections from the occupants of properties on Station Road, The Sidings and Snape Hill. In summary the concerns relate to the following:

- Lack of need in light of open countryside location and proximity to nearby footpaths, bridleways, fields and woodland
- No need for car park
- Disturbance to wildlife and habitat
- Highway safety at the junction opposite sports field entrance
- Traffic and congestion
- Lighting
- Visual impact- the deer fencing would be an eyesore
- Noise pollution
- Loss of privacy
- Dog fouling
- Loss of trees
- Odour and flies
- Effectiveness of booking system
- Security

The objections that are made on the basis that the proposed development may in future result in the development of the site for housing or representations that refer to the possible motives or future intentions of the applicant are not material to the consideration of this application. The planning decision is reached on the merits of the application lodged with the LPA and is made without prejudice to the formal consideration of any future planning applications.

APPRAISAL:

The main considerations in the determination of this application are:

- i) Principle of the development;
- ii) Landscape and visual impact;
- iii) Impact on residential amenity; and
- iv) Highway impacts.

Principle of the development

Policy SP1 states that development in the open countryside will be restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities. The dog walking facility would be situated in close proximity to the village and footpath network. However, a number of objections have questioned the need for such a facility given the proximity of the site to routes in the locality suitable for dog walkers.

The applicant has identified a need for a safe, controlled area for dog owners to exercise their dogs on and off the lead. The applicant states that this is a viable proposition to make use of a vacant field and the proposal has been developed following discussions with dog clubs. The applicant aims to create a safe and controlled area for people to exercise and train their dog(s).

It is considered that a refusal could not be substantiated on the basis of lack of need or due to the existence of alternative dog walking routes in the locality. This is because this is essentially a commercial decision which the applicant will have considered prior to submitting the application.

The proposed facility aligns with the general aims of paragraph 96 of the NPPF in relation to access to open space, recreational provision and also local Policy SP11 which supports community facilities. The change of use would take just under two hectares of land out of agricultural use although it is acknowledged that the use of the land as a dog walking field is reversible so it is not considered to be a permanent loss. The provision of the dog walking fields would diversify the agricultural use and the principle of this land based activity aligns with Policy SP9.

Landscape and visual impact

The application site is a grass paddock on the edge of the village adjacent to residential development on three sides which have views across the site from first floor level. The site is locally designated as a Visually Important Undeveloped Area (VIUA) and within an Area of High Landscape Value (AHLV). VIUAs are site specific protection policies in the Development Plan.

There would be no buildings, structures or lighting associated with the proposed change of use and the 1.8 metre high wire mesh fencing used to form the two separate walking fields would benefit from permitted development rights. The entrance and car park on the northern side of the field is adjacent to the main road and is considered to be the most prominent element of the development.

It has been agreed with the applicant that low level shrubbery/hedgerow would be planted around the parking area to provide screening and to soften the appearance of the parking area at the field entrance. Furthermore, the car park, which was initially proposed as hardstanding, would be formed as a grasscrete permeable surface with a natural appearance that is visually preferable to hardstanding in this area.

It is considered that the retention of existing boundary planting and hedgerow habitats, the addition of low level planting around the car park and the proposed surface treatment would ensure that the land use largely retains the appearance of green open space. It is considered that the field would continue to form an important element of green infrastructure within the locality and this reversible use of the land is compatible with the VIUA designation.

It is considered that the appearance of the site would respect the context of the surroundings and would not detract from the form of the settlement or local landscape character, or give rise to unacceptable visual intrusion in compliance with the requirements of Policies SP13, SP15, SP16 and SP20.

Impact on residential amenity

As required by Policy SP20 (Generic Development Management Issues) development should respect the character of the area without having a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community.

The activities within the field have previously been those associated with the agricultural use of the land for grazing. The change of use has the potential to alter the character and impact of the use of the field on the nearest residential receptors.

The concerns in relation to noise disturbance are acknowledged and have been brought to the attention of the EHO. The nearest residential properties to the east and west are separated from the site by the public highway or an access road. However, the rear gardens of the properties to the south abut the southern boundary of the field. The proposed site layout has been amended to increase the separation distance between the southern side of the site and residential properties on Station Road which have gardens that back onto the site. The separation distance was initially 2.5 metres and this has been extended to 15 metres. It is considered that this stand-off should address the noise nuisance and amenity concerns that the presence of dogs in the walking field may cause barking from dogs at neighbouring properties.

In considering the impact on residential amenity it is relevant to note that the hours of use of the facility would be limited as would the maximum number of dogs allowed in each field at any one time. In addition, the system of pre-booking a time slot should control the intensity of the use of the site across the day and ensure that there are no unacceptable levels of disturbance or nuisance arising from dogs or traffic. In addition there would be no floodlighting at the site and this could be controlled by condition if planning permission is granted. It is not anticipated that the proposed change of use would create any additional security risks for the occupants of neighbouring dwellings.

There are concerns raised in relation to odour and flies. The collection and disposal of dog waste is a matter for both the individual dog owners and the employee responsible for the day-to-day operation of the site. It is not anticipated that the use of the site would give rise to any significant adverse impacts in this respect.

It is acknowledged that there are potential impacts on residential amenity that cannot be fully evaluated at the present time. Overall, subject to the facility operating under an initial time limited permission as recommended by the EHO, it is not anticipated that this proposed use would give rise to any unacceptable visual intrusion, crime or fear of crime, loss of privacy, pollution or disturbance in compliance with the relevant parts of Policies SP16 and SP20.

Highways impacts

Policy SP20 seeks to ensure that new development does not have a detrimental impact on road safety. It is acknowledged that the facility would give rise to an increase in vehicle movements over and above existing levels and this has been referred to in the objection from the Parish Council and local residents.

The LHA did not raise concerns in relation to the initial proposal to gain access to the site off Station Road via an opening in the western boundary. However, the hedgerow is a substantial feature and its loss would be detrimental to the street scene and the biodiversity value of the site. In addition it was acknowledged that vehicles parked outside The Sidings could give rise to access issues particularly at school drop off and pick up times. A number of local residents have questioned the need for on-site parking, however, it is considered that this is a necessary part of the land use and can be incorporated without any unacceptable visual intrusion.

The applicant amended the site layout to reposition the access point to the northern boundary off the A170. The existing field access in the northern boundary is to be closed and the new access would not be directly opposite the entrance to the recreation ground. The LHA have not raised any objections and the arrangements are considered safe and visibility and junction spacing standards can be met. The access in the northern boundary is appropriate in terms of proximity to the footpath that runs east-west parallel to the A170. The proximity of the site to the village and footpaths would allow for sustainable

modes of travel to the facility for local dog owners.

The speed limit along the stretch of the A170 that passes the proposed access is 30mph and the plans indicate that appropriate visibility splays can be created to ensure users can access the site in a safe manner minimising risks to themselves, other road users and pedestrians.

The facility would operate with a formal (online) booking system for time slots throughout the day. There would be a maximum of seven dogs allowed in each field per time slot. The booking system introduces control over the level of use of the two fields and should ensure the accountability of those using the field. The booking system would mean that where dog walkers travel to the site by private car the movements would be staggered across the day to ensure that not all dog walkers descend up the field at the start or end of the working day.

The LHA has not raised any objections to the proposed change of use and have recommended a number of conditions to ensure that the facility incorporates appropriate and safe access and parking arrangements. The increased use of the site can be accommodated and the intensity of the use of the facility can be satisfactorily controlled by the applicant. In light of the above it is considered that the change of use would not result in conditions prejudicial to road safety and the application is considered to comply with the relevant part of Policy SP20.

Temporary permission

As stated above the Environmental Health Officer has no objections subject to limiting any grant of planning permission to a temporary period.

National planning practice guidance (PPG) advises that a temporary permission will normally only be appropriate either where the applicant proposes temporary development, or when a trial run is needed in order to assess the effect of the development on the area.

The objections, concerns and comments from neighbours and consultees are noted and conditions would be imposed upon any permission granted to control and mitigate any adverse effects of the land use. Notwithstanding the formal planning controls it is the day-to-day management and operation of the facility by the applicant/operator that is central to mitigating the potential adverse impacts of the use on occupants of adjacent land and buildings.

In this regard, it is considered that a permanent grant of permission at this stage would potentially curtail the Authority's powers should there be any future complaints relating to amenity or traffic related issues arising from the operation of the dog walking field. Given the nature of development in the area immediate to the application site it is considered that the land use may be potentially detrimental to existing residential uses nearby, but there is insufficient evidence to enable the Authority to be sure of its character or effect. In the light of this it is considered appropriate to grant a temporary permission in order to give the development a 'trial run'.

A one year trial period is considered to be sufficiently long for it to be clear by the end of the temporary permission whether permanent permission should be granted or refused. The applicant is agreeable to a one year temporary planning permission.

Conclusion

The objection of the Parish Council and the concerns raised by neighbours have been noted. However, in the absence of objections from the Local Highways Authority and the Environmental Health Officer, it is not considered reasonable to refuse the application on matters of residential amenity or highway safety.

The proposed use in this residential area has the potential to give rise to materially harmful impacts on residential amenity. Taking account of the above considerations, the site specific circumstances and the consultation response from the EHO it is considered reasonable and appropriate to limit any grant of planning permission to a temporary period.

If Members resolve to grant a time limited permission for the proposal it would give the applicant the opportunity to demonstrate that the facility can be operated from the premises without harm to the residential amenity of neighbouring properties.

Furthermore, should planning permission be granted for the proposed change of use it would neither alter the status of the site as greenfield land nor remove the local VIUA designation.

In light of the above assessment, it is considered, on balance, that subject to an initial one year trial period, the proposal is acceptable and that it complies with Policies SP1, SP9, SP11, SP13, SP15, SP16, SP19 and SP20 of the adopted Ryedale Plan - Local Plan Strategy and the revised National Planning Policy Framework.

RECOMMENDATION: Approval

1 The development hereby permitted shall be begun on or before (date to be inserted).

Reason:- To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

2 The permission hereby granted authorises the use of the land as 2no. dog walking fields only for 12 months from the date of commencement, the date of which shall be confirmed in writing to the Local Planning Authority within 7 days of the commencement.

Reason: To enable the Local Planning Authority to assess the impact of the use upon residential amenity.

3 The development hereby permitted shall be carried out in accordance with the following approved plan:

Location Plan, Existing Block Plan & Proposed Site Plan ref. KWL-093-012-001 Rev B, dated 06.06.19

Reason: For the avoidance of doubt and in the interests of proper planning.

4 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

d. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number DC/E9A.

Reason: In the interests of highway safety.

5 No part of the development shall be brought into use until the existing access on to A170 has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created without the written approval of the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of highway safety.

6 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 90m measured along both channel lines of the major road A170 from

a point measured 2.4m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of road safety.

- 7 Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on KWL-093-012-001 Rev B for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.

Reason: To ensure these areas are kept available for their intended use in the interests of highway safety and the general amenity of the development.

- 8 The planting of the low level hedgerow/shrubbery as shown on drawing ref. KWL-093-012-001 Rev B shall commence during the first planting season following the date of permission, or such longer period as may be agreed in writing by the Local Planning Authority. Any new hedgerow plants shall be maintained for a period of five years from being planted and replaced if they die or become diseased by plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To protect and enhance visual amenity.

- 9 The facility shall only be operated with a pre-booked time slot system that ensures that there is a maximum of seven dogs in each field at any one time.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected.

- 10 The hours of use of the dog walking facility shall be limited to only between 07:00 and 20:00 hours.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected.

- 11 There shall be no fixed illumination within the site.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected.

- 12 The dog waste bin as shown on drawing ref. KWL-093-012-001 Rev B shall be installed prior to the development being first brought into use and shall be regularly emptied and maintained throughout the lifetime of the development.

Reason: In the interests of amenity.

INFORMATIVES

Highways- These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.

An explanation of the terms used above is available from the Highway Authority.