

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 October 2022

Plans List Item Number: 1

Reason for bringing to committee

Major Application

Application Details

Location: LAND WEST OF MOAT FARM, SUTTON ROAD, WALSALL, WS9 0QL

Proposal: CHANGE OF USE OF LAND TO DOG WALKING FIELDS ENCLOSURE.

Application Number: 21/1639

Case Officer: Sean Hewitt

Applicant: C. Round

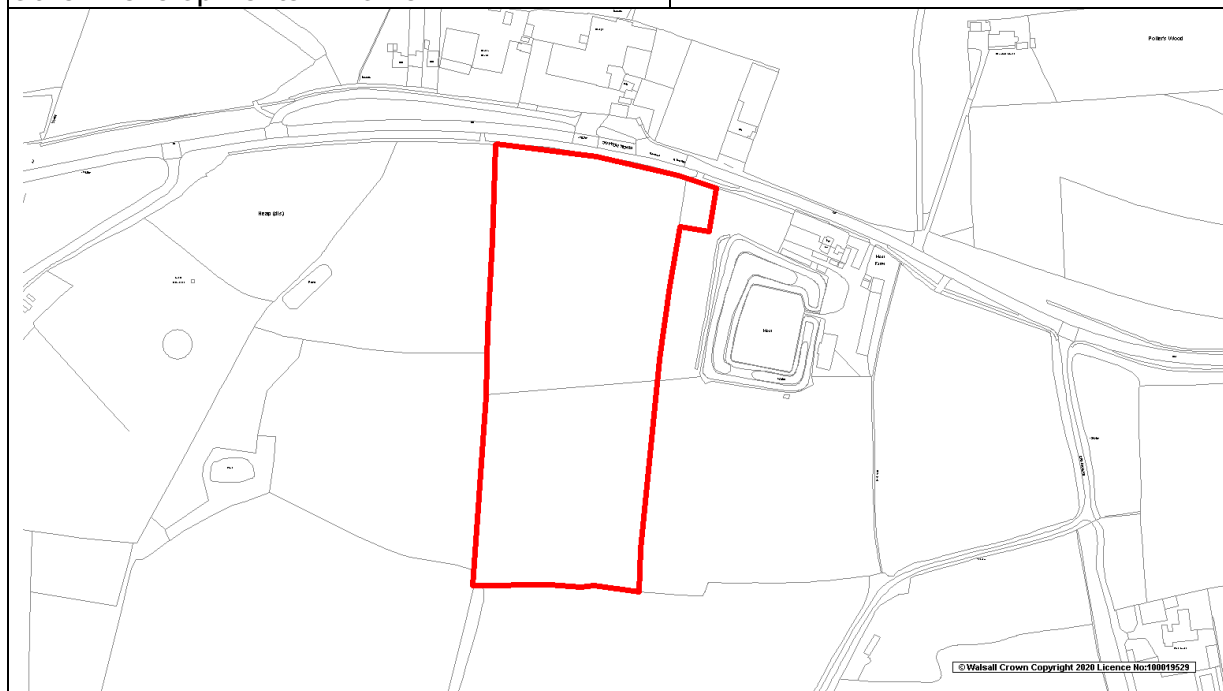
Ward: Pheasey Park Farm

Agent: Rob Duncan Planning Consultancy Ltd

Expired Date: 07-Feb-2022

Application Type: Full Application: Major Other Developments / Works

Time Extension Expiry: 31-Aug-2022



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Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to conditions

Proposal

Change of use of the existing agriculture use to a dog walking facility. The proposal will be split into two fields with a small car park to the North East of the site.

The site will include a new parking area for 4 vehicles, 1.8m high deer fencing around the perimeter of the site and a new 1.8m access gate using the existing access on Sutton Road.

The site will operate from 8:00-18:00 from Monday – Sunday secured by planning condition.

Site and Surroundings

The site falls within Green Belt and within the Great Barr Conservation area. The site is to the south of Sutton Road and is connected to Moat Farm and there are mature hedgerows surrounding the site.

The site benefits from an existing dropped kerb on Sutton Road with an existing gate separating the hedgerows which is currently overgrown.

There are existing uses along this stretch of Sutton Road such as a vehicle rental venue, lighting store and garden store opposite the site.

The nearest residential property aside from Moat Farm itself, is found opposite the site set back from Sutton road and screened by mature vegetation is no.651 and properties no.615-619 Northwest of the site adjacent to the existing garden centre located 58m away at its shallowest point.

Relevant Planning History

none

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF16 – Conserving and enhancing the Historic Environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV9: Environmental Improvement Initiatives
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- T7 - Car Parking NOTE for case officer: *(Also see AAP Policy AAPT5)*
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- BX3: Conservation Areas
- BX13: Car Parking
- WH10: Parking

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation

Walsall Site Allocation Document 2019

GB1: Green Belt Boundary and Control of Development in the Green Belt
EN5: Development in Conservation Areas

Supplementary Planning Documents

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW3 Character

Open space, sport and recreation

- OS1: Qualifying Development
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Consultation Replies

Environmental Protection – no comment

Natural England – no comment

Police – no objection but informative notes for safety provided

Public Health – no objection

Highways – support subject to conditions relating to parking

Conservation – concerns to:

- No elevations showing fence in situ (*agent has asked this to be secured by condition*)
- No details of parking materials (*This will be covered in highways condition*)
- No indications of the design of the two new gates proposed (*elevation now received*)

Archaeology – no objection if works to not extend beyond the top soil layer (*agent has confirmed no work will go beyond the topsoil*)

Representations

None received

Determining Issues

- Principle of the development and impact on the Greenbelt and the conservation area
- Neighbouring amenity
- Highways and access

Assessment of the Proposal

Principle of the development and impact on the Greenbelt and the conservation area

The proposal would represent outdoor recreation. The NPPF (2019) Section 13 para 145 now indicates that the provision of appropriate facilities in connection with a change of use for outdoor recreation is not considered inappropriate development as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

The proposal does not include any buildings. The extent of car parking at the site would be minimal given the small area of parking/manoeuvring space and there will be limited times to use the facilities.

Whilst the proposal will have 1.8m high fencing to secure the field, this would be rounded posts and an open mesh fence which allows full views through it, used in rural locations reducing any adverse impact on the visual amenity and openness of the Green Belt. This is considered acceptable given the fallback permitted development position whereby a fence can be erected of any material at 2m high where not adjacent to the highway without requiring planning permission.

The re- introduction of the access would utilise an existing access off Sutton Road. Additionally, the fencing has now been set within the site by 2.4m to reduce any possible impact on the exiting hedge row and the biodiversity that may use this.

The proposal falls on the northern tip of the Great Barr Conservation area, with the conservation officer concerned that there were no elevations indicating the proposed deer fencing in situ. The agent has since demonstrated the fences and asked if this can be included as a condition to avoid any further delay to the application.

As mentioned above, the proposed fencing will be set within the boundary of the site and thus will be less prominent when viewed from Sutton Road or South of the site.

The proposal will also be partially screened by the existing mature hedgerows which line the site. Although these details will be agreed as part of condition, officers consider that the proposal is unlikely to have a detrimental impact on the setting of the conservation area as the deer fencing would be made from wooden posts and mesh that is akin to what would be expected within the countryside. This is considered acceptable given the fallback permitted development position whereby a fence can be erected of any material at 2m high without requiring planning permission.

Overall, it is considered that the proposal would have minimal impact on the character, appearance or openness of the Green Belt and conservation area and as such the proposals would represent appropriate development within the Green Belt.

Impact on the amenities of Surrounding Occupiers

It is considered that the use is unlikely to have any adverse impact on the amenities of the surrounding occupiers through noise and any increase in traffic is likely to be low level. The nearest residential property 651 Sutton Road is 40m away and 615-619 Sutton Road are 70m away. It is also considered that the use would have no adverse impact on the surrounding agricultural uses.

Conditions will be attached to ensure the site will operate during recommended hours with a lighting condition attached to avoid disturbances to residents and also local wildlife.

Access and Parking

The proposals would bring back into use an existing access off Sutton Road. The existing access to the land, the Highway Authority consider that the proposed development would not have severe transportation implications and is acceptable subject to conditions.

The development would provide a small parking/manoeuvring area immediately within the site, which is considered would meet the needs of the development given the staggered times/use of the field.

A condition is recommended for booking times/use of the field to prevent any conflict of vehicles within the access drive.

Conclusions and Reasons for Decision

Grant permission subject to conditions

The proposals would represent appropriate development within the Green Belt under para 145 of the NPPF subject to impact on the openness of the Green Belt.

The use would require no buildings on site, minimal car parking, no lighting due to the daylight hours of use and access created at a natural break in the boundary hedging

would minimise the loss of natural habitat and environment. The fencing proposed would be post and open mesh regularly used in rural locations to maintain views and openness, the fencing would sit comfortably within the natural environment and not intrusively impact on the Green Belt, the conservation area, neighbouring amenity or highways safety. The proposal is considered to meet the policies noted in the report above.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding further details and elevations, amended plans have been submitted which enable full support to be given to the scheme.

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Location Plan 16-08-22
- Proposed Road Gate 21-01-22
- Proposed Car Park Plan 21-01-22
- Planning and Heritage Statement 09-11-21

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. No part of the development hereby permitted shall take place until the existing vehicle footway crossing access has been widened to 4.8 metres. **See Highway Authority Notes to Applicant 2 below.*

Reason: To ensure the satisfactory completion and operation of the access, in accordance with Saved UDP policies GP2, T4, T7 and T13 and the NPPF.

4. Notwithstanding the submitted details, prior to the development hereby permitted first coming into use, a 5 metre hard surfaced apron at the access point consisting of tarmacadam, block pavers or similar and drainage measures to prevent surface water

discharge onto the public highway, shall be fully implemented and thereafter retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development, the access and the parking area and in accordance with Saved UDP policies GP2, T4, T7 and T13 and the NPPF.

5a. Prior to the development hereby permitted first coming into use, elevations of the proposed deer fencing shall be submitted to and approved in writing by the Local Planning Authority. The elevations shall include each perimeter, boundary heights and the proposed finish of any boundary treatment.

5b. Prior to the development hereby permitted first coming into use the fencing shall be installed in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the conservation area in accordance with SAD Policy EN5 (Development in Conservation Areas).

6. The development hereby permitted shall not operate other than in accordance with the operational details set out in Paragraph 5.18 of the submitted Planning and Heritage Statement dated November 2021 which shall provide a 10 minute gap between each booking. Each of the permitted fields shall operate independent of one another. The start time for each booking on field A shall be on the hour and the start time for each booking on field B shall be on the half-hour.

Reason: To define and clarify the operation of the development to control the number of vehicle trips to the site and to ensure that there is adequate parking on site to meet its operation needs, and in accordance with Saved UDP policies GP2, T4, T7 and T13 and the NPPF.

7. Notwithstanding the details hereby submitted, the gates shall not open outwards across the public highway at any time.

Reason: In the interests of highway safety and in accordance with Saved UDP policy T13 and the NPPF.

8. a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area, and to minimise impacts on the character of the Green Belt in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan and Policy GB1 of the SAD.

9. The development hereby permitted shall not be open otherwise than between the hours of 08.00am to 18.00pm Monday to Saturday, Sundays, Bank and Public

Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

Notes for Applicant

Police

The below links to information may be of assistance to the applicant.

<https://west-midlands.police.uk/crime-prevention>

<https://west-midlands.police.uk/flysystem/public-sync/inline-files/West%20Midlands%20Police%20Crime%20Prevention%20Handbook.pdf>

I would recommend security using the principles of Secured By Design.

<https://www.securedbydesign.com/guidance/interactive-design-guide>

<https://www.securedbydesign.com/guidance/security-advice-for-businesses>

<https://www.securedbydesign.com/guidance/design-guides>

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information and application forms please visit the Council's webpage under **Transport and Streets - Parking Roads and Vehicles**.
3. The Highway Authority's permission is required under the Highways Act 1980 and New Roads and Street Works Act 1991 for all works on or in the highway.

END OF OFFICERS REPORT