

North Yorkshire Council
Community Development Services
Scarborough and Whitby Area Constituency
Planning Committee

11 JULY 2024

**ZF24/00326/FL - FORMATION OF SECURE DOG WALKING FACILITY WITH
ASSOCIATED PARKING AND ACCESS AT LAND SOUTH-EAST OF MAIN
STREET, IRTON, SCARBOROUGH, NORTH YORKSHIRE, ON BEHALF OF
DAVID BARKER LIVESTOCK (MR DAVID BARKER)**

Report of the Assistant Director/Planning – Community Development Services

1.0 Purpose of the report

1.1 To determine a planning application for full planning permission for the formation of a secure dog walking facility with associated parking and access on land southeast of Main Street, Irton.

1.2 The proposal is being considered by Members of the Scarborough and Whitby Planning Committee at the request of the Division Councillor.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That permission be REFUSED for the reasons set out at the end of the report.

2.1 This application seeks planning permission for a change of use from 1ha of agricultural land to a dog walking field. The site will be accessed from Main Street using the existing field entrance. The proposal includes parking/turning space for 3 cars and a mobile field shelter.

2.2 The site lies outside the Development Limits of Irton. The site is remote from Irton village itself which is a small village without facilities and limited public transport services. It is a significant distance from the urban area of Scarborough or any service villages. Given the location, many users are likely to drive to the site. Therefore, it is considered that the proposal will encourage unnecessary car journeys to and from the site and represents an unsustainable form of development. As such the proposed development fails to comply with the National Planning Policy Framework (NPPF), which requires developments to 'create places that are safe, inclusive and accessible' and to promote walking, cycling and use public transport, and also fails to comply with Policy SD1 (Presumption in Favour of Sustainable Development) of the Scarborough Borough Local Plan (2017).



N

Reproduced by permission of Ordnance Survey on behalf of Her Majesty's Stationery Office. © Crown copyright and database right 2023 Ordnance Survey License number 100017946



3.0 Preliminary Matters

3.1 To access and view the case file on Public Access, please use the link below.

<https://planning.scarborough.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S9ITRANSIWR00>

3.2 There are no records of any planning history for the application site.

4.0 Site and Surroundings

4.1 The application site comprises a 1.0ha (2.48 acres) parcel of land within a 5.13ha grass field. The site is flat with agricultural land to the south and west, an equine facility and caravan site to the east and Main Street to the north. There is a hedgerow along the roadside boundary. There are two public rights of way that border the field: a footpath located on the southeast boundary; and, a bridleway running parallel to the west. Currently, the site and surrounding fields are used for grazing cattle and sheep throughout the year, along with the preparation of winter feed.

4.2 The site is located approximately 300m away from the western edge of the village of Irton, reached by a single track road along Main Street.

4.3 The site is located in the open countryside, outside of the Development Limits of any settlement defined in the adopted Local Plan. It is within Flood Zones 2 and 3, and within Groundwater Source Protection Zone 1 (SPZ1). The agricultural land is classified as Grade 2 (Very Good quality agricultural land).

5.0 Description of Proposal

5.1 The proposed development is for the change of use from agricultural land to a secure dog walking field for private hire.

5.2 The application comprises the following elements:

- The dog exercise/walking area;
- Secure boundary fencing (1.8m high post and wire mesh);
- On site parking area;
- Mobile field shelter.

5.3 The main gate to the site would be secured by a code access in order to control access to the site. The car park would be located in the north-eastern corner of the site, in close proximity to the site access, and constructed out of crushed stone over a permeable membrane. The hardstanding area would be approximately 160sqm (approximately 9m x 17m), providing parking space for up to three vehicles. Beyond the car parking area, there would be an area of 'Mudcontrol' matting laid on the grass, approximately 50sqm (5m x 10m), with the new mobile field shelter located to the south of this.

5.4 Aside from the parking area, the field will remain as a grass field and security will be provided through a gate and boundary fence around the perimeter of the field, including an internal fence and gate around the proposed dog exercise facility. The dog walking facility

will be fenced with 1.8m high security fencing and gate supported by wooden posts. The perimeter fencing will be stock proof wire netting supported by timber posts.

5.5 The new field shelter would be a mono-pitch timber construction, measuring 3.8 metres in width, 3.6 metres in depth and a maximum height of 2.47 metres. This would provide shelter for visitors using the dog facility. No lighting is proposed for the field shelter.

5.6 The proposed dog exercise field would be hired out in 30 or 60 minutes blocks, with only one booking per time slot allowed. Bookings will be made in advance via a website. Each user will be restricted to a maximum of between five and seven dogs on site per time slot.

5.7 The site will operate 7-days a week (incl. Bank Holiday), from 7am to 9pm, with no bookings to be made outside of these hours, i.e. daylight hours only. In reality, hours of operation may be shorter in the winter due to restricted daylight hours (with time slots amended online to enforce this), as the field will not be served by artificial lighting.

5.8 Customers will be responsible for removing their own dog waste, using a dog waste bin provided. Waste disposal will be done weekly, using an external waste disposal contractor.

5.9 In addition to the plans, the application is accompanied by some supporting documents (available to view on the Council's website) including:

- Planning, Design and Access Statement
- Flood Risk Assessment

6.0 Planning Policy and Guidance

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise.

Adopted Development Plan

6.2 The Adopted Plan for this site is:

- Scarborough Borough Local Plan 2011 to 2032, adopted 2017. The relevant policies are:

Policy SD 1 - Presumption in Favour of Sustainable Development

Policy DEC 1 - Principles of Good Design

Policy DEC 4 - Protection of Amenity

Policy ENV 3 - Environmental Risk

Policy ENV 4 - Groundwater Protection

Policy ENV 5 - The Natural Environment

Policy ENV 6 - Development Affecting the Countryside

Policy ENV 7 - Landscape Protection and Sensitivity

Emerging Development Plan - Material Consideration

6.3 There is no emerging development plan which covers the application site.

Guidance - Material Considerations

- National Planning Policy Framework

7.0 Consultation Responses

7.1 The following consultation responses have been received and have been summarised below. The full consultation comments can be viewed on the Council's website.

7.2 Irton Parish Council: No comments received.

7.3 Local Highway Authority: The applicant proposes to form a new secure dog walking facility with the construction of a new access and parking area. The current grass field access in the corner of the field does not provide sufficient visibility, however if relocated and the hedge was re-aligned the required visibility splay of 33 metres by 2.4 metres could be achieved. Any access which meets the required visibility would have to be constructed to the required LHA specification.

7.4 Environmental Health (Regulatory Services): Recommend condition in relation to operating hours, to protect the amenity for the nearby residents.

7.5 Environmental Health (Residential Regulations): No comments received.

7.6 Drainage Engineers: No objections.

Local Representations

7.7 Consultation period expired on 10 June 2024. 103 public comments have been received, 74 in objection, and 29 in support. A summary of comments made is provided below. The full comments can be viewed on the Council's website.

Objections:

- increased traffic
- disorganised parking
- no footpaths / road safety
- noise
- reduced privacy
- detrimental environmental impacts (flooding, pollution, waste disposal, wildlife)
- eye sore in rural landscape
- danger to horse riders due to barking dogs
- facility not needed as one available only 1.7 miles away
- already many walking paths in locality
- loss of prime agricultural land
- detrimental impact on adjacent Equestrian site / Caravan Park
- the business will negatively impact on the quiet village

Support:

- secure place to let dogs off lead
- business positive for village and local businesses
- reduction in number of people trespassing
- improved safety for livestock and wildlife
- not noisy, just safe for dogs

8.0 Environmental Impact Assessment

8.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environmental Statement is therefore required.

9.0 Main Issues

9.1 The main issues are:

- The Principle of Development
- Visual impact
- Residential Amenity
- Loss of agricultural land
- Highway considerations
- Biodiversity
- Flood risk, drainage and groundwater

10.0 Assessment

The Principle of Development

10.1 The application site lies within the open countryside outside of the Development Limits of any settlement as defined in the Local Plan. Local Plan Policy ENV6 (Development Affecting the Countryside) places strict controls over development outside Development Limits, and states the character of the open countryside will be protected, maintained and where possible enhanced. Outside the defined Development Limits, new developments will be limited to those for which a countryside location is essential. This includes appropriate recreational related activity. The scale of the proposal should be compatible with its surroundings and not have an unacceptable impact on the character and appearance of the open countryside or the wider landscape.

10.2 It is considered that dog walking can be described as a recreational activity, and it is accepted that the proposed use would require a degree of open land. As such, it is considered an appropriate and acceptable land use within a countryside location. As such, the proposal is considered to fall within criteria f of Policy ENV6. The impact on the countryside is considered in the following section (Visual impact).

10.3 Promotion of sustainable development forms the cornerstone of Planning Policy. Policy SD1 (Presumption in Favour of Sustainable Development) of the Scarborough Borough Local Plan advocates a presumption in favour of sustainable development. The NPPF also seeks to advocate sustainable development and states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable

development, seeking to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

10.4 The site is remote from Irton village itself which is a small village without facilities and limited public transport services. It is a significant distance from the urban area of Scarborough or any service villages. Given the location, some users will inevitably drive to the site to walk their dogs in a secure field, therefore it is considered that this proposal will result in a significant increase in car usage. The effect of allowing this development in this remote location would result in unsustainable journeys contrary to the objectives of the NPPF. To this extent, the proposal would result in vehicle movements with limited potential for more sustainable modes of transport being utilised. As such, the proposed development fails to comply with the NPPF and Local Plan Policy SD1.

10.5 The NPPF sets out that decisions should enable development and diversification of agricultural business. Paragraph 89 sets out that it will be important to ensure that development is sensitive to its surroundings and develops opportunities to make a location more sustainable. No information has been submitted to demonstrate that this is a diversification of an agricultural business. However, it is not considered that farm diversification outweighs the concerns regarding the unsustainable location.

Visual impact

10.6 Both policies ENV6 (Development Affecting the Countryside) and ENV7 (Landscape Protection and Sensitivity) expect that development should be of a scale which is compatible with its surroundings and not have an unacceptable impact on the character and appearance of the surrounding landscape.

10.7 Chapter 12 (Achieving well-designed and beautiful places) of the NPPF gives advice on design; the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

10.8 The proposal falls within Character Area K1 of the Landscape Character Assessment (2013). The assessment characterises Area K1 as a landscape that has an intimate character, which results from the well-established trees and vegetation which bound fields, settlement and roads, interspersed small scale features such as streams, ponds, and small scale fields, and lack of overt human influences. Despite the close proximity to settlement and settlement edge, the landscape retains a deeply rural and tranquil character. Essentially this is a quiet rural landscape with only localised variation introduced by small scale vernacular villages and settlement edge.

10.9 A new hardstanding access would be created where there is currently a non-gated grassed field access. The proposed parking area together with the mud control matting is relatively extensive. Three vehicle parking spaces are detailed, however, the area could accommodate many more vehicles in practice. The extent of the hardstanding area has not been adequately justified and is considered to result in a visually intrusive feature within this open landscape. Whilst it is acknowledged that some off-site parking would be necessary for operational reasons and highway safety, the extent of works proposed would significantly adversely affect the rural character of the existing narrow single track lane, which would be unacceptable at this countryside location. The impact on the rural

setting and character of the lane and surrounding area would be severe, and would therefore not be acceptable in planning terms.

10.10 There is a deciduous hedge to the northern (roadside) boundary of the site; this would result in screening during the summer months only. The new fencing (perimeter and dog walking field fencing) would be visible during the winter months, being taller than traditional agricultural fencing. Although fencing up to 2m could be carried out without permission if it were to comply with Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015, in this case such a fence is only required in the context of this proposal for the change of use of land. It is considered that the fencing would be out of keeping and results in the site being immediately obvious from the public realm.

10.11 Whilst the new field shelter is modest and reflects somewhat the character of the context, the development is not in association with an existing farmstead or dwelling and would result in an unnecessary building within the open landscape.

10.12 The development would be highly visible from the main road to the north and from the public right of way to the west of the site, and the development would not retain the existing rural character perceived from the road. By the introduction of high fencing with gates, hardstandings and a field shelter, it will detract from the appearance of the surrounding landscape and make the site more prominent within it. In the context of the wider landscape and its enjoyment by the wider public, it is considered that this proposal would have a serious adverse impact. Overall, it is considered that the site cannot accommodate the proposed development without significant effects to the landscape character or visual amenity of the area. The proposed fencing would be clearly apparent at the site entrance and at odds with the existing characteristic rural boundary treatments. The car parking areas would detract from the appearance of the landscape, and human activity would erode the tranquillity of the site. The proposal would therefore result in significant harm to the character and appearance of the area. As such, the proposal does conflict with the intentions set out in national and local landscape policies. With this in mind, Officers consider the scheme to be contrary to policies ENV6 and ENV7 of the Scarborough Borough Local Plan 2017.

Residential amenity

10.13 Policy DEC4 (Protection of Amenity) of the Local Plan concerns the protection of amenity. In this instance, the key consideration would be on neighbouring residential properties in close proximity. The policy states proposals should not give rise to unacceptable impacts by means of [amongst other things] disturbance arising from such things as noise, light pollution and other activities.

10.14 The main issue in this case is the effect of noise, principally from dogs barking, on the living conditions of nearby residents. Residential properties are situated a limited distance from the site. The closest relationship between the proposed dog exercise field and existing third party property (the neighbouring dwellings to the northeast of the application site) will be approximately 15 metres. Members will note that a number of the public representations raise noise concerns.

10.15 Comments received by the Council's Environmental Health Officer have been noted, and have been taken into consideration in determining of this application. The

Environmental Health Officer raises no objections in principle, only requesting a condition relating to operating hours, acknowledging that the site is in close vicinity to sensitive receptors. The suggested condition would see the operating hours significantly reduced (8am to 6pm Mondays to Friday and 10am to 6pm on Sundays and Bank Holidays) compared to what the applicant did propose, to protect the amenity for the nearby residents. Your Officers consider these times to be acceptable and providing these are not exceeded, consider that noise impact on residents are potentially low as the dogs are being walked within a reasonable time frame, and are not likely to disrupt people due to the time of day.

10.16 With the benefit of this restriction, it is considered that the proposal would not have an unacceptable impact on the amenity of the surrounding occupiers in accordance with Local Plan Policy DEC4.

Loss of agricultural land

10.17 The development would result in the loss of Grade 2 agricultural land (Very Good Quality Agricultural Land). Para 180 of the NPPF sets out that decisions should contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and advises that the availability of agricultural land used for food production should be considered, alongside the other policies in the NPPF, when deciding what sites are most appropriate for development.

10.18 With the exception of the car park area, most of the application site land could easily be returned to agricultural use if required. The land-take of the application is considered to be relatively modest and whilst it would result in a loss of very good agricultural land, it is not considered to result in sufficient harm as to warrant refusal on this basis.

Highway considerations

10.19 NPPF Paragraph 114 requires that all development achieves safe and suitable access for all users. It advises at paragraph 115 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 116 requires development to, inter alia, give priority first to pedestrians and cycle movements and create places that are safe, secure and attractive thereby minimising the scope for conflicts between pedestrians, cyclists and vehicles. Local Plan Policy DEC1 (Principles of Good Design) states that proposals need to provide suitable and safe vehicular access and suitable servicing and parking arrangements.

10.20 Members will note that a number of the public representations raise highway safety concerns. The Local Highway Authority (LHA) is the statutory consultee on matters relating to highway safety and parking and whilst there were no objections in principle, highway improvements have been recommended to address the issues of highway safety and access to the site. The Highway Authority have noted the deficiencies in respect of the local road leading to the site and recommend that highway improvements should be provided by the applicant to improve the available visibility to access the site. This would include moving the access about 30m further away (to the southwest) from the current

access, and hedging would need to be removed and replanted a little further back into the field. Any access which meets the required visibility would have to be constructed to the required LHA specification, which would be a tarmac crossing/access. It would also mean that the existing roadside hedging has to be kept low at all times to retain the visibility splays.

10.21 Whilst it is acknowledged that the improvements to the site access are necessary for highway safety, these works would significantly adversely affect the rural character of the existing narrow single track lane, further eroding the rural character of the area. The new access, if allowed, would be clearly apparent in the landscape and at odds with the existing characteristic rural boundary treatments. It would detract from the appearance of the rural landscape. Ultimately, it is a matter of judgement for the Committee, but your Officers consider that the recommended highway improvements cannot be achieved without an adverse impact on the setting and character of the area, contrary to Local Plan Policy DEC1.

Biodiversity

10.22 Local Plan policy ENV5 (The Natural Environment) requires that proposals should respond positively and seek opportunities for the enhancement of species and habitats. Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of the functions, to the purpose of conserving biodiversity. Paragraph 180 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity.

10.23 The application site is currently used as an arable/grazing field which would have an element of regular disturbance, it is considered that the proposal would not result in a loss of biodiversity. If the development was considered acceptable, biodiversity net gain (as required by local and national policies) could be sought via condition.

Flood risk, drainage and groundwater

10.24 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan Policy ENV3 (Environmental Risk) sets out that Proposals will be expected to mitigate against the implications of environmental risk and the effects of climate change. This can be achieved by using mitigation measures such as Sustainable Drainage Systems where possible in order to facilitate development in areas of sensitive drainage and to meet the requirements of the Water Framework Directive; and ensuring development has adequate provision for surface water disposal in advance of occupation. The supporting text to the policy sets out that adequate provision for surface water disposal and treatment must already exist or be provided ahead of occupation of any development.

10.25 The site predominantly lies within land defined by the Environment Agency as Flood Zone 2 (land with medium probability of flooding), with a proportion within Flood Zone 3 (land with high probability of flooding). In their submitted Flood Risk Assessment (FRA), the applicants have explained that the site is located in an area that is not at risk of Surface Water flooding, and it is deemed unlikely to flood in this area for both groundwater and reservoirs. The drains (ditches) running alongside the site are maintained annually. The site is located on land higher than the drains and therefore offer an effective natural

drainage system for the site. There is no requirement for any further drainage, with the land cover remaining as permanent grassland and the hardstanding area being permeable. The permeable hardstanding area, matted area and mobile field shelter will all be located within flood zone 2, ensuring all visitors, including vulnerable visitors, are at a lower risk from any potential flooding.

10.26 The Council's Engineers have been consulted and no objections were raised.

10.27 The whole of the site is located within Groundwater Source Protection Zone 1 (SPZ1). In brief terms, within SPZ1 there is a requirement to ensure development does not harm groundwater, which may be at risk. Local Plan policy ENV4 (Groundwater Protection) states that proposals will have to demonstrate that they do not compromise groundwater and its abstraction. In this case, the proposal does not fall in the types of use restricted by Local Plan Policy ENV4, unless surface water is subject to contamination. With this in mind, in accordance with their consultation matrix, as the development is unlikely to be 'potentially contaminating' the Environment Agency are not a statutory consultee in this case. As such, it is considered that the development will not compromise groundwater and its abstraction.

PRE-COMMENCEMENT CONDITIONS

Not relevant.

11.0 Planning Balance and Conclusion

11.1 The proposed development is in a remote and unsustainable location. The proposal would result in vehicle movements with limited potential for more sustainable modes of transport being utilised. As such, the proposed development fails to comply with the NPPF and Local Plan Policy SD1.

11.2 The proposal would result in significant harm to the character and appearance of the area. As such, the proposals do conflict with the intentions set out in national and local landscape policies. As such, the scheme is contrary to Local Plan Policies ENV6 and ENV7.

11.3 Fundamental improvements to the site entrance are considered necessary to provide a safe and suitable access to the development to improve the available visibility to access the site. Fundamentally, the proposed access is technically unacceptable from a highway safety perspective. The required changes would significantly adversely affect the rural character of the existing narrow single track lane, further eroding the rural character of the area. The new access, if allowed, would be clearly apparent in the landscape and at odds with the existing characteristic rural boundary treatments. As such, the scheme is considered contrary to Local Plan Policies DEC1, ENV6 and ENV7.

11.4 Consequently, the development is not considered to comply with the relevant policies of the Scarborough Borough Local Plan 2011 to 2032. Refusal is therefore recommended.

12.0 RECOMMENDATION

12.1 PERMISSION BE REFUSED, for the following reason(s)

1 The proposed development is in a remote and unsustainable location, therefore some users will inevitably drive to the site to walk their dogs in a secure field, therefore it is considered that this proposal will result in a significant increase in car usage. Irton village itself is a small village without facilities and limited public transport services. It is a significant distance from the urban area of Scarborough or any service villages. The proposal would result in vehicle movements with limited potential for more sustainable modes of transport being utilised. As such the proposed development fails to comply with the National Planning Policy Framework, which requires developments to 'create places that are safe, inclusive and accessible' and to promote walking, cycling and public transport, and also fails to comply with Policy SD1 (Presumption in Favour of Sustainable Development) of the Scarborough Borough Local Plan (2017).

2 It is considered that the site cannot accommodate the proposed development without significant effects to the landscape character or visual amenity of the area. By the introduction of high fencing with gates, hardstandings and a field shelter, it will detract from the appearance of the surrounding landscape and make the site more prominent within it. In the context of the wider landscape and its enjoyment by the wider public, it is considered that this proposal would have a serious adverse impact. Overall, it is considered that the site cannot accommodate the proposed development without significant effects to the landscape character or visual amenity of the area. The proposed fencing would be clearly apparent at the site entrance and at odds with the existing characteristic rural boundary treatments. The car parking areas would detract from the appearance of the landscape, and human activity would erode the tranquillity of the site. The proposal would therefore result in significant harm to the character and appearance of the area.

As such, the scheme is considered contrary to Policies ENV6 (Development Affecting the Countryside) and ENV7 (Landscape Protection and Sensitivity) of the Scarborough Borough Local Plan (2017), and section 12 (Achieving well-designed and beautiful places) of the NPPF.

3 Fundamental improvements to the site entrance are considered necessary to provide a safe and suitable access to the development. To improve the available visibility to access the site, it is required to move the access about 30m further away (to the southwest) from the current access, and hedging would need to be removed and replanted further back into the field. Any access which meets the required visibility would have to be constructed to the required Local Highway Authority specification, which would be a tarmac crossing/access. Roadside hedging would have to be kept low at all times to retain the visibility splays.

Fundamentally, the proposed access is technically unacceptable from a highway safety perspective. The required changes would significantly adversely affect the rural character of the existing narrow single track lane, further eroding the rural character of the area. The new access, if allowed, would be clearly apparent in the landscape and at odds with the existing characteristic rural boundary treatments.

This would be unacceptable at this countryside location, and would therefore not be acceptable in planning terms.

As such, the scheme is considered contrary to policies DEC1 (Principles of Good Design), ENV6 (Development Affecting the Countryside) and ENV7 (Landscape Protection and Sensitivity) of the Scarborough Borough Local Plan (2017).

Target Determination Date: 20 June 2024

Case Officer: Mrs Katja Harper
katja.harper@northyorks.gov.uk