



REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER

TO: POLICY AND RESOURCES COMMITTEE

DATE: 26th MAY, 2022

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO POLICY & RESOURCES COMMITTEE 26TH MAY 2022

Application Ref: 21/0978/FUL

Proposal: Full: Retention of use of land for private equine use, dog rehabilitation use and associated rural workers dwelling.

At: Pendle Bridge Lodge, Woodend Road, Brierfield

On behalf of: K9 Rehab

Date Registered: 06/04/2022

Expiry Date: 01/06/2022

Case Officer: Laura Barnes

This application has been referred from Nelson, Brierfield & Reedley Committee as members were minded to approve the application, contrary to officer recommendation. This application represents a significant departure from policy without justification as to the necessity of a dwelling in the Green Belt. Approval will set a precedent for unjustified housing development in open countryside and green belt to come forward in future.

Site Description and Proposal

The application site relates to a site in Green Belt. The application is in part retrospective with the canine use and horses being unlawfully carried out at the site.

The applicants are in occupation of the site in a caravan. This has been the subject of separate enforcement action. The application also seeks permission for a rural workers dwelling.

Relevant Planning History

The building on site was granted planning permission for an equine use under 18/0098/FUL.

Consultee Response

LCC Highways

Having considered the information submitted, the Highway Development Control Section does not have any objections regarding the proposed development at the above location and are of the opinion that the proposed development will not have a significant impact on highway safety or capacity in the immediate vicinity of the site, subject to the following comments being noted and conditions being applied to any formal planning approval granted. As the proposed dog rehabilitation use is by appointment only, and the site is not open to the general public, traffic levels generated would be limited and at an acceptable level. No Public Rights of Way pass through the development site. Four parking spaces are provided, which is considered an appropriate number for the two bedroom house proposed, together with the dog rehabilitation business. The parking and manoeuvring areas should be kept free from obstructions at all times to ensure that vehicles can enter and leave the site in forward gear. As access to the site is via a single vehicle width track leading from Woodend Road, and which also serves

another business at The Orchard, the use of land for private equine purposes should be controlled by condition. This is to ensure that activities at the development site do not generate additional traffic, which may be detrimental to highway safety and capacity on the surrounding highway network. The following conditions should be applied to any formal planning approval granted.

Conditions

1. The car parking and manoeuvring areas shown on the approved plan shall be maintained free from obstruction and kept available for car parking and manoeuvring purposes at all times. Reason: To ensure adequate car parking provision in the interest of highway safety.
2. The retention of the use of the land hereby permitted shall be for, or ancillary to, the keeping of horses owned or leased by the occupier of Pendle Bridge Lodge only, and shall not be used for livery, equestrian events or any commercial purpose whatsoever at any time other than shown on the approved plans. Reason: In the interest of highway safety.

Cadent Gas

Holding objection

United Utilities

Awaiting response

Reedley Hallows Parish Council

Objection to the scheme based upon the following grounds:

- The application is for a two bedroomed property on a greenfield site. The Parish Council are given to understand that this type of development is excluded on such land.
- There is potential for noise nuisance to neighbours from the dog rehabilitation aspects of the application along with security issues should the dogs escape
- The application relates to a continued operation of a business for which no planning consent has ever been granted.

Public Response

The nearest neighbours were notified by letter. Multiple responses have been received in support of the application, raising the point that the business which is operating from this location is providing a valuable public service.

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy (LPP1)

ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving our heritage assets.

Policy ENV4 (Promoting Sustainable Travel) states that proposals should follow the settlement hierarchy approach in Policy SDP2 and minimise the need to travel by ensuring they are developed in appropriate locations close to existing or proposed services. Consideration should be given to locating new housing, employment and service developments near to each other to give people the opportunity to live and work within a sustainable distance.

Policy LIV1 (Housing Provision and Delivery) states that until such time that the Council adopts the Pendle Local Plan Part 2: Site Allocations and Development Policies sustainable sites outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, including those identified in the Strategic Housing Land Availability Assessment (SHLAA) will be supported.

Policy SDP2 (Spatial Development Principles) states that new development should be within settlement boundaries unless it is an exception outlined in the Framework or elsewhere in the LPP1.

Replacement Pendle Local Plan

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP. This is addressed in the Highways Issues/Parking section.

National Planning Policy Framework 2018 (The Framework)

Paragraph 80 states:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

Paragraph 148 states:

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 149 of the Framework is set out below:

"A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

(a) buildings for agriculture and forestry;

(b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long

as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

(c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

(d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

(e) limited infilling in villages;

(f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

(g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

not have a greater impact on the openness of the Green Belt than the existing development; or

not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

The Town & Country Planning Act 1990, section 336 sets out a definition for agriculture as follows: *“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;”*

Officer Comments

The use which has been applied for here is a mixed one, of equine and a dog rehabilitation facility. The application has with it a supporting statement which makes the following points:

- The building would be used for the stabling of the applicant’s horses in winter months and partly for dog rehabilitation use.
- The rehabilitation is not physical rehabilitation but rather wellbeing and training which consists of standard obedience and agility training.
- The training takes place 7 days a week and in 40 minute to hour sessions. The facility gives residential training.
- About 40 dogs per week are trained.
- Residential training will take up to 4 dogs at once.

The applicant accepts that the development does not fall in line with any of the exceptions that would indicate this development is not inappropriate development. The statement indicates that development that is inappropriate can only be allowed where there are very special planning circumstances shown. As the development is inappropriate development it should only be approved if there are very special planning circumstances.

The applicant has applied for a dwelling on the land which does not accord with the Framework in this regard. Paragraph 138 describes the purposes of the Green Belt, building a house would not preserve any of these five purposes:

Paragraph 138, Framework

Green Belt serves 5 purposes:

(a) to check the unrestricted sprawl of large built-up areas;

(b) to prevent neighbouring towns merging into one another;

(c) to assist in safeguarding the countryside from encroachment;

(d) to preserve the setting and special character of historic towns; and

(e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

As such, the principle of development in this case is unacceptable within the Green Belt.

The proposed development is within the Open Countryside, Policy SDP2 of the Local Plan Part 1 Core Strategy sets out that development should be located within Town Centre boundaries, although Policy LIV1 makes provision for some residential development to come forward prior to the Part 2 Local Plan being adopted, this requires sites to be located close to the settlement boundary. The proposed dwelling is 800m from the settlement boundary on Greenhead Lane. The occupants would be required to walk down an unlit route to access any form of public transport. Whilst there are other dwellings in terms of a cluster of cottages to the north of the application site, this does not make the proposed dwelling a sustainable one, in terms of paragraph 79 of the Framework with an isolated dwelling.

The application is based on the stabling of horses as well as canine activities. The equine use of the building, as with most other stables, does not require a 24 hour a day presence on site. The scale of the equine/canine building is modest. There would be no requirement to be on site to tend to the horses and the use proposed is for the horses to be on site for parts of the year and then up to 4 dogs in the building for other parts of the year.

The requirement is that it must be essential for a rural worker to be on site in order to justify a dwelling. The majority of the dog training takes place with day visits with dogs and their owners. The majority of the canine use therefore does not require a presence overnight. Taking care of 4 dogs overnight is not adequate justification to justify erecting a permanent dwelling on the land.

In addition there needs to be very special circumstances shown for allowing a dwelling in green belt. Effectively with there being no justification for being on site to look after horses overnight the very special circumstances to allow the dwelling comes down to housing up to 4 dogs for part of the year. This falls substantially short of being very special circumstances and the development of the dwelling would thus result in inappropriate development harmful to the greenbelt.

Design

Stables

The stables measure 3.3m to ridge with a pitched roof. They are to be constructed of timber with a composite sheet roof. The footprint is 7.3m x 21.9m. The building is to comprise 5 no. stable / kennels, one dog kennel and a tack room. The roof plan indicates 10no. roof lights.

Dwelling

The proposed building is to be positioned in line with the stables, as opposed to the existing arrangement of the static caravan, which is positioned perpendicular to the stables. The proposed dwelling is modest in size, being a two bedroom bungalow. It is to be timber clad with a composite sheet roof and aluminium powder coated windows.

The materials of the proposed building could be subject to a condition in future, should planning permission be approved in this location. As such, the proposed development accords with Policy ENV2 of the Local Plan Part 1 Core Strategy in this regard.

Residential Amenity

The proposed dwelling is positioned so that habitable room windows are in excess of 21m from the nearest neighbouring properties. There would be no unacceptable impact upon the neighbours in this regard. In terms of the stable, whilst this is 26m from the rear elevation of the cottages, with a south west prevailing wind, this close proximity would not give rise to an unacceptable impact in terms of the proximity of the stables and livestock to the neighbouring residents. Further, a manure store could be the subject of a condition should this be necessary. The proposed site is set at a greater height than the cottages with a slope down, where the dog training ground area is, as such when viewed from the rear gardens at the cottages, the stables would take an elevated position. However, this would not lead to an unacceptable overbearing effect.

The proposed dwelling would raise no unacceptable residential amenity issues in relation to Policy ENV2 of the Local Plan Part 1 Core Strategy.

Highways

Although the proposed development is accessed up a private track, given the nature of the business by appointment only, there would be no highway safety danger with an intensification of the route. Conditions are put forward, should the application be approved.

Ecology

The application is accompanied by an ecological assessment which details the potential for the site to support habitats for bats and birds amongst other things. The report recommends that bat boxes are erected, if this was necessary it could be secured by planning condition. The report also sets out the type of land which the application site contains, including modified grassland.

Overall, there is no necessary further surveying required for ecological purposes. The proposed development accords with policy in this regard.

Trees

The application is accompanied by an arboriculture impact assessment. There are four individual groups of trees within the site boundary. No trees are required to be removed as a result of the proposed development.

The site plan indicates a proposed landscaping scheme including around the side and rear of the stables closest to the neighbouring cottages. Should a landscaping scheme be necessary, this could be the subject of a condition. In this case it is the principle of development which is unacceptable.

Other Matters

The Council have received concerns that if this business were to close there is nothing in the surrounding area which would assist potentially dangerous dogs, from harm to the public. This does not form part of the planning case as the business could be set up elsewhere in a field, not within the Green Belt which would provide a suitable alternative to this particular location. As such, the principle is not with the operation of a dog rehabilitation facility, but rather the need for a dwelling here, which the report has set out is not necessary.

RECOMMENDATION: Refuse

For the following reasons:

1. The proposed building in an isolated position, away from a settlement and would result in an isolated dwelling in an unsustainable location with insufficient justification to warrant approving such a development in the open countryside. In addition the development is inappropriate development in the green belt. There are no very special circumstances that would justify allowing such inappropriate development which would be harmful to the openness of the green belt. The proposal is contrary to paragraphs 80 and 147 of the Framework, Policies ENV2, ENV4, LIV 1 and SUP2 of the Local Plan: Part 1 Core Strategy.