

Development Control Committee **7 February 2024**

Planning Application DC/23/0133/FUL – Land off Fordham Road, Freckenham

Date Registered: 17 March 2023 **Expiry Date:** EOT 09 February 2024

Case Officer: Amey Yuill **Recommendation:** Refuse Application

Parish: Freckenham **Ward:** Manor

Proposal: Planning application - change of use of agricultural land to enclosed field for dog training and exercising and associated access and parking

Site: Land off Fordham Road, Freckenham

Applicant: Messrs Cannam, Cross and Whitehead

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

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Background

The application was considered at the Development Control Committee meeting on 3 January 2024 and a Committee site visit was undertaken on 2 January 2024.

Officers were recommending that the planning application be REFUSED for the reason outlined in Paragraph 60 of the report. This recommendation was in conflict with the view of Freckenham Parish Council and Councillor Taylor (Manor Ward Member) who supported the proposal.

Members at the meeting resolved that they were 'minded to' approve the planning application, subject to conditions, contrary to the officer recommendation of refusal. At this point, the decision making protocol was invoked, requiring a risk assessment report to be prepared for this matter before any decision is made.

The reason why members resolved that they were minded to approve the application was that they took into account the biodiversity benefits the native hedging and trees would bring about and they considered that the landscape impact of the proposals would not be adverse.

The purpose of this report is to provide a risk assessment for Members in accordance with the Decision-Making Protocol which sets out the potential risks that might arise should planning permission be approved, as well as providing clarity on queries raised during the meeting and to also allow appropriate conditions to be drafted.

The previous Officer report for the 3 January 2024 meeting of the Development Control Committee is included as Working Paper 1 to this report. Members are directed to this paper for details of the site and development, summaries of consultation responses and neighbour representations, and for the officer assessment of the proposal.

Proposal

1. Please refer to Working Paper 1 Paragraph 1 and 2 for a description of the proposal.

Application Supporting Material:

2. Please refer to Working Paper 1 Paragraph 3 for a description of the supporting material.

Site Details:

3. Please refer to Working Paper 1 Paragraph 4 for site details.

Planning History

4. Please refer to Working Paper 1 for planning history.

Consultations:

5. Please refer to Working Paper 1 for a summary of consultation responses.

Representations:

6. Please refer to Working Paper 1 for representations received.

Policy:

7. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single Authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by Regulation. The Development Plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies document (which had been adopted by both Councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved Forest Heath.
8. Please refer to Working Paper 1 for a list of policies and guidance that have been taken into account in the consideration of the application.

Other Planning Policy:

9. National Planning Policy Framework (NPPF)
10. The NPPF was revised in December 2023 and is a material consideration in decision making from the day of its publication. Paragraph 225 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer Comment

11. Please refer to Working Paper 1 from Paragraph 17 onwards for the officer assessment of the proposal.

Update

12. Following the 3 January 2024 meeting of the Development Control Committee, in order to accurately assess the risk of approving the proposal, and in accordance with the Decision-Making Protocol, clarification was sought by Officers with the applicant regards the following points:
- A. The requirement of a native species hedge along the Eastern Boundary of the site.
 - B. Confirmation of the height the hedge would be when planted.
 - C. The colour of the fencing, considering it would be slightly exposed before the hedging has grown to a suitable height.
 - D. Confirmation that there would be no external lighting.
 - E. Hours of use for the site.
 - F. Confirmation what constitutes 'training'.
 - G. Confirmation that there would be no other structures within the field other than 'poo' bins.
13. **A. Native species hedge to eastern boundary** – An amended Proposed Site Layout Plan (drawing no. 22:123 – 2C) has been received which indicates a native species hedge along the eastern boundary, as well as the southern, western and northern boundaries.
14. **B. Hedge height when planted** – The height of the Bare Root plants proposed for the native hedge landscaping on the site boundaries have been increased to between 1200 and 1500mm high, which has been detailed on the Proposed Site Layout Plan (drawing no. 22:123 – 2c). This will leave between 300 and 600mm of the fence exposed at the point when the landscaping is first planted, reducing as it grows. It has been advised that species to comprise of *Carpinus betula* (hornbeam) and *Fagus sylvatica* (beech) hedges are to be planted in two straight rows, set 335mm apart and staggered, at a density of 6 plants per linear metre. The two rows shall be placed in the centre of the bed and shall be offset so that the plants are alternate and not opposite each other. Plants to be open ground stock 1200 - 1500mm high. The *Fagus sylvatica* is detailed as growing between 400 - 600mm a year and the *Carpinus betula* between 200 - 400mm a year.
15. **C. Colour of fencing** – The secure dog proof fencing proposed is manufactured by Clipex, 1.80m high, with standard steel Clipex deer posts with diagonal steel strainer post where required and with rectangular wire netting between the posts. Following the Committee meeting on 3 January 2024, the applicant investigated whether there would be a possibility of purchasing the fencing with a coloured finish, however, it is only available in a galvanised finish. Therefore, the posts, strainer posts and wire netting proposed would all be galvanised and would be in a dull grey / silver colour. Examples of other dog training facilities in West Suffolk have been provided

and find those that were visited by the applicant all have galvanised wire fencing (photographs will be included in the Committee presentation), albeit, the fence posts in these examples are timber and the fence proposed for this development has galvanised posts/poles.

- 16.**D. External lighting** – The applicant has confirmed they are not proposing any external lighting for the scheme, with the use only taking place during daylight hours, with maximum hours of 8.00am to 8.00pm, depending on time of year. The applicants have advised they are fully aware a further Planning Application would be required should external lighting ever be required and have made reference to no external lighting being proposed on the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).
- 17.**E. Hours of use** – Within the application form submitted the applicant has stated that the hours of use being sought would be Monday to Sunday during daylight hours. With the exact hours of use being dependant upon the time of year, the Environmental Health Officer recommended that should permission be granted, the hours of the site’s use should be limited to 8am until 8pm daily, to protect residential amenity. The applicant has confirmed that they are in agreement to the restriction on hours and have detailed this within the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).
- 18.**F. Meaning of the word ‘training’** – The applicant has explained that the reference to the field being used for training refers to obedience training, not the training of dogs over other fixed equipment or obstacles located within the field. This has been clarified within the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).
- 19.**G. Structures within the application site** – It has been advised by the application that the only structures proposed above ground within the application site are the seven poo bins and the perimeter fence. This has been detailed within the amended Proposed Site Layout Plan (drawing no. 22:123 – 2c).

Risk Assessment:

- 20.If the Committee remains of the opinion that this application should be approved then the potential risks of doing so must be considered.
- 21.Attention is drawn specifically to the original Landscape Officer comments summarised in Paragraph 9 of Working Paper 1. Attention is also drawn to the officer’s comments in Paragraphs 26-37 relating to relevant landscape policies and their assessment.
- 22.However, the landscape impacts and the degree to which these are harmful and offend the relevant policies of the development plan are subjective judgements and therefore, the risks of granting planning permission in this case are on the lower end of the scale. It should be noted, however, that applications for dog walking and training fields are becoming more common and that, therefore, careful consideration should be given when determining this application in order to ensure a consistency of approach.

23. Officers remain of the opinion, notwithstanding the clarifications and revisions sought following the January meeting, that the development proposed in this case is contrary to policies DM2, DM5 and DM13 of the Joint Development Management Policies Document, CS2, CS3 and CS5 of the Forest Heath Core Strategy and the provisions of the National Planning Policy Framework. It is not considered that in this case that the material planning considerations, such as the economic, social, and ecological benefits, would outweigh the harm to the landscape character.
24. A further risk to the Authority from an approval is reputational as it may show a lack of regard for the interpretation of landscape protection policies, plus may lead to an inconsistent approach in relation to the assessment of dog exercising proposals elsewhere. Although it should also be noted that each application must be considered on its own merits having regard to the particular circumstances of each proposal. In coming to their decision Members must therefore clearly identify whether they consider the proposal complies with the development plan and their reasons for reaching their decision.

Refusal Reasons

25. The Officer recommendation remains one of **REFUSAL**, as per Paragraph 60 of Working Paper 1, and set out below. It must be noted that since the publication of that report that the NPPF has been updated. While the content of the NPPF relevant to this application has not changed, some of the Paragraph numbering has changed, and this is reflected in the reason for refusal below albeit the substance of the reason remains identical:

Para.135 and 180 (previously para. 130 and 174) of the NPPF state that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, as well as protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

This is endorsed by policy local policies DM2, DM5 and DM13 of the JPDO, as well as policies CS2, CS3 and CS5 of the FHCS, which require developments to recognise and address the key features, characteristics, landscape character, local distinctiveness, and special qualities of the area and for developments to take into account the intrinsic character and beauty of the countryside, the local distinctiveness and sensitivity to change of distinctive landscape character types, protect areas of landscape, and local distinctiveness from harm.

The site is located in the countryside, in a very exposed location, with no hedge boundaries to fields, only the occasional roadside tree, and is open to the surrounding countryside, which is characterised by large arable fields on gently rising ground. This means that the site is highly visible from the surrounding road

networks and public rights of way in both the near and far distance due to the lack of any visual interruptions such as hedgerows or woodland.

The proposed new use for the site, with the associated car parking and vehicular access and metal perimeter fencing, and bins and the mitigating landscaping proposals in themselves, will present as detracting factors in this open landscape setting. The landscape and visual impacts of the proposed dog training operation are not negligible. Therefore, it is considered that the change of use of the site would lead to an adverse impact on landscape character, despite the benefits of mitigation hedge and tree planting to the perimeter and site frontage, and to a level which would be contrary to policies DM2, DM5 and DM13 of the JDMPD, CS2, CS3 and CS5 of the FHCS and the provisions of the NPPF, to a degree which would warrant the refusal of the application, and which is not outweighed by any economic or social benefits arising.

26. Following the submission of amended plans and clarification of points brought up in the Committee meeting by members, the proposal is still considered to be contrary to the provisions of the development plan and is not considered to accord with the provisions of the National Planning Policy Framework (2023), as detailed within Working Paper 1.

27. Accordingly, and if notwithstanding the above advice, the Committee remains of the opinion that this application should be approved, then Officers would recommend the following conditions:

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

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents, unless otherwise stated below:

Reason: To define the scope and extent of this permission.

Reference number	Plan type	Date received
	Application Form	27 January 2023
22:123-1	Location Plan	27 January 2023
22:123-2 C	Proposed Site Layout	17 January 2024
22:123-3	Proposed Elevations	6 March 2023
304/2023/02 P1	Vehicle Tracking Alignments Plan – Forward Bay Parking	17 November 2023

304/2023/03 P1	Vehicle Tracking Alignments Plan – Reverse Bay Parking	17 November 2023
	Fence Specifications	27 January 2023
	Landscape and Visual Impact Assessment	4 September 2023
	SUDs Proforma	17 March 2023
	Statement	27 January 2023
	Parking Details	17 November 2023
	Landscaping Specifications	17 January 2024

- 3 No development above slab level shall take place until details of the fencing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 4 All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 5 The use of the development hereby approved shall only permit a maximum of 6 (six) dogs for exercising on the land at any one time and up to two owners at any one time. There shall not at any time be any professional training, obedience, agility classes or similar taking place on the site.

Use of the site shall be restricted to only between the hours of 8am to 8pm hours on any day.

Reason: To protect the amenity of occupiers of adjacent properties

from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 6 No external lighting shall be installed on the application site without prior written consent from the Local Planning Authority.

Reason: To safeguard the residential amenity of neighbouring properties and to minimise light pollution, in accordance with policy DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, the provisions of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 7 Before the access is first used visibility splays shall be provided as shown on Drawing No. 22:123-2 Rev C with an X dimension of 2.4 metres and a Y dimension of 45 metres [tangential to the nearside edge of the carriageway] and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the C.

Reason: To ensure drivers of vehicles entering the highway have sufficient visibility to manoeuvre safely including giving way to approaching users of the highway without them having to take avoiding action and to ensure drivers of vehicles on the public highway have sufficient warning of a vehicle emerging in order to take avoiding action, if necessary, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 8 No other part of the development hereby permitted shall be commenced until the new access has been laid out and completed in all respects in accordance with drawing no. 22:123-2 Rev C with an entrance width of 6 metres.

Reason: To ensure the access is laid out and completed to an acceptable design in the interests of the safety of persons using the access and users of the highway, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 9 Prior to the development hereby permitted being first occupied, the new access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres measured from the nearside edge of the metalled carriageway, in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure construction of a satisfactory access and to avoid unacceptable safety risks arising from materials deposited on the highway from the development, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 10 The use shall not commence until the area(s) within the site shown on drawing no's. 22:123-2 Rev C, 304/2023/02, and 304/2023/02 for the purposes of manoeuvring, and parking of vehicles has / have been provided and thereafter the area(s) shall be retained, maintained, and used for no other purposes.

Reason: To ensure that sufficient areas for vehicles to be parked are provided in accordance with Suffolk Guidance for Parking 2019 where on-street parking and manoeuvring would be detrimental to the safe use of the highway, in accordance with policy DM2 and DM46 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 11 Prior to first use of the development hereby approved, details of biodiversity enhancement measures to be installed at the site, including details of the timescale for installation, shall be submitted to and approved in writing by the Local Planning Authority. Any such measures as may be agreed shall be installed in accordance with the agreed timescales and thereafter retained as so installed. There shall be no occupation unless and until details of the biodiversity enhancement measures to be installed have been agreed in writing by the Local Planning Authority.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policies DM11 and DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Conclusion

28. For the reasons outlined above and also set out within the original report to Development Control Committee, Officers consider that the development would be harmful to the landscape character of the area, and that there are insufficient benefits to outweigh this harm.
29. In coming to their decision, Members must clearly identify how they consider the proposal complies with the development plan and their reasons for reaching their decision in circumstances such as this.

30. It is **recommended** that planning permission be **REFUSED** for the following reason:

Para. 135 and 180 of the NPPF state that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, as well as protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

This is endorsed by policy local policies DM2, DM5 and DM13 of the JPDO, as well as policies CS2, CS3 and CS5 of the FHCS, which require developments to recognise and address the key features, characteristics, landscape character, local distinctiveness, and special qualities of the area and for developments to take into account the intrinsic character and beauty of the countryside, the local distinctiveness and sensitivity to change of distinctive landscape character types, protect areas of landscape, and local distinctiveness from harm.

The site is located in the countryside, in a very exposed location, with no hedge boundaries to fields, only the occasional roadside tree, and is open to the surrounding countryside, which is characterised by large arable fields on gently rising ground. This means that the site is highly visible from the surrounding road networks and public rights of way in both the near and far distance due to the lack of any visual interruptions such as hedgerows or woodland.

The proposed new use for the site, with the associated car parking and vehicular access and metal perimeter fencing and bins and the mitigating landscaping proposals in themselves, will present as detracting factors in this open landscape setting. The landscape and visual impacts of the proposed dog training operation are not negligible. Therefore, it is considered that the change of use of the site would lead to an adverse impact on landscape character, despite the benefits of mitigation hedge and tree planting to the perimeter and site frontage, and to a level which would be contrary to policies DM2, DM5 and DM13 of the JDMPD, CS2, CS3 and CS5 of the FHCS and the provisions of the NPPF, to a degree which would warrant the refusal of the application, and which is not outweighed by any economic or social benefits arising.

Documents:

- All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online DC/23/0133/FUL
- Working Paper 1 – Committee Report of 3 January 2024