

**Part Of OS Parcel 5720 East Of Kyleburn And
West Of Manor Farm Main Street Wendlebury**

23/02380/F

Case Officer: Gemma Magnuson

Recommendation: Approve

Applicant: Mrs Millicent Lee

Proposal: Change of Use of agricultural paddock to secure dog walking area and associated works (including small area of hardstanding and agricultural fencing).

Expiry Date: 24 October 2023

Extension of Time:

1. APPLICATION SITE AND LOCALITY

1.1. The application relates to a parcel of agricultural land in the open countryside to the south-west of the village of Wendlebury. The A41 runs in close proximity to the site to the north and the M40 motorway to the south-west. There are no listed buildings in close proximity and the site is not in a Conservation Area. A solar farm is positioned to the south of the site. The wider parcel of land, of which the site forms a part, is bounded by mature hedgerow. The site is accessed via an existing vehicular access taken from the adjacent highway to the north. The Wendlebury Meads and Mansmoor Closes SSSI is within 2km of the site. The site is considered to be "possible priority grassland habitat" which is a NERC Act S41 Habitat. Ponds have been identified in the vicinity.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The application seeks planning permission to change the use of the existing agricultural field to sui generis use for dog walking, with associated access, parking areas, field shelter and enclosures. Stock fencing is proposed that would be 2 metres in height and would border the site.

2.2. The field shelter would be constructed from timber, with a footprint of 5.5m x 3.6m, and a ridge height of 2.5m. The roof would be Onduline in anthracite/graphite grey colour. NB. No scaled elevation plans have been submitted with the application, only an image in the Design and Access Statement.

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

Application: 21/04134/F	Permitted	4 February 2022
--------------------------------	-----------	-----------------

i) Relocation of existing field access, and,

ii) Permanent closure of existing gateway.

3.2. Planning permission was granted to relocate the access to the field. The new access appeared to be in place at the time of my site visit, although the surfacing did not include tarmac as approved, only loose stone. The previous access had been removed and replaced with a fence.

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, expiring **13 October 2023** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **13 October 2023**. No comments have been raised by third parties.

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. Wendlebury Parish Council – no objection.

OTHER CONSULTEES

6.3. OCC Highway Authority – no objection subject to a condition regarding the new access.

6.4. CDC Environmental Health – no comments to make.

7. RELEVANT PLANNING POLICY AND GUIDANCE

7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2. The Cherwell Local Plan 2011-2031 - Part 1 (CLP 2015) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- SLE 4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD 6 – Sustainable Flood Risk Management
- ESD 7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- ENV1 – Development likely to cause detrimental levels of pollution

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity and environmental pollution
- Highway safety and right of way
- Ecology

Principle of development

- 8.2. The acceptability of the principle of the development stands to be considered against guidance and Policies relating to employment development in rural areas.
- 8.3. Government guidance contained within the NPPF seeks to support a prosperous rural economy, with planning decisions being required to enable the sustainable growth and expansion of all types of business in rural areas, both through the conversion of existing buildings and well-designed new buildings. The development and diversification of agricultural and other land-based rural businesses should also be enabled. It is recognised that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
- 8.4. With the proposed use being sui generis (i.e. one that falls outside a use class) and not a B class use, Policy SLE1 of the CLP 2015 is not relevant. Other than general policies regarding the sustainability of locations, the Development Plan appears to be silent on such proposals.
- 8.5. Whilst this is not in a sustainable location for employment-generating development, in that staff and customers would all have to drive to the site, the proposed use is unlike most other employment-generating land uses in requiring a site away from built form and residents, and instead is suited to a rural area, with a large open space available for use by dogs and their owners, avoiding nuisance to nearby residents from barking dogs and owners voicing commands as their dogs navigate the obstacles. The NPPF gives some support for small rural businesses.
- 8.6. It is my opinion that the exercising of dogs is a land-based rural business, given that dogs are generally exercised in outdoor areas as opposed to within buildings. The development would also enable the existing agricultural business to diversify, and I therefore consider the principle of the change of use of the land to be acceptable.

Design, and impact on the character of the area

- 8.7. Government guidance contained within the NPPF requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive, sympathetic to local character and history, and establish or maintain a strong sense of place. Permission should be refused for development of poor design that fails to take

opportunities available for improving the character and quality of an area and the way it functions.

- 8.8. Policy ESD13 of the CLP 2015 expects development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Policy ESD 15 of the CLP 2015 requires development to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.
- 8.9. Visually, the parcel of land would alter from an existing open field to a field that is enclosed by stock fencing, which is undesirable; however, this element of the proposal would constitute permitted development provided the fence is below 2 metres in height, and the fencing is not close boarded or similar but would allow light and views through, and on balance is therefore considered acceptable.
- 8.10. No lighting is proposed which is positive, although some hardsurfacing would be required within the site, based on the details of this provided in the Design and Access Statement, I consider that it is sympathetic to its context.
- 8.11. The field shelter, at 2.5 metres in height, would be well screened from the public domain by vegetation marking the boundary of the wider parcel of land, although it is likely to be visible from the access. However, if it is of typical agricultural/equestrian design, I do not consider that it would appear out of place within this rural context. No elevation plans have been supplied of the field shelter, although dimensions and a photograph have been. I have suggested a condition to require full design details to be submitted for consideration to ensure that the building is sympathetic and also to ensure that we have an accurate record of the building to be constructed.
- 8.12. No details have been provided as to how dog waste would be disposed of, including the siting of dog waste bins or bin stores. However, details can be sought via condition, including details of how waste will be dealt with. The waste bins can be easily removed should the use cease in the future.
- 8.13. It is for the above reasons that I consider the proposal to accord with the above Policies in terms of visual impact.

Residential amenity and environmental pollution

- 8.14. Government guidance contained within the NPPF requires development to create places that are safe, inclusive and accessible, promoting health and well-being, and with a high standard of amenity for existing and future users. Policy ESD 15 of the CLP 2015 requires all development to consider the amenity of both existing and future development.
- 8.15. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution, including that caused by traffic generation.
- 8.16. The nearest residential dwelling is over 100 metres from the site. The nearby A41 dual carriageway and M40 motorway result in some existing background noise in the vicinity of the site. The site will only accommodate one customer with no more than six dogs at any one time. I note that the Council's Environmental Health Team has raised no concern with regard to environmental pollution, and given the intended usage and isolated nature of the site, I am in agreement with this

assessment. Detail regarding the intended storage and collection of waste can be sought via condition.

- 8.17. The proposal therefore accords with the above Policies in terms of residential amenity and environmental pollution.

Highway safety

- 8.18. Government guidance contained within the NPPF seeks to achieve safe and suitable access to sites for all users and requires development to be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.19. Policy SLE 4 of the CLP 2015 requires all development, where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement is also given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development, and which have a severe traffic impact will not be supported. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in.*
- 8.20. The site would be booked in 45 minute slots, with off-street parking provided within the site for both people making use of the field and those waiting for their slot. The applicant has indicated on the plans that no change would be made to the existing access but then go on to say in the Design and Access Statement that the existing hardstanding would be extended. However, the existing access does not appear to have been constructed in accordance with the plans approved as part of 21/04134/F as no tarmac surfacing has been laid. I therefore consider the existing access to be unauthorised.
- 8.21. The access at present consists of loose stone that is denser towards the gated entrance and becomes more sparse as it gets closer to the public highway. With more frequent use by customers, particularly during the winter months, I am concerned about this access becoming both unsightly and spreading mud out onto the public highway as vehicles exit causing safety risk.
- 8.22. I note the Local Highway Authority has raised no objection to the proposal but has requested further details of the access. Despite the applicant indicating that no change would be made, I consider that revised details are required in order to both regularise the unauthorised works and improve the existing access. Subject to this condition, I consider that the proposed development would not result in harm to highway safety, in accordance with the above Policies.

Ecology

- 8.23. Government guidance contained within the NPPF requires the protection and enhancement of biodiversity. If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 8.24. Policy ESD10 of the CLP 2015 echoes Government guidance, requiring relevant habitat and species surveys to accompany applications which may affect a site, habitat or species of known or potential ecological value, seeking net gains in biodiversity, the protection of existing trees and the protection, management,

enhancement and extension of existing resources along with the creation of new ones.

- 8.25. The proposed development would take place upon an area of possible priority grassland habitat, which is a NERC Act S41 Habitat. However, I must consider that this is a parcel of agricultural land that can be ploughed or used to graze animals at present. I consider the proposal physical alterations to be minor, with a small field shelter and area of hardstanding, together with enclosures that are likely to constitute permitted development. The majority of the land would be used for the exercising of dogs, which I do not consider would cause harm to this area of grassland. However, given ecological value of the site, I do consider that it would be suitable for biodiversity enhancement, perhaps through the installation of habitat boxes within nearby trees or the field shelter. I have recommended a condition to seek this.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The development is considered to be acceptable in principle, representing the diversification of an existing agricultural business. The development would result in both social and economic benefits through the creation of employment opportunities and the opportunity to participate in outdoor recreation. The development is not expected to result in significant traffic generation, or environmental pollution, or result in harm to residential amenity, highway safety, visual amenity or ecology. The development is therefore considered to constitute sustainable development and is recommended for approval.

10. RECOMMENDATION

That permission is granted, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions 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. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents: Design and Access Statement dated 29 August 2023, Drwg no. 23/201.02

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. Notwithstanding the details hereby approved, and prior to the first use of the site as a secure dog walking area, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed in full accordance with the approved details and shall be retained and maintained as

such thereafter.

Reason - To ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

4. Notwithstanding the details hereby approved, and prior to the erection of the field shelter hereby approved, full design details of the field shelter, to include a scaled elevation plan, colour and finish, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason – In the interests of the visual amenities of the area, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the first use of the site as a secure dog walking area, full design details of any waste bins and bin stores and their positioning, to include details of how waste will be stored and regularly disposed of, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the bins, bin stores and waste generated on site shall be provided, stored, disposed of and maintained in accordance with the approved details.

Reason – In the interests of the visual amenities of the area, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. No development shall commence above slab level unless and until a method statement for enhancing biodiversity within the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out in full accordance with the approved details including timescales set out therein and shall be retained and maintained as such thereafter.

Reason - To conserve and enhance biodiversity in accordance with Policy ESD 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Within six months of the last use of the site for the purposes of dog exercise, all waste bins and bin stores shall be removed from the site.

Reason – In the interests of the visual amenities of the area, to secure the restoration of the site to its former condition, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

8. No lighting shall be installed upon the site.

Reason - To ensure the satisfactory appearance of the completed development, to avoid environmental pollution and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Gemma Magnuson

DATE: 24 October 2023

Checked By: Nathanael Stock

DATE: 24.10.2023
