

Case Officer: Gemma Magnuson

Recommendation: Approve

Applicant: Mr J Shouler

Proposal: Change of Use of part of agricultural field for use as a dog walking area

Expiry Date: 5 December 2023

Extension of Time:

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a parcel of land north-east of the village of Wendlebury, accessed via a recently constructed access road off Wendlebury Road, the main route through the village. The site has been identified as being of archaeological interest. The Wendlebury Meads and Mansmoor Close SSSI is within 2km. A pond has been identified in the vicinity.
- 1.2. The site is currently consists of a grassed paddock bounded by hedgerows on three sides.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks planning permission to change the use of the land from agriculture to a secure dog walking field. A new hedgerow will be planted to enclose the field on all four sides, together with a 1.8 metre tall fence. A gate would be installed to provide vehicular access, with a hardsurfaced parking area within the enclosed field to enable dog owners to release their dogs from the car once inside. A small area of land opposite the access to the field would be hardsurfaced to provide an overflow parking area.

3. RELEVANT PLANNING HISTORY

- 3.1. There is no planning history directly relevant to the proposal.

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 November 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 November 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 Archaeology – no archaeological constraints.

6.4. OCC Highway Authority – no objection.

6.5. 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
- Ecology

Principle of development

- 8.2. The acceptability of the principle of the development stands to be considered against relevant local and national planning policies and guidance.
- 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 customers would likely 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. In my opinion 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 NPPF gives some support for small rural businesses. The development would also enable the existing agricultural business to diversify.
- 8.6. The site is within walking distance of Wendlebury and there is therefore a more sustainable option to travel to the site for the residents of Wendlebury.
- 8.7. 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

- 8.8. 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.
- 8.9. 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.
- 8.10. 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.

- 8.11. No lighting is proposed, which is positive. Some hardsurfacing would be required within the site, consisting of crushed stone hardcore, although I consider the hardstanding proposed to be sympathetic to its rural context.
- 8.12. I understand that dog waste bins would be emptied daily, although no detail as to their location has been supplied with the application. However, these details can be sought/secured via condition, including their removal if the use ceases.
- 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 dwelling is over 150 metres from the site and, given that the field would only be used by one household at a time and booked via booking system, I consider this distance to be sufficient to avoid significant harm in terms of a loss of amenity. I note that the Council's Environmental Health Team has made no comments with regard to the scheme. I must also consider that the field could be used for agricultural purposes, including the grazing of livestock, at present without the need for planning permission.
- 8.17. Further details regarding the storage and disposal of waste can be sought and secured via condition.
- 8.18. It is for the above reasons that I consider the proposed development would avoid harm in terms of residential amenity and environmental pollution, in accordance with the above Policies.

Highway safety

- 8.19. 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.
- 8.20. Policy SLE 4 of the CLP 2015 states that 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.*
- 8.21. The number of customers visiting the site at any one time would be controlled via a booking system and limited to one household. Access to the site would be via a recently constructed access track that is well proportioned and surfaced. Hard surfacing would be installed within the site and overflow area which should avoid

mud being dragged out onto the highway during wet weather. The Local Highway Authority has raised no objection to the scheme, although it has commented that the depth of the parking area should be at least 11 metres deep to allow for manoeuvring behind the parking spaces. However, given the anticipated usage by single households I do not consider that the limited depth would present a problem and manoeuvring can be co-ordinated.

8.22. I therefore consider that the proposal would not cause harm in terms of 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 site can be ploughed or grazed at present, and I do not consider that the exercising of dogs upon the land would be too similar from authorised activities. The site has not been identified as ecologically sensitive and therefore I have not requested the submission of an ecology survey. The planting of a hedgerow along the open side of the field would constitute an enhancement to biodiversity, which is positive. I do not consider that harm would be caused to protected species or their habitat, in accordance with the above Policies.

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 proposed development is considered to be acceptable in principle, and would be an appropriate diversification of an existing agricultural business. 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 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 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: Planning, Design and Access Statement, Location/Site Plan, Location Plan, Block Plan

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. 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.

4. 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.

5. No lighting shall be installed at or upon the site.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the character and appearance of the area, to avoid environmental pollution and to comply with Policies ESD13 and 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: 05 December 2023

Checked By: Nathanael Stock

DATE: 05.12.2023
