

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Office of the Chief Executive in the Civic Centre or via the internet at www.sunderland.gov.uk/online-applications/

Janet Johnson
Deputy Chief Executive

Reference No.: 14/02268/FUL Full Application

Proposal: **Change of use of land to enable dog walking.**

Location: Land To The South Of Bramhall Drive Washington

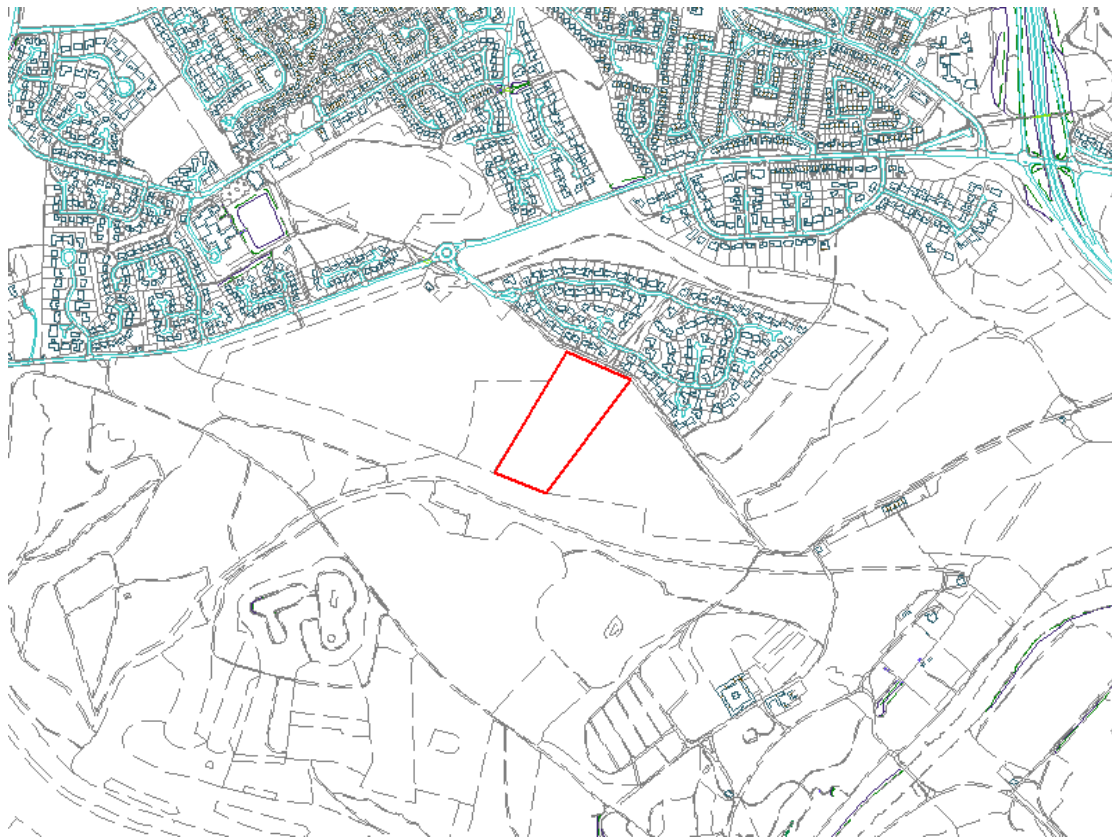
Ward: Washington South

Applicant: Miss Kathryn Jobling

Date Valid: 14 October 2014

Target Date: 13 January 2015

Location Plan



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PROPOSAL:

Planning permission is sought for the change of use of a field to enable the walking of dogs on land to the south of Bramhall Drive, Washington.

The site is 3.20 ha in area and is rectangular in shape. It is bounded by housing to the north east (Bramhall Drive), Council owned playing fields to the north west and agricultural fields to the south east south west. The site and surrounding land is designated in the UDP (Unitary Development Plan) as Green Belt and is undulating in nature, rising generally from the south to the north.

The site is accessed via a gated entrance to the north east of the field which leads to a bridleway that provides access to the adopted highway further to the

north west. Those who own or lease land to the south of the bridleway are entitled to use the path for vehicular access and this is controlled by way of a lock and key at the gated entrance. The site boundaries comprise two fences, a chain link fence and a natural hedge. The current use of the land for dog walking has commenced and was brought to the attention of the City Council as a planning enforcement matter.

The application proposes the continued use of the field for dog walking and it is acknowledged that, at the time the planning enforcement issue was under investigation, this was partly in connection with a dog walking business. This involves 5 or 6 dogs being transported to the site in a transit van utilising the gated access and bridleway. The applicant states that the field has been used in this way since August, 2014. It is stated that the field would also be used for the grazing of livestock and/or horses. The grass would be maintained for livestock/horses and would be topped at certain times of the year, fertilised, rolled and chain harrowed.

Access to and from the field would not be altered from the public bridleway, nor would the existing boundary treatment be changed. The field would be used for dog walking seven days per week, morning, noon and evening during daylight hours. The applicant also considers that dog walking is an activity that may be classed as recreational, similar to the previously approved planning applications on the land for the construction of a cricket pavilion and recreational activities.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states: 'Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.

The following UDP policies are relevant to this application;

CN1, CN2, CN3, CN5, B2, T14.

Draft Core Strategy policies CS7.5, DM7.15.

The National Planning Policy Framework (NPPF), which was published in March 2012, of which Chapter 9 is of particular relevance to this application.

The relevant policies of the adopted Unitary Development Plan have been 'saved' under a direction from the Secretary of State. The Sunderland Local Plan Core Strategy and Development Management Policies Draft Revised Preferred Options August 2013 has limited weight, although it is relevant that no objections were received to the pertinent policies in response to the consultation process.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
Washington South - Ward Councillor Consultation
Environmental Health
Environment Agency

Final Date for Receipt of Representations: **01.12.2014**

REPRESENTATIONS:

Neighbours - One letter of objection has been received as a result of the consultation and publicity process. The writer considers, in summary, that the change of use to the commercial exercising of dogs is not in the best interests of this green field site. The use would constitute the commercial exploitation of Green Belt land for a purpose other than agriculture. The access track is an adopted highway and an increase in vehicular traffic would lead to further degeneration of its condition. This would be detrimental to safe pedestrian access. The use could lead to public health issues as a result of dog faeces. (Note that no objection has been received from the Environmental Health team in this regard given that the field is agricultural in nature).

Eight letters of support were received as a result of the enforcement case which was investigated prior to the submission of the current planning application. In summary, they commend the proposed dog walking business that has been carried out on the land considering this to be a better option than walking on recreational areas used by the public. The site is some distance from residential dwellings and should not cause any loss of amenity. It is a useful public service and would also allow disabled and elderly people to own dogs on the basis that they can be safely exercised and trained.

Environmental Health - no observations

Network Management - no objection subject to the land not being used for commercial purposes or special events. Development Management comment - the use applied for in this case does not identify commercial/event use as opposed to general dog walking. Should planning permission be forthcoming a condition could be imposed to prevent such a use and to limit the amount of vehicular visiting the site.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

CN_2_Purpose of the Green Belt in Sunderland
CN_1_Protecting and enhancing the rural area (general)
CN_3_Control of development within the Green Belt
CN_5_Safeguarding the visual amenity of the Green Belt
B_2_Scale, massing layout and setting of new developments
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

The site lies within the Green Belt and open countryside and relates to the change of use of land from agriculture to dog walking.

There are a number of Green Belt policy issues that are relevant which warrants careful consideration of the proposed development.

The main issues that the proposal raises are;

1. The principle of the change of use of the land,
2. The impact of the development upon the character and visual amenities of the area.
3. Impact on residential amenity.

1. Change of Use

The proposal includes the change the use of the land from agriculture to dog walking, for private purposes.

UDP Green Belt Policy CN1(iii) seeks to resist development that is inappropriate due to the land use concerned or because it would have a harmful impact on the landscape because of its siting, materials or design. Policy CN5 of the UDP adds that permission will not be given for development which would materially detract from the visual amenity of the Green Belt.

Chapter 9 of the NPPF seeks to protect the green belt from inappropriate and harmful development, and states that the established five purposes that the green belt serves are:

to check the unrestricted sprawl of large built-up areas;
to prevent neighbouring towns merging into one another;
to assist in safeguarding the countryside from encroachment;
to preserve and the setting and special character of historic towns; and
to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Para 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of green belts are their openness and permanence. At para. 81 local planning authorities are instructed to plan positively to retain and enhance landscapes and visual amenity. Policies CN2 of the UDP and policy DM7.15 of the emerging Core Strategy reflect NPPF policy.

Para 90 of the NPPF indicates that certain forms of development are not inappropriate provided they preserve the openness of the green belt and do not conflict with the purposes of including land within it. A local authority should regard the construction of new buildings as inappropriate in Green Belt with the following exceptions:

1. Buildings for agriculture and forestry;
2. Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;

3. 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;
4. The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
5. Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
6. Limited infilling or the partial or complete redevelopment of previously developed sites (Brownfield Land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

It is to be noted that the above makes no reference to development involving a material change of use of land. Case law has found that the list is comprehensive and exclusive, from which it is concluded that the change of use of land from agriculture to dog walking amounts to inappropriate development in the green belt regardless of the impact upon openness, the character and appearance of the area and green belt purposes. Inappropriate development is by definition harmful to the green belt and, in the absence of very special circumstances should not be approved. No very special circumstances have been put forward with the application, save the fact that planning permission has previously been granted on the land for recreational purposes, which the applicant regards as being appropriate in the context of the exceptions set out in section 89 of the NPPF, outlined above.

There has been much case law in recent months regarding development in the Green Belt. In this regard it is accepted that the policy objective of the NPPF is to preserve the Green Belt from any development except in very special circumstances. The policy is a reflection of the fact that there may be many applications in the Green Belt where the proposal would be inconspicuous or have a limited effect on its openness, but if repeated the cumulative effect would destroy the qualities which underlie the Green Belt designation. This is why it is important to recognise at all times that inappropriate development is by definition harmful, and then to consider whether there would be any additional harm by reason of other matters such as loss of openness and impact on the function of the Green Belt.

2. Impact of the Development upon Visual Amenity

There are no buildings or other forms of built development proposed as part of the application. In this regard it is acknowledged that the proposed use for dog walking would have a more limited impact on the openness of the Green Belt, although the dog walkers and dogs would indeed be visible from surrounding land and public areas. Given that the land is currently designated as agricultural land and should be used for this purpose only it is considered that the visual amenities of the Green belt would be injured by the proposed use, which is contrary to policies CN1, CN3, CN5 and B2 of the UDP. Should this application be successful, it would set a precedent for such similar development in the area, the cumulative impact of which would have great impact upon the openness of the green belt and a significant degradation of the quality of the landscape to the detriment of the visual amenities of the area. The change of use is therefore considered to be unacceptable. There appear to be no very special

circumstances that would outweigh the harm, by inappropriateness and any other harm, to the green belt (para 88 of NPPF).

3. Impact on residential amenity.

With regards to the impact of the proposal on residential amenity policy B2 of the UDP applies. This requires all development to respect the best qualities of the locality and to maintain privacy. It is considered that the use of the field for dog walking per se would not interfere unduly with residential amenity given that the field itself is large and is some distance from residential dwellings in Bramhall Drive. Further, the field is relatively well screened along its northern boundary by native hedging which would help restrict views and potential for noise and disturbance. Given that the bridleway is also restricted for general use by vehicles there would be minimal use of it by vehicles used in connection with the dog walking use to raise serious concerns relating to pedestrian safety and the condition of the road surface.

Notwithstanding the above, it is considered that the proposal is contrary to national and local policy as detailed in '1' and '2', above and should be refused.

RECOMMENDATION: Refuse for the reasons as set out below:-

Reasons:

- 1 The material change of use of the land from agriculture to dog walking, is an inappropriate development in the Green Belt, and in the absence of very special circumstances, is contrary to paragraph 90 of the NPPF, policies CN1, CN2 and CN5 of the UDP and CS7.5 and DM7.15 of the emerging Core Strategy, which seek to keep land permanently open in the Green Belt.
- 2 The proposed use of the land for dog walking would result in a development that would be highly visible in the landscape, in an area of open countryside, which is designated as Green Belt. This would be harmful to the visual amenities of the area contrary to policies CN1, CN3, CN5 and B2 of the UDP.