

WEST DUNBARTONSHIRE COUNCIL**Report by Planning, Building Standards and Environmental Health Manager****Planning Committee: 15th November 2023**

DC23/012/FUL: **Change of use from agricultural land to three dog exercise fields, erection of boundary fencing and erection of three shelters (retrospective) at Lawmuir Farm, Hardgate, Clydebank by Run Free Dogs Ltd.**

1. REASON FOR REPORT

- 1.1** The planning application is subject to a substantial body of objection. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Grant planning permission** subject to the conditions set out in Section 9 below.

3. DEVELOPMENT DETAILS

- 3.1** The application site comprises an area of open ground previously comprising agricultural grazing land together with an access track from the public road situated at Lawmuir Farm, Hardgate. The site lies to the eastern side of Glasgow Road (A810). The farm steading at Lawmuir Farm, includes two residential properties, lies to the east of the application site with residential properties on Faifley Road lying to the opposite side of Glasgow Road and beyond an area of open space the west. The East Dunbartonshire boundary is located to the north of the site. The total application site area extends to around 1.36 hectares.
- 3.2** The application seeks to change the use of the land from agricultural to three dog exercise fields. The three fields are enclosed primarily by a 1650mm high green chain link fence with localised sections of timber fencing to a height of 1800mm. Access to each of the dog exercise fields is via a metal pedestrian gate with a larger gate to allow access for maintenance vehicles. Each field includes a small timber shelter to a height of 2 metres and with a floor area of around 4.3 metres. Access to the site is taken via the existing track from Glasgow Road, which also services the farm steading. A small car park providing parking for six vehicles is provided within the site, finished in compacted hardcore. Additional parking is also available at the gate of two of the three fields. The site was brought to the attention of the Planning Service through a planning enforcement enquiry which highlighted the formation of the three dog exercise areas at this location and raised concerns regarding their use. It was established that a planning application was required and the

operation of the site was contacted. The submitted planning application now seeks to regularise matters. As the work has already been completed and the dog exercise fields are in use, the application is considered in retrospect.

- 3.3** The applicant has submitted a written statement setting out the detail of the proposal together with a further written statement in support of the proposal itself. In terms of how the site operates, time slots for the exercise fields are booked and paid for online with access to the fields being via a lock with PIN code which is supplied at the time of booking. Booking generally cover up to 4 dogs but the fields can be booked for up to 8 dogs at a time. The use of the field is exclusive to those who have booked the time slot. Each booking relates to a 30 minute slot, although consecutive slots can be booked to allow a longer overall slot.

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Environmental Health Service have no objections subject to a condition relating to the hours of use of the site.
- 4.2** West Dunbartonshire Council Roads Service have no objections to the proposal.
- 4.3** East Dunbartonshire Council have no objections to the application proposal.

5. REPRESENTATIONS

- 5.1** Nine objections from six individuals have been received in connection with the proposal. The objections have all been received from local resident. Two representations in support have also been received. The full details are contained within the planning file and are available for public viewing. However, the points raised in both objection and support can be summarised as follows:

5.2 Objection

- The use of the site causes disturbance to adjacent residential properties, most notably from barking dogs.
- Noise disturbance occurs 365 days of the year from 7am to 9.30pm.
- Odour will occur.
- There will be an adverse impact on adjacent resident's quality of life and mental health.
- Barking dogs on site cause other dogs within the wider residential area to bark, increasing noise disturbance.
- Dogs may escape from the site and run onto the road resulting in road safety concerns.
- The site has been in operation for a number of years without the required planning permission.
- The use of the site will have a negative impact on local wildlife.
- The location of the site is unsuitable for this use.
- No lighting is provided and this result in people being on site in darkness.

- A reduction in property value will occur.
- Dog kennels at Cochno Road already result in barking dogs in the area.
- A similar application was submitted nearby in East Dunbartonshire, and this was refused.
- The number of dogs on site is often in excess of what the applicant's booking website allows.
- Neighbouring residents have not been notified of the planning application.

5.3 In support, the 2 representations have indicated that the dog exercise fields are invaluable for allowing dogs to run and play off the lead in a secure environment.

5.4 The matters raised above are considered and addressed in Section 7 below.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

National Planning Policy 4

6.1 Policy 1 relates to tackling the climate and nature crises and states that when considering all development proposals significant weight will be given to the global climate and nature crises. Policy 2 also relates to the climate in the form of climate mitigation and adaptation and states development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and development proposals will be sited and designed to adapt to current and future risks from climate change. Policy 3 seeks to ensure that development proposals do not adversely impact upon biodiversity and that enhancement measures are provided as appropriate.

6.2 Policy 7 seeks to protect historic assets and places and Policy 8 supports development within the Green Belt in a limited number of circumstances including proposals for outdoor recreation. Policy 14 requires that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Policy 15 relates to local living and 20 minute neighbourhoods. Development proposal will contribute to local living including, where relevant, 20-minute neighbourhoods.

6.3 Policy 23 relates to health and safety. Part (e) states that development proposals that are likely to raise unacceptable noise issues will not be supported. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.

6.4 The matters relevant to the assessment against the above policies are addressed in detail in Section 7 below. It is concluded that the presents no conflict with the policy provisions of NPF4.

West Dunbartonshire Adopted Local Plan 2010

- 6.5** Policy GB1 presumes against development within the green belt with a limited number of exceptions. Outdoor recreation that is appropriate for the countryside and compliant with other Policies is noted as a circumstance where development could be supported. Policy GD1 sets out a requirement that all new development is expected to be of a high quality of design and to respect the character and amenity of the area in which it is located.
- 6.6** Policy E9 requires that development proposals in the Green Belt have regard to the landscape character of the area. Proposals that are the detriment of landscape character will not generally be supported. Policy E1 relates to the Council's biodiversity duty and Policy BE6B addresses application proposals within the Antonine Wall Buffer Zones.
- 6.7** The matters relevant to the assessment against the above policies are addressed in detail in Section 7 below. It is concluded that the proposal presents no conflict with the adopted Local Plan.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

- 7.1** On 15 March 2023, the Planning Committee took a decision that the Council would not adopt Local Development Plan 2. The Proposed Local Development Plan 2 (LDP2), incorporating the recommended modifications of the Examination Report received on 22 April 2020, which were accepted by the Planning Committee of 19 August 2020, remains the Council's most up to date spatial strategy and is therefore afforded significant weight in the assessment and determination of planning applications, subject to compatibility with NPF4. The Scottish Ministers' Direction relating to the adoption of LDP2, dated 18 December 2020, is also a material consideration.
- 7.2** Policy GB1 restricts development in the green belt to a limited number of circumstances. This includes recreational uses requiring, and being appropriate for, a rural setting. Policy H4 of LPD2 relates to residential amenity. The policy states that the Council will protect, preserve and enhance the residential character and amenity of existing residential areas at all times. In this regard, there will be a general presumption against: b) the establishment of non-residential uses within, or in close proximity to, residential areas which potentially have detrimental effects on local amenity or which cause unacceptable disturbance to local residents.
- 7.3** Policy ENV1 addresses nature conservation and Policy ENV2 considers landscape character. Policy ENV8 relates to air, light and noise pollution. All new development must ensure that significant adverse noise impacts on surrounding properties and uses are avoided. Policy AW1 advises that development that would have an adverse impact on the Antonine Wall or its setting will not be permitted with Policy BE1 addressing the impact on the setting of scheduled monuments more generally.

- 7.4** Overall, it is concluded that the proposal presents no conflict with proposed Local Development Plan 2.

Principle of Development within the Green Belt

- 7.5** The application site is located in the Green Belt as defined by both the adopted Local Plan and proposed Local Development Plan 2. Policy 8 of NPF4, and Policy GB1 of both the adopted Local Plan and proposed Local Development Plan 2 advise that development in the Green Belt will only be supported in limited circumstances. These circumstances include proposals for outdoor recreational uses and this position is consistent across the three Plans, including Policy 8 of NPF4 which sets out the up-to-date development plan position. The use of the land for dog exercising and dog walking is considered to fall under the definition of outdoor recreation and, in principle, the use of the site meets the requirements of Policy 8 of NPF4 and Policy GB1 of the adopted Local Plan and proposed Local Development Plan 2. However, all three Policies require further consideration of the proposal including justification as to why the development is required at this location, that the purpose of the Green Belt is not undermined, that the proposal is compatible with the established countryside and landscape character, that the proposal is of an appropriate scale and appearance and that there will be no significant long term effects.
- 7.6** The applicant advises that the use of the land will allow dog walkers and owners to bring their dogs to a secure site and let them run off the lead where they will be secure and kept away from the public, children and livestock. The availability of the facility could also avoid dogs being walked in locations where there may be an adverse impact on livestock. The applicant has provided details of the users of the site from the booking system with customer bookings generally split between postcodes within West Dunbartonshire, the western side of the Glasgow City Council area and the Bearsden and Milngavie area. In considering the proposal, it is acknowledged that a use of this nature would be difficult to provide within the urban area due to the availability of land. Green spaces in the urban area generally taking the form of areas specifically laid out for the purposes of providing for public recreation or forming part of the green network within the urban area and would not be readily available to be enclosed for such a use. The open nature of the proposal with limited physical development is also not one which would lead to the spread of the built up area and thus undermined the objectives of the Green Belt. In the consultation response, East Dunbartonshire Council advise that they consider that the proposed development is generally compatible with a Green Belt location and does not conflict with NPF4.
- 7.7** Overall, the justification of the proposal set out by the applicant together with the full detail of the development proposals have been considered. It is accepted that this is an outdoor recreational use where a location in the Green Belt would be appropriate and the objectives of the Green Belt would not be undermined nor set an unacceptable precedent for the use of Green Belt land. The principle of the proposal can be considered acceptable, subject to an assessment of the further matters below.

Visual Amenity and Landscape Impact

- 7.8** It remains that it is a policy requirement that any proposal within the Green Belt does not have any unacceptable impact visually on landscape character or the countryside location. It is also a requirement that the proposal is of an appropriate scale and massing, and has an appropriate external appearance. Considering design, the chain link fence with timber posts has a relatively unobtrusive appearance within the landscape. It is also not dissimilar in size and scale to other fences within the existing landscape, including a similar chain link fence to Glasgow Road north of the site. The gates and limited use of timber fencing also have an acceptable visual impact. Turning to the timber shelters, these are of a similar appearance to a field shelter commonly found within agricultural fields and this, together with the limited size and also the positioning, ensures they do not result in an unexpected and visually unacceptable feature. The small parking area also has no adverse visual impact. There are no landscape features of note within the site that would be impacted upon by the development, and no trees are proposed to be removed.
- 7.9** Whilst within a Green Belt location, the application site is located within a varied landscape. The built up area lies to the west and the existing farm steading at Lawmuir Farm to the east. A golf course lies to the southwest of the site and to the north lies a substantial electrical switching station inclusive of several high voltage overhead electrical lines. Overall, it is considered that the design of the development is acceptable, that any visual impact is extremely localised and limited and overall the site does not have any adverse impact on the varied landscape at this location.

Impact on Residential Amenity

- 7.10** Two residential properties lie within the existing farm steading which is immediately next to the application site. Residential properties also lie across Glasgow Road with the nearest house being on Faifley and is around 30 metres from the application site measured from the garden boundary. Policy 23 of NPF4 advises that development proposals that are likely to raise unacceptable noise issues will not be supported. It is further set out that the agent of change principle applies to noise sensitive development and that a Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely. Policy GD1 of the adopted Local Plan requires proposals to be appropriate in terms of land use. Policy H4 of proposed Local Development Plan 2 further states that there will be a general presumption against the establishment of non-residential uses within, or in close proximity to residential area which potentially have detrimental effects on local amenity or which cause unacceptable disturbance to local residents. Policy ENV8 requires that development proposals avoid significant adverse noise impacts on surrounding properties.
- 7.11** Noise disturbance to local residents is a concern in the objections received. It is contended in the submissions that significant noise disturbance occurs from barking dogs and whistles to call dogs and that this results in significant adverse impacts on residential amenity. It is further contended that noise disturbance occurs every day over an extended period of time. The Council's Environmental Health Service have advised that Officers have visited the site on a number of

occasions to inform the consultation response. The applicant did not submit a noise impact assessment relating to the use of the site but no complaints relating to noise from the site have been received by Environmental Health and they do not highlight that such an assessment is required to inform the consideration of the application. It is recommended that the operation of the site be restricted to 8am to 9pm daily. In assessing the planning application, the site has also been visited by Planning Officers on a number of occasions. The site is located adjacent to Glasgow Road which is an extremely busy road. This results in significant road noise which is the dominant noise source in the locality. This is also highlighted by the applicant in the supporting statement which contends that barking noise from the use of the fields for dog activities being minimal. Whilst it is accepted that dogs by their very nature will bark, little barking has been noted during site visits and no objection has been received from Environmental Health. Accordingly, it is not considered that the potential for noise disturbance can be held to be so significant as to justify the refusal of planning permission.

7.12 The objections also raise concerns regarding the number of dogs within the fields exceeding the numbers that the applicant specifies on their booking website. Whilst nothing has been submitted to quantify this, in the supporting statement the applicant acknowledges that an instance of a large number of dogs being brought onto site was raised and this matter was addressed with the customer in question. Whilst not a mitigation requirement identified by Environmental Health in their consultation response, the application is considered on the basis of the current operation of the site. It is therefore considered that in addition to controlling the hours of use in accordance with the advice from Environmental Health, the number of dogs using the fields at any one time should also be restricted by condition. This will ensure that numbers do not increase in the future and an excessive number of dogs which may result in noise disturbance occurring are not on site. Whilst barking dogs at other existing premises are highlighted in the objections, no concerns regarding a cumulative effect are highlighted by Environmental Health. East Dunbartonshire Council note that the nearest residential property within East Dunbartonshire is around 400 metres from the site and offer no objection on the grounds of noise disturbance.

7.13 In further considering residential amenity, the objections also raise the refusal of a similar planning application nearby on Cochno Road to the northwest of the site. This application was considered by East Dunbartonshire Council and was very different in scale and nature. The proposal included a dog day care centre in a former stable building, an arena building being converted to boarding kennels, a dog grooming salon, fitness studio, stables, and dog exercise fields. It is indicated that the dog day care would allow for 50 dogs per day and the exercise fields would allow 10 dogs per half hour booking. The number of dogs boarding was not specified. In refusing planning permission the Council was concerned that the dog day care, dog boarding kennels, pet grooming parlour and dog runs/walking area would cause unacceptable disturbance to neighbouring residents. Whilst previous planning decisions can be a material planning consideration, each planning application requires to be considered on its own merits. It is considered that the characteristics of the proposal refused

by East Dunbartonshire Council are different to the proposal currently being considered. Notably, a larger number of dogs would be on site and the dog day care and dog boarding elements of the use would result in potential for significant disturbance throughout the day and night. Whilst noting the nearby planning decision, it is not considered that the proposal is directly comparable.

- 7.14** In the submitted objections, concerns regarding odour are also raised. Environmental Health do not highlight any concerns in this respect. The applicant advises that users are required to put all dog waste and litter in the bins provided and that a private waste contractor empties bins a minimum of once a week. Environmental Health raise no concerns regarding the applicant's arrangement for removing dog waste from the site.

Access, Parking, Road Safety and Sustainable Travel

- 7.15** The site is accessed via the existing access track from the steading to Duntochar Road and the Roads Service offer no objections in respect of the access arrangement. The parking area allows for the parking of six cars with additional space available at the entrance to two of the fields. Again, no objections are offered by the Council's Road Service on this arrangement. The objections highlight road safety concerns from escaping dogs, noting that instances of dogs jumping certain parts of the fence. The fence is 1650mm high at the lowest point and nothing has been advanced to evidence that dogs have jumped the fence. In any case, the Council's Roads Service does not raise any concerns in this respect.

- 7.16** The site is within an edge of settlement location and it is accepted that due to the nature of the use, customers will likely travel to the site by private vehicle. Information from the applicant on customer postcodes confirms that whilst many customers are located within the Clydebank Area, many also travel from areas within East Dunbartonshire and Glasgow City. Notwithstanding this, the scale and nature of the use means that it is not considered, however, that it would be one that would be significant travel generating. Bus stops lie adjacent to the site with frequent services to a range of destinations, although it is accepted that due to the nature of the use customers would be unlikely to travel to the site by bus. Being located adjacent to the settlement boundary, a large number of residential properties also lie within a 10 minute walk (800 metres) of the site.

Other Considerations

- 7.17** The site lies within the Antonine Wall Buffer Zone. It is, however, on the very northern edge of the Buffer Zone. The closest part of the site to the line of the wall itself is some 460 metres distant. This, together with the topography, landscape features, and minimal visual and physical impact of the development within the landscape ensures that it is not visible from the line of the Antonine Wall and has no impact on Wall or its setting. No notable ground disturbance is proposed that would require archaeological matters to be considered.
- 7.18** Concerns are raised in the objections regarding the impact on wildlife. Whilst an ecological assessment has not been submitted, the application site comprises land that was formally agricultural grazing land. There are no

proposals to remove trees or hedgerows and no ecological concerns arise. It is not considered that proposals for biodiversity enhancement are required at this location.

Outstanding matters raised in representations

- 7.19** Turning to the outstanding points raised in the submitted representations which have not been assessed above, procedurally, all neighbours within 20 metres of the application site were notified and, additionally, a press advertisement was placed in accordance with the requirement of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Whilst concerns regarding the retrospective nature of the application are shared, this cannot be a determining factor in the application assessment. There is no evidence to suggest that the proposal would adversely impact on the mental health of nearby residents and the use of the dog exercising fields is likely to improve the health and wellbeing of users both humans and dogs. Regarding the lack of lighting on site, this is not something that has any bearing on the acceptability of the proposal. Finally, whilst concerns are raised that dogs within the application site will cause dogs within the wider residential area to bark, causing disturbance within the residential area, this is not something that could be quantified.

8. CONCLUSION

- 8.1** The proposal comprises an outdoor recreational use which can be justified within this Green Belt location and the proposal is not one which would result in the unacceptable encroachment of the urban area into the Green Belt. The proposal is also acceptable with regard to design, appearance and impact within the landscape and no concerns arise regarding parking and road safety. No concerns arise relating to ecology or the setting of the Antonine Wall. The impact on residential amenity has been fully considered and, informed by site visits and the consultation response from Environmental Health, it is not considered that noise disturbance can justify refusal of planning permission. Whilst the submitted objections are acknowledged, the proposal is acceptable with reference to NPF4, the adopted Local Plan and proposed Local Development Plan 2.

9. CONDITIONS

1. The dog exercise fields hereby permitted shall not operate outwith the hours of 8am to 9pm daily.
2. No more than 8 dogs shall be present in any of the three individual fields at any time and no more than 24 dogs shall be present within the application site as a whole at any time.

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Date: 15th November 2023

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Appendix: Location Plan

Background Papers:

1. Application forms and plans
2. Consultation responses
3. Representations
4. National Planning Framework 4
5. West Dunbartonshire Local Plan 2010
6. Proposed West Dunbartonshire Local Development Plan 2020, as amended
7. East Dunbartonshire Planning Application TP/ED/22/0861

Wards affected: Ward 4 (Kilpatrick)