

ITEM NO:

Location: **East Lodge
Lilley Bottom
Lilley
Luton
Hertfordshire
LU2 8NH**

Applicant: **Mrs Tracey Bengougam**

Proposal: **Change of Use of agricultural land to provide dog
training/exercise facilities**

Ref. No: 17/04255/FP

Officer: **Kate Poyser**

Date of expiry of statutory period: 31.01.2018

Reason for referral to Committee

The application has been called to the Planning Control Committee by Cllr Faye Frost, to consider the concerns raised by Offley Parish Council.

Submitted Plan Nos

1911 02A

1.0 Site History

1.1 03/00384/1 Replacement 4 bedroom dwelling, incorporating games room in basement area and attached single garage following demolition of existing bungalow and outbuilding (as variation to application No. 02/01043/1).

1.2 04/00914/1HH 1.35m high front boundary wall and 1.6m high hit and miss wooden gates.

2.0 Policies**2.1 North Hertfordshire District Local Plan No.2 with Alterations
(Saved Policies)**

Policy 2- Green Belt

Policy 19 – Historic Parks and Gardens

Policy 55 – Car Parking Standards

2.2 Supplementary Planning Documents

Vehicle Parking Provision at New Development SPD.

North Hertfordshire and Stevenage Landscape Character
Assessment

2.3 **National Planning Policy Framework**

Section 2 – Supporting a prosperous rural economy

Section 4 – Promoting sustainable transport

Section 8 – Promoting healthy communities

Section 9 – Protecting Green Belt land

Section 11 – Conserving and enhancing the natural environment

Section 12 – Conserving and enhancing the historic environment

2.4 **North Hertfordshire District Local Plan 2011-2031 Proposed Submission**

Policy SP5 – Countryside and Green Belt

Policy T1 – Assessment of transport matters

Policy T2 – Parking

Policy HC1 – Community facilities

Policy NE1 – Landscape

Policy HE1 – Designated heritage assets

3.0 **Representations**

3.1 County Highway Authority – no objections are raised and no conditions requested.

3.2 Environmental Health – no comments

3.3 Offley Parish Council – “The Parish Council wish to make the following observations.

The plot of land is a garden and not a field.

The plot contains trees.

The plot of land is opposite the house and not adjacent and is separated by BOAT 20

There is no mention of hours of use or number of vehicles visiting the site each day.

No mention of car parking or waste management provisions.

BOAT 20 now has restricted access and is closed by the form of a gate just passed the field limiting the parking off road for visitors

The Parish Council wish to oppose this application.”

3.4 Lilley Parish Council – no comments received

3.5 Campaign for the Protection of Rural England

“ CPRE Hertfordshire has concerns regarding this proposal for a change of use to a sui generis non-agricultural business use in the Green Belt.

There are no Planning or Design and Access Statements accompanying the application, consequently it is not possible to assess the full extent of the proposals. It would appear from the application form that this is a retrospective application, and that the site is currently being used for the purposes of dog training and exercising.

It is a grey area as to whether this can be considered an appropriate use or not. The only comprehensive document on dog exercising planning policy of which we are aware is the practice guidance produced by Hampshire County Council. That raises some issues which are not adequately addressed by this application.

While, in theory, it is inarguable that dog owners need safe places where they can take their dogs to run freely, such areas need to be properly supervised, with strict policies and rules of use and a comprehensive plan for running the park effectively. None of these are referred to in the application. Again the Council should satisfy itself on such points.

There are no stated times when the facility will be in use. If it is beyond dusk it therefore follows that during the winter months lighting will be necessary to ensure safe use of the area. The application makes no mention of any lighting. This point needs to be clarified before approval is considered as the provision of lighting would have a detrimental impact on the Green Belt.

There is no detail as to the arrangements being made for the storage of equipment. This is another point on which the Council must satisfy itself before granting approval. Consequently we would be concerned if the Council were to grant approval on the basis of the information provided with the application.”

3.6 The Gardens Trust – no comments

3.7 Countryside Access Officer – “We would like repairs to Offley BOAT 020 imposed as a condition to this permission. Is that possible?”

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 East Lodge is a residential property in a relatively isolated location between Lilley Bottom Road and Putteridge Bury. Access is gained via an unmade track from Lilley Bottom Road. The track is a Byway Open to All Traffic (Offley BOAT 020). The site lies adjacent to East Lodge, separated by the track. It is within the Green Belt and on the edge of the Historic Park and Garden of Putteridge Bury.

4.1.2 The land is opposite the house and forms part of the freehold property. It is partly contained within a brick wall. Whilst it has been described as agricultural land, it has not been farmed for many years. Due to the small size of the land the applicant considers it would only be suitable for temporary grazing, but has no wish to use it for such.

4.2 **Proposal**

4.2.1 The applicant has 2 Doberman dogs and is currently using the land for the training of these dogs by an experienced dog trainer. In addition to this, other owners bring their dogs here to be trained. At present, this takes place on Mondays, Tuesdays, Wednesdays and Saturday mornings. Much of the time the training is on a one to one basis, but can be up to a total of 5 people. This is, therefore, a retrospective application.

4.2.2 The land is triangular in shape, laid to grass with a couple of trees near the boundary, a brick wall runs along one side and open fencing to the others. The training equipment is in the form of jumps and plastic tunnels etc.

4.3 **Key Issues**

4.3.1 The key planning considerations relate to the following matters:

- Principle of the use in the Green Belt
- Highway and parking considerations
- Effect on the historic park and garden
- Any effect on nearby residential amenity
- Sustainability

4.3.2 Principle of the use in the Green Belt

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is considered to be inappropriate. However, the dog training equipment would not meet the definition of a building. It is the use of the land which is being considered.

4.3.3 Paragraph 89 of the NPPF lists exceptions which are not considered to be inappropriate. Included in this is the following:

“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.”

I consider the use of the land for dog training would amount to outdoor sport or recreation. It is, therefore, allowed providing it preserves the openness of the Green Belt.

4.3.4 The application site lies within a landscape that is primarily open agricultural land. The small size of the land and its partial enclosure by a brick wall gives the impression that the land belongs to East Lodge, even though it is separated from the residential curtilage by BOAT 20. To the other side of the wall runs a public footpath.

4.3.5 The training equipment does not exceed the height of the wall. I therefore consider that as seen from the agricultural land to the east, the use of the land has no significant impact on the openness of the Green Belt. The fencing is open on the other two sides. On one side is agricultural land and on the other lies the BOAT and the residential property of East Lodge. I consider this small scale activity located opposite East Lodge would not have a significant impact on the openness of the Green Belt from these directions either.

4.3.6 The openness of the site is also affected by the presence of cars in the adjacent parking area. I consider that this would be sufficient to park 4 cars. The wall extends to the east of the parking area and restricts views from the open countryside. Taking this into account, that only a small amount of parking is involved and its location close to East Lodge, I consider the parking is such that it does not have a significant impact on the openness of the Green Belt or cause any harm to the purposes of including the land within the Green Belt. **I can, therefore, see no objection in principle to this use within the Green Belt.**

4.3.7 Highway and parking considerations

The application site is approximately 550 metres from Lilley Bottom Road. Hertfordshire Highway Authority considers the proposal would not have an unreasonable impact on the safety and operation of the highway. The Countryside Officer advises that whilst there is a restriction on this byway preventing use by cars, there is an exception for the occupiers of East Lodge and their visitors. The visitors for dog training are, therefore, permitted to use it. The Countryside Officer queries whether the applicant could be required by condition to carry out repairs to the byway, particularly as the occupiers of East Lodge and their visitors are the main users of this part of the byway. The byway is on land owned by Crown Estates and responsibility for its maintenance falls both on the crown estate and the highway authority. However, a condition cannot be imposed relating to this land as it is beyond the applicant's control and not owned by the highway authority.

4.3.8 There is parking within the curtilage of East Lodge to serve that property. In addition to that is an existing hardstanding at the north end of the site which could accommodate 4 cars. Given the scale of the dog training business, this is sufficient to prevent parked cars from obstructing the byway. I consider that a condition restricting the scale of the activity could be considered to ensure the parking facilities remain adequate.

4.3.9 Effect on the historic park and garden

The application site lies on the edge of Putteridge Bury Historic Park and Garden. The Gardens Trust has been consulted and no objections have been received. The site is over half a kilometre from Putteridge Bury itself. The land around the site is primarily agricultural. I consider the use of the land for the training of dogs would not have a significant effect on the appearance and setting of the historic park and garden.

4.3.10 Any effect on nearby residential amenity

There are no nearby residential properties. The nearest are the three cottages at the junction of Lilley Bottom Road and BOAT 20. Any effect upon living conditions would be in the form of disturbance by passing vehicles traveling to the site. This is currently a small scale activity, but, again, I consider a condition restricting the scale of activity would be appropriate for this reason too.

4.3.11 Sustainability

The NPPF supports economic growth in rural areas. It promotes the development and diversification of land-based rural businesses, including leisure developments. This is subject to the development being sustainable. There are three strands to sustainability. The dog training business has a positive effect on **economic** sustainability. It also plays a **social** role for dog owners. The **environmental** negative relates to the necessary use of visitor's cars. If the scale of activity is controlled to remain as existing, I consider this would be outweighed by the other two strands of sustainability.

4.4 **Conclusion**

4.4.1 There are no sustainable planning objections to the use of the land for dog training, subject to the scale of the activity being restricted by condition.

5.0 **Legal Implications**

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 **Recommendation**

6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

2. The dog training business, hereby approved, shall only take place on Mondays, Tuesdays, Wednesdays between the hours of 09.00 and 17.00 and Saturday mornings between the hours of 09.00 and 13.00.

Reason: The site, due to its location along Offley BOAT 020, limited parking space and proximity to residential properties, is not a suitable location for a larger scale activity.

3. There shall be no outdoor lighting associated with the dog training use, unless otherwise agreed to in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the countryside here.

4. There shall be no more than 4 dogs on the application site at any one time.

Reason: The site, due to its location along Offley BOAT 020, limited parking space and proximity to residential properties, is not a suitable location for a larger scale activity

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.