



Ashfield
DISTRICT COUNCIL
MAP SCALE 1: 1250
CREATED DATE: 12/08/2021

COMMITTEE DATE 25/08/2021 **WARD** Hucknall North

APP REF V/2021/0445

APPLICANT Mr Ian Glen

PROPOSAL Outline Application with all Matters Reserved for a Maximum of 2 Dwellings

LOCATION Land at Linby Boarding Kennels, Church Lane, Hucknall, NG15 8AB

WEB-LINK <https://www.google.com/maps/place/Church+Ln,+Hucknall,+Nottingham/@53.0505397,-1.2017614,248m/data=!3m1!1e3!4m5!3m4!1s0x4879bfd1759acdd:0xc3d3ee7525ab75b9!8m2!3d53.0487356!4d-1.2008773>

BACKGROUND PAPERS A, B, C, D, E & G

App Registered: 07/06/2021 Expiry Date: 01/08/2021

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Councillor Waters to discuss Green Belt policy.

The Application:

This is an outline application with all matters reserved for two detached dwellings. The application site comprises of a dog training area, which is used in association with an operational boarding kennels.

Directly to the north of the site are the boarding kennels, in addition to a residential property known as Harwyn House, which is occupied by the owners of the boarding kennels.

The application site is located outside of the Districts main urban areas or named settlements, in an area designated within the Nottinghamshire Green Belt, as identified by policy EV1 of the ALPR 2002.

Consultations:

A site notice has been posted together with individual notifications to surrounding residents.

The following responses have been received:

Resident comments:

1x objection, making the following points:

- Intrusive over-development of the site.
- The development would damage the characteristics of Church Lane, which is bordered by mature trees, hedges and grassed banks.
- Previous development on Church Lane has been on previous redundant colliery land, which implemented landscaping to preserve the appearance of the area.
- It is not clear how the proposal reflects the needs in the District and Parish local plans.

3x support, making the following comments:

- The removal of the kennels would benefit the area by reducing noise.
- The homes would help achieve the relocation of the kennels to a more suitable location.
- A small plot with well-built and designed homes would be perfect.
- No reason to object to two more homes on this site given the amount of houses being built off Papplewick Lane and on Top Wighay Farm within the Linby Parish, none of which benefit Ashfield.

Ashfield District Council Environmental Health:

No objections from a contaminated land perspective.

Ashfield District Council Planning Policy:

Based on the 2019-20 Housing Monitoring Report, adjusted for a 20% buffer required by the results of the Ashfield Housing Delivery Test, the Council has a 2.21 years housing delivery supply.

Under the NPPF, all development in the Green Belt is prima facie inappropriate and can therefore only be justified by very special circumstances (para 148) unless they fall within the specific exceptions set out in paragraphs 149, and/or paragraph 150. This reflects that in terms of the policy, development in the Green Belt is, by definition, harmful as the fundamental aim of Green Belt policy in keeping land permanently open. NPPF paragraph 148 requires that local authorities should ensure that substantial weight is given to any harm to the Green Belt.

Taking the wider context of Linby Boarding Kennels, the Kennels are located on the District boundary with Gedling Borough Council and the Parish of Linby, although it

is considered that the site is not part of the Parish of Linby. The paddock forms a buffer between the Kennels and the built-up area of Linby village. The application site itself is even further away from the physical boundary of Linby.

The application site does not display the characteristics to constitute an infill plot, in that infill was interpreted as 'development in a gap in an otherwise built up frontage'. It is acknowledged that there is an outline planning permission for 9 dwellings to the east of the application site, however, this permission has not been implemented. The immediate locality retains a largely open and undeveloped character. In these circumstances, it is not considered that the proposal comprises infill or benefit from the exception set out in criterion e) under paragraph 145 of the NPPF.

The application form identifies the current use as a field used for training dogs associated with the kennels. In this context it is not a brownfield site. Even if it was regarded as being in the curtilage of the Kennels (a brownfield site) then:

- a) Annex 2 of the NPPF provides a definition of previously developed land, which includes the proviso that '*it should not be assumed that the whole of the curtilage should be developed.*'
- b) It is only acceptable development where it would "not have a greater impact on the openness of the Green Belt than the existing development". Clear this is an open field and the development of two dwellings on the site will have a substantial impact on the openness.

The proposed development, although potentially altering views into and out of the Conservation Area, is anticipated to have a limited visual impact on the Conservation Area.

Paragraph 105 of the NPPF states that planning should actively manage patterns of growth in support of objectives set out in paragraph 104, including that opportunities to promote walking, cycling and public transport use are identified and pursued.

The application site has hedges to the western and southern boundaries. Hedgerows are a Nottinghamshire Priority habitat (under section 41 of the Natural Environment and Rural Communities Act (2006)). The NPPF places an emphasis on net gains for biodiversity (paragraph 174) and therefore, if it is considered that permission is anticipated to be granted, the hedgerows should be retained.

Local Lead Flood Authority:

No bespoke comments to make, but general informatives advised, as follows:

- The development should not increase flood risk to existing properties or put the development at risk of flooding.
- Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.

- SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
- Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.

Linby Parish Council:

- Inappropriate development in the Green Belt, with the proposal not constituting exceptional circumstances.
- Overall impact on the Green Belt due to previously approved housing applications at the site.
- Overlap of red lines between this proposal and the previous scheme (app V/2020/0855), which affects vehicular access and highway safety.
- Proposed development is contrary to policies ST2, ST4 and EV1 of the adopted local plan.
- Development would set a precedent for further development with the Green Belt.
- Proposal fails to meet any identified criteria within Part 5 of the NPPF, therefore does not make the case for very special circumstances.
- The site is not within a sustainable location.
- Site is not allocated for development.

Natural England:

No comments to make.

Nottinghamshire County Council Highways:

Original comments:

Whilst it is an outline application with all matters reserved, the principal of access must be acceptable to support the principle of development.

The drawings submitted show a single indicative access on to Church Lane to serve both proposed dwellings.

It appears that access on this frontage may have substandard visibility to the left and therefore we object to the application as it is thought that access may create an unacceptable highway safety issue.

Re-consultation comments:

A visibility splays plan has been submitted. It is suggested to attach a condition to any consent requiring the proposal to form the visibility splays as shown. In addition to this, a 2m wide segregated footway to the whole of the site frontage should be provided and dedicated as public highway to provide highway users with some safe harbourage on this section of the rural road.

Nottinghamshire Wildlife Trust:

Given the habitats on site it is highly likely that hedgehogs and brown hare are present within the landscape and occasionally enter the application site. To prevent harm to these species, conditions are suggested relating to measures such as covering excavations/or adding escape ramps, and to provide some permeability within structures to allow wildlife to path through the development.

The proposed development would result in the uncompensated loss of hedgerows, resulting in loss of habitat. All hedgerows should be retained, and only minimal sections removed to allow access.

Ideally vegetation removed should be timed to avoid the main breeding bird season, and a sensitive lighting strategy should be implemented on site.

Biodiversity enhancement measures should be incorporated into the landscaping scheme to deliver biodiversity net gain. Bat, bird and bee bricks should be explored if there is limited scope immediately on site.

Policy:

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework (NPPF):

Part 5 – Delivering a Sufficient Supply of Homes.

Part 8 – Promoting Healthy and Safe Communities.

Part 9 – Promoting Sustainable Transport.

Part 11 – Making Effective Use of Land.

Part 12 – Achieving Well Designed Places.

Part 13 – Protecting Green Belt Land.

Part 15 – Conserving and Enhancing the Natural Environment.

Part 16 – Conserving and Enhancing the Historic Environment.

Ashfield Local Plan Review (ALPR) (2002):

ST1 – Development.

ST4 – Remainder of the District.

EV1 – Green Belt.

EV8 – Trees and Woodland.

EV10 – Conservation Areas.

HG5 – New Residential Development.

Relevant Planning History:

V/2001/0079 - Change of use of agricultural land to commercial dog training centre and horse riding establishment - Refusal.

V/2002/0507 - Change of use of agricultural land to commercial dog training centre and horse riding establishment - Refusal.

V/2005/0016 - Construction of 12 replacement dog boarding kennels and exercise runs - Refusal.

V/2017/0575 - Outline application with all matters reserved. Demolition of existing buildings & erection of maximum of 4 dwellings - OUTCC.

V/2019/0472 - Application for permission in principle for residential development for a maximum of 9 dwellings - PIP Granted.

V/2020/0855 - Outline application with all matters reserved for a maximum of 9 dwellings - OUTCC.

Comment:

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the plan, unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (saved policies).

The National Planning Policy Framework (NPPF) is a material consideration. The policies in the development plan have to be considered in relation to their degree of consistency with the provisions of the NPPF (NPPF paragraph 219). This will depend on the specific terms of the policies and of the corresponding parts of the NPPF when both are read in their full context. An overall judgement must be formed as to whether or not development plan policies, taken as a whole, are to be regarded as out of date for the purpose of the decision.

The emerging Local Plan has not reached a stage where it is considered the policies would carry any weight.

ALPR Policy ST4 sets out that permission will only be given for:

- Sites allocated for development;
- Development appropriate to the Green Belt (Policy EV1) or the countryside (Policy EV2).

The site in question is located in the Green Belt and will be subject to Policy EV1 Green Belt and the provisions of the NPPF on the Green Belt.

The site is located close to the District boundary with Gedling Borough Council. Therefore, consideration has been given to the Policies set out in the Gedling Local Planning Document (Part 2 Local Plan) adopted in July 2018.

The land to the north of Harwyn House (Linby Boarding Kennels) is identified as being subject to the following policies in the Gedling Borough Local Planning Document 2018:

- Policy LPD 28 - Conservation Area;
- Policy LPD 18 - Local Wildlife Site: Linby Paddock subject to the Protecting & Enhancing Biodiversity.
- Policies LPD 12 - LPD 15 - Green Belt.

Principle of Development:

The application site is located within the Nottinghamshire Green Belt, and as such Policy EV1 of the ALPR 2002 and Part 13 (Protecting Green Belt land) of the NPPF are applicable.

Policy EV1 of the ALPR identifies that permission will not be granted for inappropriate development in the Green Belt, except in very special circumstances, and identifies various forms of 'appropriate' development. All development must be located and designed so as not to adversely affect the purposes of the Green Belt, its openness, and the purposes of including land within it. Openness has a spatial aspect as well as a visual aspect.

Part 13 of the NPPF identifies that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances (paragraph 147). Paragraph 149 of the NPPF goes on to identify various forms of development which are deemed to be 'appropriate' uses within the Green Belt, however residential dwellings are not identified, and as such, is considered to be an inappropriate use within the Green Belt.

Paragraph 148 of the NPPF states that "substantial weight" should be given to any harm to the Green Belt, and that 'very special circumstances' will not exist unless the potential harm to the Greenbelt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The wider kennel site area does benefit from existing planning permissions for residential development. A previous outline application (V/2017/0575) was granted permission in April 2018, for the demolition of the existing kennel buildings and the subsequent erection of up to 4 dwellings on that respective parcel of land.

Since then further applications have come forward at the wider site, a permission in principle for 9 dwellings (V/2019/0472) was approved in September 2019, and a subsequent outline application for 9 dwellings (V/2020/0855) in February 2021.

This application now seeks outline planning permission with all matters reserved for up to 2 further dwellings on a parcel of land in the south east corner of the site. This parcel of land is currently utilised as an area for dog training associated with the kennels, as identified within the submitted application form.

Paragraph 149 (g) of the NPPF, an exception to Green Belt policy is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

In this context the Local Planning Authority consider the site does not constitute a brownfield site. Even if the site was regarded as being within the curtilage of the Kennels (a brownfield site) *'it should not be assumed that the whole of the curtilage should be developed.'* And it should only be acceptable where it would "not have a greater impact on the openness of the Green Belt than the existing development". This is clearly an open field and the development of two dwellings on the site will have a substantial impact on the openness.

Consequently, it is considered that the application does not fall within NPPF paragraph 149 (g).

Within the submitted planning statement, it is argued that the site would constitute a form of infill development, in accordance with NPPF Paragraph 149 (e).

The NPPF does not define what is meant by the terms "limited" and "infilling". However, the Local Plan defines an 'infill site' as "an area which can accommodate

one or two dwellings within a small gap in existing development.” (ALPR paragraph 3.21).

In *Wood v Secretary of State for Communities and Local Government* [2014] EWHC 683 (Admin) infill was interpreted as ‘*development in a gap in an otherwise built up frontage*’. This would indicate that to constitute an infill plot, the land must be flanked or at least closely bounded by existing buildings such that the proposed development would effectively be occupying a gap. However, the application site does not display these characteristics. There is a residential property and kennels to the north and north east with open fields beyond, but these do not enclose the site to any great extent. To the west there are the extensive grounds to the nursing home and a landscaped public right of way. To the south are open hedge lined fields and then a cricket ground. It is acknowledged that there is an outline planning permission for 9 dwellings to the east of the application site, however, this permission has not been implemented. The immediate locality retains a largely open and undeveloped character. In these circumstances, it is considered that the proposal does not comprise infill or benefit from the exception set out in criterion (e) under paragraph 149 of the NPPF.

Any residential development on the application site would introduce built development on an undeveloped part of the application site, which would therefore result in an adverse impact on the openness and permanence of the Green Belt in this location. Furthermore, the introduction of residential paraphernalia associated with the dwellings and removal of the established hedgerow on the street frontage would result in a further urbanising impact, further reducing the openness of the Green Belt, resulting in the area having a more suburban feel to it, and much less of a rural character.

The Council is presently unable to demonstrate a five year housing land supply, and therefore the presumption in favour of sustainable development applies, as outlined within Paragraph 11 of the NPPF. Paragraph 11 identifies that where the policies which are most important for determining the application are out of date, then permission should be granted unless:

- i. The application of policies in this Framework (the NPPF) that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The Green Belt is identified in the footnote for paragraph 11 as a protected area. As such, the proposal needs to be considered against Part 13 – Protecting Green Belt Land of the NPPF, as discussed above.

It is therefore considered that the current proposal conflicts with policies contained within the ALPR and NPPF, and represents an inappropriate form of development which is harmful to the fundamental aims and purposes of Green Belt policy, which amongst other things, seeks to prevent urban sprawl and safeguard the countryside from inappropriate encroachment. Additionally, no exception circumstances have been presented to justify the development.

Amenity:

The site is located on the frontage of Church Lane, and therefore development on this site will be highly visible within the street scene. The removal of the front (south west) hedgerow would be required to provide access and a footpath as indicated on the illustrative layout would accentuate any built form on this site. It is acknowledged that the illustrated vehicle access is for indicative purposes only, however it is considered that the removal of even a section of this hedgerow would significantly affect the character and appearance of the area.

Church Lane has a distinctively rural character, to the north of the site it does not have footpaths and only has a footpath on the opposite side of the road to the south, it is also bounded by well established hedges and acts as a transition between the parish of Linby and the more intensely urbanised area of Hucknall. Therefore the loss of some of this hedgerow, the construction of a new access and a footpath is considered to significantly harm the character of the street scene.

Hedgerows are a Nottinghamshire Priority habitat (under section 41 of the Natural Environment and Rural Communities Act (2006)). The NPPF places an emphasis on net gains for biodiversity (paragraph 174) and it has not been demonstrated in this proposal that this can be achieved.

There are also concerns in relation to the impact upon the residential amenity of future occupiers relating to noise and disturbance stemming from the existing dog kennels. It is acknowledged that planning permission has been granted, in outline, for these kennels to be demolished to make way for residential development, however as these kennels are still in-situ, and there is no guarantee the site will be developed for residential purposes, then an assessment has to be made on the context currently before the Council and the impact the lawful use of the adjacent site may have on the future residents.

Other:

The proposal needs to be considered against ALPR Policy ST1, which specifies a number of provisions including that development will be permitted where:

- a) It will not conflict with other Local Plan policies.
- b) It will not adversely affect the character, quality, amenity or safety of the environment.

- c) It will not adversely affect highway safety or the capacity of the transport system.
- d) It will not prejudice the comprehensive development of an area.
- e) It will not conflict with adjoin or nearby land use.

The Policy identifies that the proposal should not prejudice the comprehensive development of the area. The Council is concerned in relation to whether or not the proposal represents a form of sustainable development due to the piecemeal approach taken to the wider development at this site as a whole.

It is considered that the application in question is being associated with the existing permission for 9 dwellings. Therefore the proposal would represent a contrived form of development which is effectively attempting to negate the payment of planning contributions. Accordingly the proposal does not represent a form of sustainable development, and that if members were minded to approve the development, then contributions should be sought for all the 11 properties proposed to be developed on this site:

- Public open space;
- Public realm;
- Transport and travel;
- Primary and secondary education;
- Healthcare;
- Affordable housing (10%).

Highway Safety:

The submitted indicative layout shows the entrance to the site would be directly off Church Lane, with a new opening created through the raised bank and hedgerow.

The Highway Authority have been consulted, who consider that although access is a reserved matter, the principle of the access must be acceptable to support the principle of development. Concerns were raised in relation to the substandard visibility to the left of the access, and therefore the Highway Authority objected to the application on highway safety grounds.

Since the Highway Authority made their original comments, the applicant/agent has submitted a plan showing the visibility splays at the indicative egress point.

A re-consultation has been undertaken with the Highway Authority, who consider that if approval was to be issued for the proposal, then a condition should be attached to ensure the visibility splays are provided in accordance with the submitted detail. In addition to the visibility splays, they would also request a 2m wide footway across the whole of the sites frontage to provide highway users with some safe harbourage on this section of the rural road. Such footway should be dedicated as public highway.

Conclusion:

Although the Council cannot demonstrate a 5 year housing land supply, it is considered that this in its own right does not justify the granting of planning permission. It is considered that the proposal does not represent a form of infill development, nor is the site considered to constitute brownfield land. As such the proposal is considered to represent a form of inappropriate development within the Green Belt, which adversely affects the purposes of the Green Belt, its openness, and the purposes of including land within it. Additionally no very special circumstances have been present to justify the development.

Furthermore the Council considers that the proposal would cause detrimental harm to the character and appearance of the street scene through the removal (either in part or full) of an established mature hedgerow along the sites frontage, with hedgerows being an innate and intrinsic feature of the area.

The proposal also fails to represent a comprehensive form of development, attempting to negate the need to pay planning obligations to ensure a sustainable form of development is delivered.

It is therefore recommended this application be refused planning permission, for the reasons as outlined below:

Recommendation: Refuse planning permission.

Reasons:

1. The proposal is considered to constitute an inappropriate form of development within the Greenbelt, which is harmful to the fundamental aims and purposes of Green Belt policy, which seeks to safeguard the countryside from urban sprawl and encroachment to maintain the openness and permanence of the Green Belt. The substantial weight given to protecting the Green Belt from harm is not outweighed by any other matters, and thus the very special circumstances required to allow the development do not exist. The proposal therefore conflicts with Policies ST1 (a and b), ST4, and EV1 of the Ashfield Local Plan Review (2002), and Part 13 (Protecting Green Belt land) of the National Planning Policy Framework.
2. The proposal is considered to represent a contrived form of development due to the adopted piecemeal approach, which prejudices the comprehensive development of the wider site, and fails to deliver appropriate contributions to facilitate a sustainable form of development, which has negated the need to assess the overall cumulative impact of the wider development. As such it is

considered that the proposal is contrary to policies ST1(b, c, and d), ST4, and EV1 of the Ashfield Local Plan Review (2002), and Part 12 (Achieving well-designed places) of the National Planning Policy Framework.

3. The proposal is likely to result in unavoidable harm to the character and appearance of the street scene as a result of the loss of a portion or all of the mature principle hedgerow and embankment. The removal of the hedgerow is also considered to accentuate the proposed dwellings, which would emphasize the detrimental impact upon the character and openness of the Green Belt. As such the proposal is considered to be contrary to policies ST1 (a and b), ST4, EV1, EV8 and HG5 (d) of the Ashfield Local Plan Review (2002), and Parts 12 (Achieving well-designed places) and Part 13 (Protecting Green Belt Land) of the National Planning Policy Framework.
4. It is considered that the proposed development would result in detrimental harm to the living conditions of future occupiers by way of noise and disturbance generated from the dog kennels on site. Accordingly the proposal is considered to be contrary to policies ST1 (a, b, e) and HG5 (g) of the Ashfield Local Plan Review (2002)