

44/19/0017

R, M & B CUTLER, RICHARDSON & QUICK

Erection of building for mixed agricultural and dog agility training use (retention of works already undertaken) Brook Farm, Rackfield, Wellington

Location: BROOK FARM, RACKFIELD, WELLINGTON, TA21 0EB

Grid Reference: 311566.119922

Full Planning Permission

Recommendation

Recommended decision: Conditional Approval

Recommended Conditions (if applicable)

1. Within 18 months of the date of this permission, unless specifically agreed with the Local Planning Authority, the dog agility training use (D2 use) hereby permitted shall cease and the building hereby permitted shall continue to be used solely for agricultural purposes

Reason: To fully assess the impacts of the dog agility training use in order to protect the residential amenity of the surrounding area.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A4) DrNo T12148-02 Site Plan dated 6/ 8/2020

(A4) DrNo T12148-02 Location Plan

(A0) DrNo T12148 Tops and Elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The development shall be carried out in accordance with the flood mitigating measures identified in the Flood Risk Assessment by Trace Design dated February 2020 and shall be maintained during the use of the building.

Reason: In the interests of public safety and to mitigate against the consequences from flooding.

4. The building shall not be used for fundraising events, open days and charity events associated with the proposed use.

Reason: In the interests of highway safety and to protect the amenities of the surrounding area.

5. The number of dogs on site during training activity is restricted to 5 dogs only. No more than 5 dogs will be allowed within agility training classes at any one time.

Reason: To reduce vehicle movements and noise disturbance to protect the residential amenity of the surrounding area.

6. Dog agility training authorised by this permission shall be carried out solely within the building hereby permitted between the following times:-

0900 hours and 1900 hours Mondays to Fridays ; and
0900 hours and 1300 hours Saturdays.

There shall be no working on Sundays, Bank Holiday or National Holidays.

Reason: To protect the residential amenity of the surrounding area.

7. The development shall be carried out in accordance with the noise mitigating measures in the Noise Management Report by Soundguard acoustics dated March 2020 and any mitigating measures shall be maintained at all times when the building is in use for dog agility training.

Reason: To protect the residential amenities of the area.

Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. The applicant is reminded that they must have in place an all-purpose vehicular right to the application site along path WG 17/23. If they don't they will not be able to utilise the building for the approved dog agility use.

Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

The health and safety of the public using the PROW must be taken into consideration during works to carry out the proposed development. Somerset

County Council (SCC) has maintenance responsibilities for the surface of a PROW, but only to a standard suitable for the public use. SCC will not be responsible for putting right any damage occurring to the surface of a PROW resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a public footpath, public bridleway or restricted byway unless the driver has lawful authority (private rights) to do so.

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group:

A PROW being made less convenient for continued public use.

New furniture being needed along a PROW.

Installing any apparatus within or across the PROW.

Changes to the surface of a PROW being needed.

Changes to the existing drainage arrangements associated with the PROW.

If the work involved in carrying out this proposed development would:

- make a PROW less convenient for continued public use; or
- create a hazard to users of a PROW,

then a temporary closure order will be necessary and a suitable alternative route must be provided. For more information, please visit Somerset County Council's Rights of Way pages to apply for a temporary closure:

<http://www.somerset.gov.uk/environment-and-planning/rights-of-way/applyfor->

Proposal

The proposal seeks retrospective permission for the erection of a steel portal framed agricultural building which has been in situ since February 2015. The building is to be used for agricultural purposes in relation to Brook Farm but also by the applicants to run a dog agility training business in support of their farm enterprise. This use has already commenced.

From a parking area adjacent to the farm buildings, those attending dog agility classes/workshops walk across a footbridge and across a field to the building. The building will be used for dog agility training between the hours of 9am and 7pm Monday to Friday and 9am to 1pm Saturdays.

The scheme originally included the use of the adjoining field for dog agility training however following objections, the scheme has been amended and all dog agility training will be done within the building.

Site Description

The application site consists of a portal frame agricultural building. The site is located in an agricultural field 300m south west of Lower Westford to the west of

Rockwell Green. The closest residential properties are Rackfield Cottages some 120m from the site which front the private access track to the farm. The main farm buildings are some 145m to the west and north west of the application site. The site is bordered by the Westford stream to the north and thus falls in a floodzone 2. The Bristol to Exeter railway runs to the south.

Relevant Planning History

None

Consultation Responses

WELLINGTON TOWN COUNCIL - No comments received.

SCC - TRANSPORT DEVELOPMENT GROUP - After carrying out a site visit the following comments are made:

The submitted information states:

- Agricultural vehicles will not be using the highway
- The maximum number of vehicles associated with the dog training is 5, once per day.
- All other sessions will generate only 1 vehicle.

This Authority does not raise any objections to the proposal but would welcome conditions being applied to any permission granted which controls the number of customers allowable for each session.

Following comments from residents that more vehicles were utilising the building for dog agility than stated in the application, the highway officer was asked for further comments. The following comments were provided:

I have had another look at this one and feel it would be worth explaining my recommendation a little more fully.

I described the Highway access to the site in question as narrow but with passing places. In truth Payton Road is wide enough for two vehicles to pass each other; the narrowness being created by, for example, parked vehicles and property boundary features. The use of the wider 'passing places' is required only when larger delivery vehicles or agricultural traffic are present.

Between Payton Road and the access to the isolated group of cottages west of Westford, Rackfield is not covered by highway rights and therefore this Authority cannot comment.

From the junction of the cottages access track to Brook Farm, Rackfield is known as Public Footpath WG13/3 and the impact of this development on the route will have been assessed by my colleagues in the PROW section.

In this regard, I have no grounds to object purely on the issue of highway safety or efficiency as it would appear the impact of the traffic being reported, is on the PROW or private section of Rackfield. I hope this clarifies the Highway Authority position.

WELLINGTON WITHOUT PARISH COUNCIL - Wellington Without Parish Council

having initially supported the application now does NOT support this application. The council is concerned about the discrepancies in the technical statement, have looked at the single track road, and have talked to local residents who are concerned that there could be up to an additional twenty cars per day. The lack of a highways/traffic report is evident and the council has concerns that such new traffic movements would impact negatively on a single track, no through road leading to many properties.

ECOLOGY - A condition is recommended for dealing with any vegetation clearance in the site area to minimise the risk of harming/killing any reptiles and / or amphibians that may be present and to encourage their movement onto adjoining land in the active period.

ENVIRONMENT AGENCY - No comments received. Twice consulted.

ENVIRONMENTAL HEALTH -

Initial comments:

In principle there are reasonable concerns that a business with dogs in the open air or in open farm buildings is likely to be a source of dog barking. In addition, a number of complaints have been received concerning such an impact affecting nearby residents from the operation subject of this application.

Further to the applicant's noise impact assessment report ref 90925/0.3 (Noise Impact Assessment of Dog Agility Centre at Brook Farm, Westford, Wellington, TA21 0EB upon nearby dwellings), the following comment applies:- The document exhibits a generally precautionary approach to the modelling and prediction of noise impact from dog training classes and associated activity with up to five dogs. However, in arriving at the analysis of character, the amended BS4142 assessment method appears to underplay the impact, applying low 'penalty factors' for impulsivity and tonal character.

In addition to the 'in principle' concern, Environmental Protection Officer visits to residential property in the vicinity of the application site (on 11th and 12th February 2020) found evidence of persistent dog barking at the site during the time dog agility classes were advertised as taking place. The sound of intermittent but persistent dog barking was witnessed throughout the visits of over an hour duration, on each occasion. The dog barking was intrusive when witnessed inside the residential property, with windows open for ventilation. In order to avoid the disturbance, residents would be required to close windows at their property. This evidence also supported the allegations of numerous episodes of intrusive barking noise having previously taken place, affecting the nearest dwellings.

In light of these comments the applicant's noise consultant entered into discussions with the Council's environmental health officer. A revised noise report was submitted and a noise management plan. The proposal has also been amended to remove use of the adjoining field for outdoor dog training activities and the applicant is willing to accept a condition restricting only 18 months use of the building for dog agility unless otherwise agreed with the LPA.

Based on the above revisions the Council's Environmental Health officer has made the following comments:-

If time proves that the use applied for causes excessive noise impact, at least having limited it to the barn would

a) be some limit on noise levels. And,

b) significantly, I recall that an offer was made at some point that further insulation could be fitted to the barn if required – in which case if noise proves to be an issue from the barn, that at least might be addressed.

RIGHTS OF WAY - I can confirm that there is a public right of way (PROW) recorded on the Definitive Map that runs along the proposed access to the site at the present time (public footpath WG 17/23) and PROWs that run adjacent to the site (public footpaths WG 13/3 and WG 13/4).

We have no objections to the proposal, subject to the following:

1. Specific Comments

The local planning authority needs to be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path WG 17/23. If they are unable to and permission is granted, then the local planning authority could potentially be encouraging criminal activity through permitting driving on a public path without lawful authority.

2. General Comments

Any proposed works must not encroach onto the width of the PROW.

Representations Received

6 letters of representation have been received. Five of which object to the application as originally proposed and 1 raises a number of concerns that if can be addressed has no objection.

The objections relate to the use of the building for the dog agility training. Objections are based on the increased traffic this will generate. The speed of traffic using the private access road conflicting with residents and walkers of the public footpath that follows the access track. The unsuitability of the access with limited passing places. It has also been stated that more vehicles than detailed in the application use the building and a transport assessment should be carried out.

Concern has also been expressed that with other dog agility venues being refused by the council, they will look to hire out this venue leading to more traffic and noise.

Concerns are also raised regarding competitions being held at the site leading to more noise and traffic.

In terms of noise it is considered that the tree cover will do little to protect residents from excited dogs and dogs in cars passing the cottages are noisy. Also that the noise of passing trains cannot be compared to the noise from dogs. One resident has submitted a log of dog barking. *This log was also submitted to the Council's Environmental health team as part of an official complaint. The Environmental health officer undertook 3 months of noise monitoring from the resident's home.*

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

CP8 - Environment,
SB1 - Settlement Boundaries,
CP1 - Climate change,
DM2 - Development in the countryside,
DM1 - General requirements,
SP4 - Realising the vision for rural areas,

Local finance considerations

Not applicable.

Determining issues and considerations

The main issues in the consideration of this application are the principle of the development, landscape impact, highway safety, amenity, floodrisk and economy.

Principle of development

The proposed development consists of two elements. The erection of an agricultural building for agricultural purposes and secondly the dual use of that building for a dog agility training enterprise (D2 use class) .

The site is located in an open countryside location where Core Strategy Policy DM2 'Development in the Countryside' supports 'new non residential agricultural and forestry buildings commensurate with the role and function of the agricultural unit'. Brook Farm is a working holding of circa 124 acres. The main agricultural business is based around cattle rearing for meat production which includes a 40 cow suckler herd and a calf rearing activity. A flock of 50 ewes also forms part of the business with the lambs sold into the food chain. The land the farm utilises is partly rented, on a 20 year tenancy and partly owned freehold. The application site is on the freehold part of the holding. Brook Farm is run as a family farm by the applicants.

There is no arguing that this agricultural unit could support the proposed building. The building will be used for agricultural purposes such as when lambing and thus complies with Policy DM2.

In terms of also using the building for dog agility training (D2 use), the applicants run both the farm and the dog agility business. Ms Quick runs the dog agility business with the help at times of her partner Mr Richardson. He predominantly works on the farm side with his stepfather Mr Cutler who works entirely in the farm business. It seems reasonable that as a family they can work together to maximise the use of the building to meet the two businesses needs. The dog agility business supplements the farm income and is also utilising a building that may otherwise stand empty for the most part of the year.

Paragraph 83 of the NPPF supports such forms of farm diversification. It states that *'decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings; b) the development and diversification of agricultural and other land based businesses.*

The proposal therefore conforms with both local and national planning policy and is acceptable in principle.

Landscape impact

The proposed building is a typical modern, steel framed agricultural building. Timber clad on most sides with polycarbonate sheeting to the southern elevation and polycarbonate rooflights within the green profile sheeted roof. Access into the building is through the western gable elevation.

The building although set away from the main farm buildings is well screened by a dense tree belt which follows Westford stream to the north. To the south is the Bristol to Exeter railway line and to the east and west more boundary hedgerow. The building does not effect the visual qualities of the area.

Highway safety

The objections do not relate to the building itself or the use of the building for agriculture. The objections relate to the use of the building for the dog agility training and one of those objections is based on increased traffic and the suitability of the access road and conflict with users. The Highway Authority raise no objection with regards to utilising the public highway to access the site however cannot comment with regard to the use of the private road that serves Brook Farm and Rackfield Cottages.

Some residents object as a transport assessment has not been completed however this is not the case. An independant technical report assessing the traffic impacts of the proposal was submitted.

The private road from the public highway serves many residential dwellings however there are passing places to enable the passage of 2 cars. Where the road finally forks off to Brook Farm and the 6 cottages, the 100m section of road up to the cottages is singular vehicle width (3.2m) with no passing places. That being said, it has excellent forward visibility and any vehicles turning into this road, given the straight alignment of the road would see vehicles coming towards them from Rackfield cottages. Likewise any leaving the farm would clearly see if a vehicle was making its way up towards the cottages.

Dog training sessions would run from between 1 hour and 2.5 hours. On average there would be 4 sessions a day, 3 of which would be one to ones and the fourth a group session of no more than 5 dogs. The time of the classes are set so that there is a clear gap in between lessons so there would be no reason for traffic leaving to meet traffic arriving in the lane. With Covid regulations this changeover gap would be even longer.

A vehicle trip generation assessment was undertaken to assess the traffic impact of the use of the building for dog agility training. It concluded that the proposal would generate on average an additional 16 vehicle movements a day with traffic negligible at times. Given the infrequency of vehicle trips and low number of vehicle trips, the report concludes that the use of the building for dog agility training would be highly unlikely to compromise the safety or integrity of Rackfield even during the busiest peak hours. It should be noted that the assessment was based on the use of the building all day Saturday and Sundays 10 to 1pm however under the proposal before the committee there will be no Saturday afternoon or Sunday use.

Residents are concerned more dogs will be brought to the venue. Within a noise management plan submitted in support of the application, it details measures to be put in place to reduce noise disturbance. One of those measures is to have no more than 5 dogs in any class at any time. Should permission be granted compliance with the noise management plan would be conditioned but to ensure added control, it is recommended a further condition is imposed that clearly specifies the number of dogs allowed on site at any one time. This would ultimately control the number of vehicle movements. A condition controlling the hours of use the barn is used for dog agility would further limit the times when vehicles would be utilising the lane.

In a recent appeal against a refusal of this Authority to the change of use of land and buildings to a dog rescue centre (APP/D3315/W/19/3236409), the Inspector allowed the appeal but imposed a condition to ensure that the site was not used for fundraising events, open days and charity events. Although the application makes no reference to such events, I see no reason why this same condition could not be applied in this instance.

In terms of impact on the public right of way (WG 17/23), Rights of Way have raised no objection subject to the LPA being satisfied that the applicant has all purpose vehicle rights to use the private road. The applicant has confirmed they have such access rights. ROW do not raise any concern re conflict with users and as stated above vehicle movements would be limited and infrequent and can be restricted by condition.

There is an existing hardstanding adjacent to the main farm buildings that will be used for parking in connection with the dog agility classes. There is ample parking and tuning space available ensuring vehicles leaving the site have clear forward visibility of vehicles approaching.

In light of the above, I am satisfied that the proposal will not give rise to an increase in traffic that would impact on the highway safety or the amenity of residents who live in Rackfield or users of the public footpath.

Residential amenity _

Objections have been made with regards to noise disturbance from dogs barking. Policy DM1 does not support proposals that will lead to noise pollution that would unacceptably harm the amenity of individual dwellings or residential areas or the local or wider environment.

As the application is retrospective, the Council's Environmental Health Officer (EHO) was able to carry out noise monitoring over a 3 month period from one of the objector's properties. It was found that over 2 days during that period (February 2020) noise from barking dogs was experienced within the property that would have required them to shut their window.

Investigating this further it was believed that the 2 day period coincided when Ms Quick was away and a different instructor was holding the classes, demonstrating that the management of the operation can be a significant factor in controlling noise.

There is no specific criteria or guidance relating to noise impact effects from dog barking upon nearby noise sensitive properties however an in dependant noise impact report was submitted and as a consequence of the findings, a noise management plan with a number of recommended mitigating measures.

Rackfield Cottages are approximately 120m from the building. Members may recall two applications (10/19/0011 & 24/18/0049) for a dog breeding business and a dog rescue centre that were both refused by committee against officer recommendation but both have since been allowed on appeal this year. With both applications, noise disturbance was a reason for refusal.

At the dog rescue centre which could accommodate as many as 20 dogs for boarding and exercising, the closest dwellings were approximately 100m and at 130m, further dwellings and holiday lets. With the dog breeding business that could accommodate 15 dogs, the closest dwelling was a farmhouse at 100m. In both appeals the inspectors concluded noise from barking dogs would not significantly harm the residents or the tranquility of the area.

Under this proposal not only will all the dogs other than when walking to and from the car parking area to the building be inside, the hours will be restricted and the number of dogs in any class restricted to a maximum of 5. It must also be remembered that the dogs attending sessions are mostly highly trained agility dogs that are under the strict control of their individual handlers.

The noise report identifies that insulation works could be carried out to the northern and eastern facade of the building which would reduce noise levels further by 6 dB(a) however states this is not an absolute requirement and it would be unreasonable for the Council to condition it.

The applicant however is willing to accept the imposition of a planning condition that limits the use of the building for her dog agility business to 18 months subject to further agreement with the LPA. This would enable the applicant to run her business for that period and demonstrate to the LPA that noise is not causing harm to the residents. This measure is supported by the EHO as should noise problems be experienced during that period, the applicant can carry out further noise insulation measures to the building that would reduce noise levels even further.

Floodrisk

Due to the proximity of Westord stream, the building lies in floodzone 2 and a flood risk assessment was submitted in support of the application. A sequential test was undertaken which identified only 2 fields within the landholding that could accommodate the building. The other field has more superior grass and from a business perspective, the proposed location was identified as being the most suitable. It also has the added benefit of screening.

As both the use of the building for agriculture and dog agility is considered 'less vulnerable' uses in the flood risk vulnerability classification, an exception test was not required. The FRA concludes that the proposed development is not at risk of floodrisk subject to the applicant signing up to flood warnings from the EA. This can be conditioned should permission be granted.

Economic benefit

Both national planning guidance and local planning policies aim to support a prosperous rural economy. The proposed building will enable the use of the farm business to operate more effectively providing additional livestock accommodation or storage space for the farm. The barn will also enable the running of the dog agility business to supplement the farm income. Core Strategy Policy SP4 'Realising the vision for the Rural Area states : ' *the key features of the vision for the Rural area will*

:

- *provide small scale local opportunities for employment growth including rural tourism and rural diversification'.*

The proposed development will enable the farm unit to remain viable and should be supported on economic grounds.

Other matters

Some respondents have stated that a legal covenant exists that restricts the use of the private road. This is a separate legal matter and is not relevant to the consideration of the application

The Council's ecological advisor recommended a condition in the event of any site clearance. No such works are required and so the condition is not imposed.

Conclusion

The proposed development is supported by national and local planning policies. The erection and use of the building will not harm the landscape character of the area and with the use of conditions is acceptable in terms of traffic impact. The scheme has been amended so that permission only extends to the use of the barn for dog agility training and not the adjoining field and a condition will limit its use for dog agility training for 18 months subject to further agreement with the LPA. For these reasons it is recommended that planning permission is granted.

In preparing this report the planning officer has considered fully the implications and

requirements of the Human Rights Act 1998.

Contact Officer: Mrs K Wray