

48/19/0065

MR HARRON

**Change of use of land from agricultural to canine activity training facility, provision of hardstanding, field shelter and alterations to access on land at Cherry Grove Rise, Yalway Road, West Monkton**

Location: LAND AT CHERRY GROVE RISE, YALWAY ROAD, WEST  
MONKTON, TAUNTON, TA2 8LW

Grid Reference: 325230.128938 Full Planning Permission

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**Proposal**

The application proposes the change of use of the field from agricultural use to provide an area for dog behavioural training and therapy.

**Site Description**

The site consists of an existing agricultural field comprising grass and bound by hedgerows on all sides. The site is located on the northern slopes of the Quantock Hills but is outside the AONB which is located approximately 2km to the North West. The site is on the western side of the adjoining class C classified road. Access into the site is from the existing road via an existing field access at the North Eastern corner of the site.

The Hestercombe House Site of Special Scientific Interest and Special Area of Conservation (SSSI and SAC) is located approximately 1km to the west of the site. Hestercombe House is also Grade I Listed and set within a Conservation Area and Grade I Listed Park and Garden which extends to approximately 700 metres from the site at its closest point.

**Relevant Planning History**

None relevant.

**Consultation Responses**

*WEST MONKTON PARISH COUNCIL* - The Parish Council objects to the granting of permission and made the following comments in relation to the application:

- The proposed use of the site as a dog training facility is considered to be an inappropriate use of the land.
- The Parish Council has concern about the level of noise from the proposal from dogs barking and how this will be heard by and disturb neighbouring properties. It was noted that due to the proposed location in open countryside, the noise disturbance could travel some distance. The noise may also have an adverse impact on wildlife in the area, active badger sets are in the area. In addition, dogs barking may also cause distress to dairy cows and calves grazing on the neighbouring land.
- The proposed location is in the bat mitigation zone, the proposed fencing at 3 metres high, is not conducive for bats. It will impact bats foraging and cause an obstruction to bats.

- The proposal will result in a loss of biodiversity, the land is currently a traditional hay meadow, the proposed use will mean that the grass will be intensely cut thereby adversely impacting biodiversity.
- The proposal will have a negative impact visually and impact the ambience of the area, which is only a short distance from the Quantock Hills AONB boundary.
- The proposal will result in an increase in the number of cars on a quiet country lane. Access to the proposed site is from an unrestricted tree lined road with poor visibility for cars accessing and exiting the site.
- The Parish Council believes that the points raised above mean that the proposal is not compliant with Core Strategy Policy DM1.
- No lighting should be erected in order to comply with the WM&CF NP Dark Skies policy R1. If consented the facility should therefore only be operational during daylight hours between 9am and 5pm Monday to Friday and Saturday morning only.
- Finally, it is noted that the application is only for change of use, the Parish Council questioned whether permission should also be sought for the erection of the fencing and proposed 'summerhouse'.

*SCC - TRANSPORT DEVELOPMENT GROUP* – Standing advice applies

*Environmental Health - all Areas including Housing Standards –*

The application is to use the land for dog training with the following hours: Mon-Fri 07.30-18.30, Saturday 08.30-18.30 and Sunday 08.30-18.30.

It is stated that the applicant only plans to train one or maybe two dogs at a time. The site is an open field with the nearest residential property is approximately 120m away.

There is no noise assessment with this application. Although it should be noted that assessing the potential noise from dog barking is not straightforward, as there is no standard way to measure or assess noise from dog barking, and no criteria against which to compare any predicted noise levels. Also, noise from dogs can be very varied depending on the individual dog and the management of the operation.

However, you have provided some information which shows that a dog barking on the site can be heard clearly at the nearest property, and also heard further along the lane.

It is not possible to confirm whether or not the noise from the proposed use will lead to an unacceptable increase in noise levels in the area, as there are so many things that could vary with this type of use (for example the number and type of dogs, how many training sessions are held and how the dogs behave and the barking is managed). However, there could be a problem if the use did lead to noise from dog barking for the hours proposed, which includes weekends when neighbours are more likely to be at home. As the proposal is for the use of open land there is no potential to contain any noise within a building.

If the proposal did go ahead would it be possible to limit the number of dogs on site at any one time and to have more restrictions on the use at weekends?

An additional option could be to grant a temporary use, as this would allow the impact to be monitored.

*LANDSCAPE* – No comments

#### *ECOLOGY-*

I (and Natural England) should have been consulted on this one as it involves land use change that could potentially affect the SAC lesser horseshoe bat population.

I do not understand why a 2 metre wire mesh high fence is needed but would recommend the exterior is planted with a native species hedgerow to form a 'green lane' around the boundary of the site between it and the existing hedgerow. Lesser horseshoe bats would habitually commute using the hedgerow and are unlikely to cross into the field unless grazing cattle are present. Yellow dung fly form part of the diet of lesser horseshoe bats. Otherwise hay and silage use is likely to prevent or suppress any micro moth abundance and therefore the field is likely to be of low value as a resource to lesser horseshoe bats when cattle are not present. Therefore the change of use is likely to lead to the loss of some foraging resource, probably for a single lesser horseshoe bat and perhaps her pup at this range from the maternity roost. The species has individual traditional hunting territories within a maternity colony's home range. I do not consider a significant effect on the Hestercombe House SAC would occur and unless Natural England requires otherwise do not intend to carry out a Habitats Regulations Assessment for the application.

The hedgerow planting, at least where the distance between the fence and existing hedgerow is wide enough, would mitigate the loss of grazing and potentially would provide biodiversity gain. The applicant states that hedgerow would be allowed to grow out and subject to an alternating trim. However, to be of benefit to bats, hedgerows should be trimmed at minimum once every three years if an abundance of insects is to be provided. The lane around the site should be cut once per year between November and February on a rotational basis so that only two side are cut at any one time. This management would allow Lepidoptera to complete their life cycle, including micromoths which are hunted by lesser horseshoe bats. I can provide approximately worded conditions for the provision of hedgerow planting and landscape management.

However, my main concern is about the height of the fencing is that it can pose a risk of collision injury /mortality to birds, such as raptors, which fly over the hedgerow and drop immediately not expecting the barrier to be there, especially when chasing prey. A hedgerow of similar height would go towards solving the problem but not in the short/medium term. The fence needs to be made more visible.

Second response:

I consider that such surveys (wildlife surveys) would be onerous but would add the following condition to the two afore stated to make the fence more 'visible' as follows (or words to that effect). We do not know is priority bird species are present as listed on s41 of the Natural Environment and Rural Communities Act 2006 for which the local planning authority has a duty for the conservation of in carrying out its role.

The entire length of the wire fence shall have devices to mark its presence, such

as solid discs, mounted upon it and maintained until such a time as the planted hedgerow reaches the same height as the fence. The type of device and specification for mounting shall be submitted to and agreed by the local planning authority prior to any work commencing on site.

Reason: In the interests of priority birds species listed on s41 of the Natural Environment and Rural Communities Act 2006, biodiversity generally and in accordance with policy CP8 of the Taunton Deane Core Strategy

Provided these conditions can be applied I would be more comfortable with progressing the application.

Third response:

You could increase the fence's visibility by hanging solid shapes, such a large disc or perhaps decorating it with continuous foliage, along its entire length in the short / medium term. The applicant needs to provide details. A 2m high hedgerow would eventually hide it. *(Later comment relating to discs- The image of the discs you've forwarded are suitable. However the reflective surface ones would be preferential in preventing bird strike until the new hedge is grown and the fence can be removed as per our previous comms on this.*

*Alternatively UV window alert decals could used on a muted colour disk if reflective once can't be used. Bare in mind that they only last for around two years. Solid coloured/black decals should not be used as they do not prove successful. For UK stockists see:*

*<https://www.britishbirdfood.co.uk/other-accessories/protection-and-security/window-bird-alert-wild-bird-food-feeders-and-accessories> or <https://www.livingwithbirds.com/search?sw=stickers>).*

As no ecology surveys have been undertaken for the application and as Section 99 of the Government circular 2005/06 on biodiversity and geological conservation states that *'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'* without the mitigating hedgerow planting and appropriate management I would consider the proposed development unacceptable.

Provisional conditions:

A native species hedgerow will be planted along the outer side of the existing wire mesh fence. A planting schedule and plan will be submitted to and approved in writing by the Local Planning Authority prior to any work or operational use of the site commences, whichever is earlier. The approved scheme will be planted at the earliest opportunity and maintained thereafter.

Reason: In the interests of the integrity of a European site, the Favourable Conservation Status of populations of European protected species, biodiversity generally and in accordance with policy CP8 of the Taunton Deane Core Strategy

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to operational use of the development. The content of the LEMP shall include the following:

- a) Aims and objectives of management.
- b) Appropriate management options for achieving aims and objectives.
- c) Prescriptions for management actions.
- d) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- e) Details of the body or organization responsible for implementation of the plan.
- f) On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species, biodiversity generally and in accordance with policy CP8 of the Taunton Deane Core Strategy

*NATURAL ENGLAND –*

We do not consider that the scheme poses a significant risk to the Hestercombe House Bats SAC and therefore a Habitats Regulations Assessment is not needed. We do, however, support the improvements advised by the County Ecologist which will benefit bats and other wildlife.

*THE QUANTOCK HILLS AONB SERVICE –* No comments received.

**Habitats Regulations Assessment**

The site is approximately 1 km from the Hestercombe House SSSI/SAC, however the development has been deemed to be of a nature and scope such that there would be no likely significant effect on these protected sites.

The site is within the catchment for the Somerset Levels and Moors RAMSAR/SSSI/SAC which is currently deemed to be in an unfavourable condition due to phosphate levels. This proposal would not have any impact on phosphate discharge as it would not result in any raising of the local population as would occur with residential and it would not present any other specific impacts or concerns. Accordingly there would be no likely significant effect on the Levels and Moors Protected site.

Having regard to the above, there is no requirement to carry out a Habitat Regulations Assessment.

**Representations Received**

Following consultation representations have been received 13 individuals from 11

households, 08 objecting and 06 in support (2 of these not within the District) and 1 making neutral comments. The following comments are made:

Objection:

- Concerns over noise from dogs barking
- Traffic congestion
- Potential impact of artificial lighting
- Harm to wildlife- fence is a risk to feeding bats and birds, loss of foraging habitat for bats. Likely to impact on Hestercombe House SAC.
- Metal fence, tarmac is harmful to the character and appearance of the area.
- Site is within the setting of the AONB.
- If planning permission is granted it should be restricted to 09-1800 5 days a week only.
- Barking dogs could affect the nearby dairy farm where cattle are in the open fields year round.
- No wildlife surveys submitted with application.
- Limited benefit in terms of job creation.
- Active badger set in lower field boundary.

Support:

- The site is away from residential areas.
- Limited numbers of customers and plenty of space within the site will not cause adverse issues.
- The applicants are considerate people and would not wish to impinge on neighbour amenity in any way.
- The applicant is qualified in animal behaviour.
- There is a need for this service in the area.
- Wider benefits to public health

Neutral comments:

- Fencing should be screened by new hedge planting if permission is granted.
- If permission is granted there should be a limit on the number of dogs of perhaps 4.
- Further clarification should be provided in relation to toilet and wash facilities.
- Planning conditions should restrict the future change of use to kennels/day care and also a limit on the number of dogs, traffic and hours of opening.

### **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.

DM1 - General requirements,

A1 - Parking Requirements,

ENV1 - Protection of trees, woodland, orchards and hedgerows,

CP8 - Environment,  
DM2 - Development in the countryside,

**Local finance considerations**  
**Community Infrastructure Levy**

Not applicable to this development.

**Determining issues and considerations**

Principle of development:

The site is located outside settlement limits and accordingly is classed as open countryside. Policy DM2 relates to development in the open countryside. It sets out certain categories of development that will be supported. In addition it sets out several tests, all of which must be met, such as preserving landscape character and visual amenity, ensuring ecological interests are not harmed and ensuring there will be no harm to highway safety.

In addition, Policy CP8 is relevant and supports development provided that it protects habitats and biodiversity, protects and conserves the landscape, and natural and historic assets, and is appropriate in terms of scale, siting and design.

Canine related facilities do not fit into any of the categories of development that are specifically supported by DM2, however it is a use that requires an amount of space and as such it is generally expected that such sites will be proposed in the open countryside. In addition, this is a business use and whilst not within the B class uses specified by DM2, there is general support for businesses in the countryside within the NPPF.

Having regard to the above, the acceptability of the proposal is not precisely prescribed by Local Plan policies, however it is clear that the acceptability is dependant on the assessment of the environmental and other impacts of development. These considerations are set out within the report below.

Visual Amenity:

The site is visible from the adjoining road and from some more distant views in the area. The main impact visually is from the existing metal fence. There has been no unlawful use of the site as the dog facility has not yet commenced and accordingly these building operations can be carried out under permitted development rights.

Other visual impacts would arise from the alterations to the access and parking area. The applicant has proposed a light touch approach which comprises interlocking cellular ground reinforcement products. These would allow the grass to grow through the product to achieve a much lower visual impact compared to tarmac or other approach. In addition, should the use cease in the future, the product can be easily removed.

There would be some impacts from parked vehicles, although given the small scale of the proposal this would be acceptably discreet in its visual impact. A field shelter is proposed close to the western boundary of the site. This would be a small, simple timber structure which is typically used for animals and is characteristic of a rural area. It would have a very minimal visual impact.

The fence has the greatest impact on the character of the area. The materials and

overall appearance are not characteristic for a rural area. The site is relatively prominent being on a hillside with the road running up the eastern site boundary. Accordingly there is some localised harm to the character of the area at present as a result of the installation of the fence. Significantly however, as mentioned above, the fence is not included within the planning application as it was erected under permitted development rights. The fence could theoretically remain in perpetuity with the land used for agriculture/grazing. The fact that the fence did not require planning permission weakens the ability to refuse permission for the change of use on these grounds.

There are also measures that can be taken to reduce the visual impact of the fence and these can be secured through planning conditions. The metal posts are the most visible aspect of the fence. The applicant has agreed to paint these green which will reduce the visual impact of the fence and will assist to camouflage this element against the adjacent hedgerows. The applicant has agreed to the planting of a hedge around the perimeter of the exercise area. This would be located inside the fence line to allow sufficient space for any maintenance of the existing field boundaries. This will help to screen the Northern, Southern and Western section of the metal fence and would provide a green backdrop to the Eastern boundary as viewed from the road. The applicant has also agreed to a planting scheme within the existing roadside hedgebank to fill existing gaps and ensure increased screening from the road. The applicant has also agreed to a condition that would require the removal of the fence if at any point in the future the dog training use ceases permanently. A condition is required by the ecologist to secure a scheme to prevent bird strike on the galvanised mesh part of the fence. This could involve attaching metal disks or squares or other similar means onto the mesh to make the structure more visible to birds. This will also have an increased visual and landscape impact, however in the context of the existing and proposed screening and other mitigation measures it is considered that this would not be sufficiently significant to warrant refusal.

Given the relatively small scale of the existing and proposed development and relatively low key nature of the use, it is considered that there would be no impact on the nearby Grade I Listed Park and Garden. Subject to the above conditions, it is considered that the appearance of the fence can be acceptably mitigated. The proposal would therefore comply with Policies DM1 and CP8 of the Taunton Deane Core Strategy.

#### Residential Amenity:

The main concerns expressed by neighbours relates to the impact of barking dogs on neighbour amenity. The closest neighbours are Nos 1 and 2 Hillside Cottages, located approximately 140 metres from the site boundary and Cherry Rise Cottage which is located approximately 240 metres from the site. Dog barking would be audible from these properties although it should not be assumed that dog barking would be heard regularly as this would be dependant on a range of factors.

The Environmental Health Department have commented that it is not possible to confirm whether or not the proposed use will lead to an unacceptable increase in noise levels in the area given the range of variables that can exist such as the number of dogs, site management etc. Further suggestion is made in relation to restricting the number of dogs, increasing restrictions at weekends and considering a temporary consent. Further discussions have been held with Environmental Health

and on the basis of a temporary consent being issued, no evening operation and the restriction on the number of dogs at any one time have confirmed that an objection would be unreasonable.

A planning condition is recommended to ensure that the field is used as a dog behavioural training and therapy facility only. It is further recommended that other canine activities such as agility, exercise training and any other canine sports and general recreation by members of the public are excluded.

The applicant has agreed to a reduced hours of operation from that originally proposed to 08.00-18.00 Monday to Friday, 09.00-16.00 Saturday and 10-12.00 Sundays and Bank Holidays. Given the small scale nature of the use and other restrictions imposed, it is considered that these hours of use would be acceptable.

Having regard to the above, subject to conditions, the proposal would comply with Policy DM1 of the Taunton Deane Core Strategy.

#### Ecology:

The site is relatively close to and within the foraging zone for the Hestercombe SSSI/SAC which is designated for its colony of horseshoe bats. The County Ecologist and Natural England have been consulted. They have commented that subject to conditions the impact would be acceptable. They also comment that any impact would not be sufficient to require a Habitats Regulations Assessment.

The main impacts would be as a result of the loss of some foraging resource within the site for bats. The Ecologist has suggested the planting of a new hedgerow within the existing field boundaries to mitigate this loss. The other impact relates to the potential for bird strike as a result of the metal fence. Measures to increase its visibility are suggested such as metal discs attached at 2 metre intervals. A planning condition is included to secure the agreement and implementation of these details. In order to secure the appropriate management of the site, in the interests of general ecology and the SSSI/SAC, the Ecologist has also requested a Landscape and Ecological Management Plan condition to be included. Given the sensitivities of the site being within the foraging zone of the protected bat colony and the statutory duty to ensure the protection of the colony it is considered that these conditions are necessary and reasonable in planning terms and will ensure the protection of the protected site.

Having regard to the above, subject to conditions, the proposal would comply with Policy CP8 of the Taunton Deane Core Strategy.

#### Highway Safety:

The Highway Authority have referred the application to standing advice. The application would utilise an existing agricultural access. The road is class C classified, however it is relatively lightly trafficked. The road at the point of access is not restricted, however due to the nature of the road, vehicle speeds are likely to be generally up to approximately 30mph. Subject to minor trimming of vegetation on the highway verges, the visibility splays in both directions would be acceptable.

The applicant has amended the proposed details for hard surfacing the entrance and parking area due to concerns raised over the visual impact of the proposals. The amendment is to a mesh type surface which is laid over the existing grass surface for the parking area and a cellular type product which is installed into the existing grass surface for the entrance. These details have been discussed with the

Highway Authority who have commented that they are likely to be acceptable in principle given that this is an existing access, the road is relatively lightly trafficked and that this is would be a temporary consent to allow reassessment of the success of the material in practice. A planning condition is recommended to secure full technical details and specifications for these aspects of the scheme.

Having regard to the above, subject to conditions, the proposal would comply with Policy DM1 of the Taunton Deane Core Strategy.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

**Contact Officer: Mike Hicks**