

**Planning Committee 28 August 2018
Report of the Interim Head of Planning**

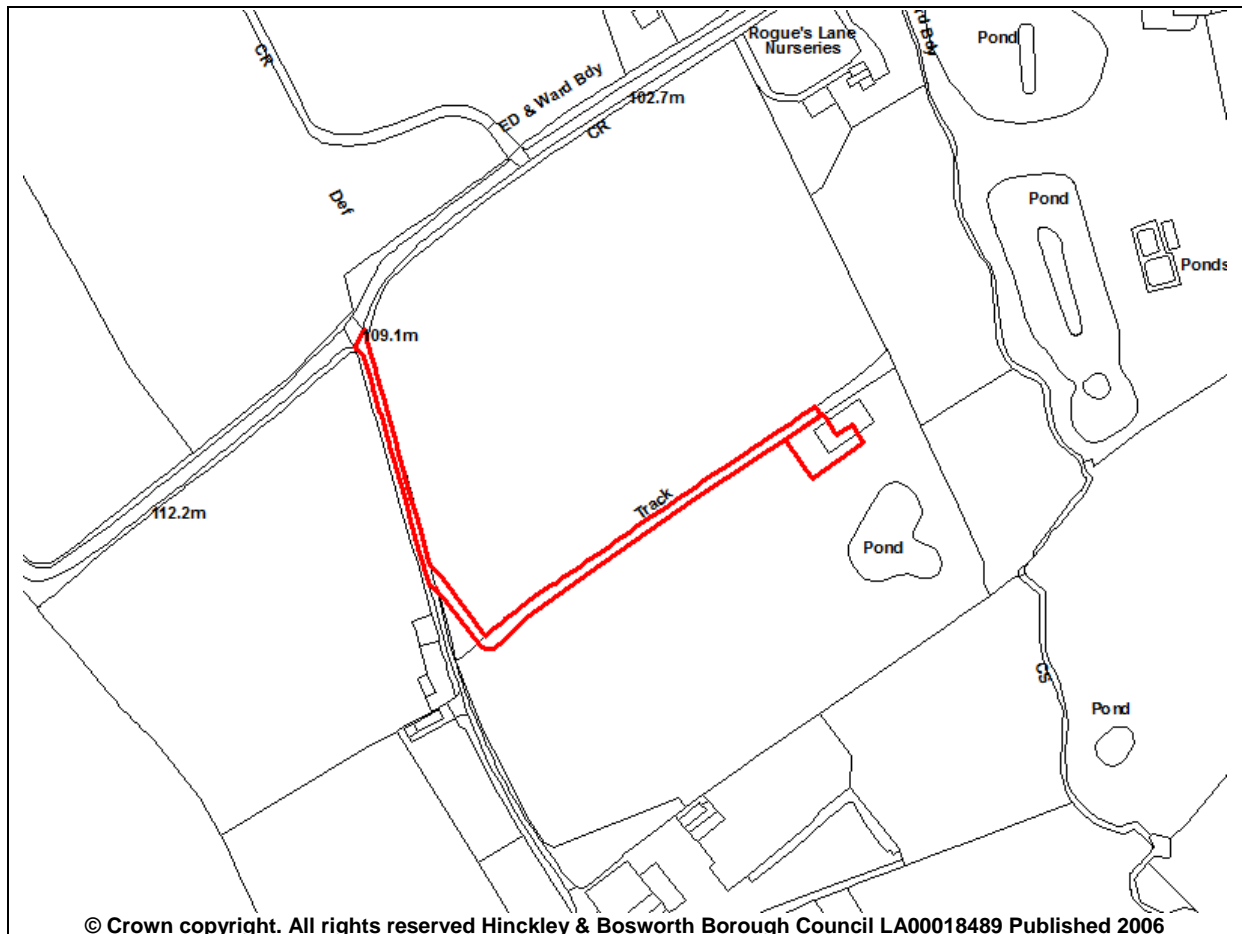


Hinckley & Bosworth
Borough Council

Planning Ref: 18/00353/FUL
Applicant: Mr Daemon Johnson
Ward: Hinckley Trinity

Site: Cold Comfort Farm Rogues Lane Hinckley

Proposal: Change of use to a dog day care centre (retrospective)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. This application seeks retrospective full planning permission for the change of use of part of an existing agricultural building, on land to the north of Cold Comfort Farm, Rogues Lane, Hinckley, which is an agricultural holding. The proposal includes the internal partition of the building and external fenced exercise area enclosing the south west of the existing agricultural building.

2.2. The existing business is licensed to look after 30 dogs and provides a pick up and drop off service for the day care of dogs daily, which equates to around 6 vehicle trips per day. The business operates Monday to Fridays between the hours of 10:00 to 16:00 and at no time over the weekend. There is also no overnight accommodation of dogs on site.

2.3. The remainder of the building, is retained for the storage of agricultural equipment, associated with Cold Comfort Farm.

3. Description of the Site and Surrounding Area

3.1. The barn is situated to the north of the Cold Comfort Farm complex, and upon a separate parcel of land. The site is within the countryside, and open fields surround the building to the north and south, however the application site, comprises of an area of approximately 372.50 square metres. The site slopes from south to north and from west to east, and field boundaries are denoted by mature hedges. To the north is a further field with Rogues Lane beyond. Access is taken from the existing lane off Rogues Lane, which also serves the wider area, and would utilise the existing agricultural access.

4. Relevant Planning History

10/00318/GDO	Erection of Agricultural building	Prior notification approved	25.05.2010
10/00055/GDO	Erection of Agricultural building	Prior notification approved	23.02.2010

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2. 21 letters in support have been received making the following representations:-

- 1) The service allows people to have dogs and work full time.
- 2) Supports a local business.
- 3) Crucial to the well being of pets.
- 4) Important to the local community.
- 5) As dogs are picked up and dropped off it does not restrict working hours.
- 6) Dogs are well looked after and happy.
- 7) Great for socialising dogs and exercising.
- 8) Service is flexible.
- 9) Dog no longer displays separation anxiety.
- 10) A relationship of trust has been built up and it would be difficult to use a different provider.
- 11) Dogs behaviour is due to the regular contact he has with other dogs and stimulating environment.
- 12) Dog is always eager to be picked up, and due to her being a rescue dog she would be unable to be cared for in a kennel.

5.3. Letters from three separate addresses have been received, raising objections on the following grounds

- 1) Noise experienced on a daily basis.
- 2) Upsets surrounding farm dogs who start replying to the dogs in care.
- 3) Shouting is heard on a regular basis at the dogs.
- 4) Would be more appropriately situated within an industrial type premises.
- 5) If a farm dwelling is what is required it should stand alone not near homes.
- 6) Already adequate dog services in the area, which are probably not on such a large scale so could give dogs more attention.

- 7) The proposed use has an effect on health due to the stress.
- 8) Unable to open windows.
- 9) The building is unsuitable for the proposed use.
- 10) Premium prices have been paid to live in the quiet countryside.
- 11) What about the smell of urine and dog faeces, the livestock surrounding the area, and if a dog escapes.

6. Consultation

- 6.1. No objections, some subject to conditions from:-
HBBC Environmental Health (Pollution)
- 6.2. Formal response to follow from Leicestershire County Council (Highways)
- 6.3. Councillor Cope has provided comments on the application, and considers it is as important to assess the appropriateness of the use in proximity to neighbouring dwellings.

7. Policy

- 7.1. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.2. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2018)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. Key Issues
 - Assessment against strategic planning policies
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Other Matters

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date development plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009) and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. Policy DM1 of the adopted SADMP provides a presumption in favour of sustainable development. As the site is outside any defined settlement boundary Policy DM4 of the SADMP is applicable and states that the countryside will first and foremost be

safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:

- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
- and:
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - It does not undermine the physical and perceived separation and open character between settlements; and
 - It does not create or exacerbate ribbon development;

8.5. Section 6 of the NPPF seeks to build a strong, competitive economy. Paragraph 80 of the NPPF states that planning policies and decisions should help create the conditions in which business can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

8.6. Paragraph 83 of the NPPF seeks that policies and decisions enable, the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings; the development of diversification of agricultural and other land-based rural businesses, sustainable rural tourism and leisure development which respect the character of the countryside; and the retention and development of accessible local services and community facilities, such as shops, meeting places, sport venues, open space, cultural buildings, public houses and places of worship.

8.7. The development proposes the part re-use of an existing building in the countryside, with some of the building retained for agricultural purposes. The proposal would result in an economic development of non agricultural activities, which constitutes rural diversification, providing the owner of the building a non agricultural income from the letting out of part the building.

8.8. The proposal would not result in any external alterations to the existing building, however it does propose to enclose an area of land surrounding the barn to allow for outdoor yet undercover exercise for the dogs, the impact of this will be assessed later on within the report. The proposed development is therefore considered to be in accordance with Policy DM4 of the SADMP, subject to the assessment of other material considerations.

Design and impact upon the character of the area

8.9. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Policy DM4 of the SADMP seeks to ensure development does not have a significant adverse impact on the intrinsic value, beauty, open character and landscape of the

countryside, in this instance, that the proposal enhances the immediate setting of the building.

- 8.10. Rogues Lane has a predominantly undeveloped rural character, with field boundaries denoted by mature native hedgerows. Rogues Lane is an unlit road and narrow in width due to the rural nature of the surrounding area. The application site, is largely concealed from wider views, due to the location of the building, which is positioned to the south of the Rogues Lane, and in excess of 160 metres from the access serving the proposed to the west, and occupies a slightly lower position.
- 8.11. The applicant has previously occupied buildings within the settlement boundary of Earl Shilton and Hinckley. More recently the business occupied an Employment site within the settlement boundary of Hinckley, which was refused and upheld on appeal. Due to the specific nature of the use, which is a Sui Generis use any building in which the use occupies, would require consent.
- 8.12. The proposal would seek no alterations to the existing agricultural building, and as such would preserve the appearance of this building, with alterations limited to the internal partitioning of the building. The proposal however seeks to enclose an area immediately adjacent to the building, in a roughly 'L' shaped area wrapping around the south east and south west elevations of the building. At present the area is enclosed by herras fencing with bamboo screening, however the applicant would seek a more permanent solution in the form of the erection of a close boarded fence, which would provide security, remove the likelihood of dogs being able to see external stimuli in the surrounding countryside and provide noise mitigation. It is likely the proposed acoustic fence would be two metres in height, and constructed in wood. Although the introduction of a close boarded fence in this location would not be a welcomed feature within this countryside location, given the fence would be set below the height of the existing building, constructed of compatible timber materials the fencing would not be prominent, and additional landscaping could be provided to further mitigate any impact.
- 8.13. Overall the layout of the proposed development and the design of the proposed enclosure is considered to be acceptable in this case, and as a result of the proposed materials and mitigation measures the development would not have an adverse impact upon the character or appearance of the landscape. The proposals are therefore considered to accord with Policies DM4 and DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.14. Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties and that the amenity of occupiers of the proposed development would not be adversely affected by the activities in the vicinity of the site.
- 8.15. The nearest residential dwelling is Rogues Lane Nurseries, which is situated approximately 133 metres to the north of the application site. The use of the site has the potential to impact upon residential amenity as a result of dogs barking. HBBC Environmental Health has been consulted during the course of the application and have visited the site. During the period in which the dog care business has been in operation, noise complaints have been received and are being investigated; at the time of writing no formal action had been taken. The hours of use proposed are 1000 to 1600 Monday to Friday and at no time over the weekend.
- 8.16. As detailed above the proposed development would seek to provide acoustic fencing to the perimeter of the external exercise area, and the applicant has also confirmed they would be prepared to reduce the internal ceiling height, to reduce internal echoing and provide acoustic mass to the internal fabric of the existing

building to reduce noise escaping. Dogs generally bark due to external and internal triggers, and therefore reducing external and internal triggers through the provision of erecting close boarded fencing to stop dogs viewing the wider field to the south and west, and also ensuring that any noisy dogs are removed and managed appropriately. The dogs are picked up and delivered to the site at specific times and therefore no members of the public visit the site which also reduces further external triggers.

- 8.17. HBBC Environmental Health (Pollution) raise no objections to the scheme subject to a number of planning conditions, to protect the residential amenity of any neighbouring properties. The proposed conditions would seek to ensure the erection of an appropriate acoustic fence, restrict the maximum number of dogs being kept on the site at any one time to 30 and require the submission of a scheme to protect nearby dwellings from noise.
- 8.18. The applicant proposes to dispose of animal waste through the employment of a private 'offensive waste' disposal company and the operation of a regular collection process and double bagging of waste for disposal in accordance with the contractors procedures. Urine and residual mess will be mopped up with anti-bacterial products to avoid any accumulation of waste and potential odour issues arising that would have the potential to adversely affect the amenity of neighbouring properties.
- 8.19. Notwithstanding the objections received, it is considered that subject to the imposition of these conditions and the submission of a satisfactory noise protection measures scheme, the proposal would not result in any significant adverse impacts on the amenities of any neighbouring properties and would therefore be acceptable in this respect to accord with Policy DM10 of the adopted SADMP.

Impact upon highway safety

- 8.20. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.21. The applicant operates a 'pick up and drop off' service for the dog day care business which reduces the number of vehicles going to and from the site, and results in 6-8 vehicle trips a day. The proposed development operates from an existing agricultural building, which would therefore have an associated level of vehicle activity, and the assessment would be in this case whether this use would have a material increase or a material change in the character of the traffic in the vicinity of the site, which would result in a severe or significantly adverse effect upon highway safety on either Rogues Lane or the track serving the site. Regard must be had in this assessment of an Inspector's report (APP/K2420/C/3132569) which is a site accessed from the track from Rogues Lane for a residential gypsy and traveller site. The inspector found that the track was not heavily trafficked and wide enough for cars pass pedestrians at ease. In regards to the junction of the track serving the surrounding uses, from Rogues Lane, it was demonstrated that the 85th percentile speed for traffic passing this was 36mph (east) and 34 mph (west) with visibility to the east of up to 45 metres being achieved.
- 8.22. As such formal comments have been requested from Leicestershire County Council (Highways) for an assessment and will be reported as a late item.

Other matters

- 8.23. The depreciation of property prices is not a material planning consideration, therefore cannot be taken into account.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The development proposes the re-use of part of an existing agricultural building in the countryside as a dog day care facility, which is diversification of an existing rural enterprise, and would be acceptable in principle. As a result of the nature of the development, the layout, design, material and mitigation measures proposed, the proposed development would not have any significant adverse impact on the character or appearance nor residential amenity, subject to the imposition of conditions. Subject to formal comments from Leicestershire County Council (Highways) the proposed development would be in accordance with Policies DM1, DM4, DM10, DM17 and DM18 of the SADMP and the overarching principles of the NPPF.

11. Recommendation

- 11.1. **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.
- 11.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.
- 11.3. **Conditions and Reasons**
1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details as follows: Site Location Plan (1:2500), parking plan (1:1250) received on the 6.04.2018 and proposed floor plan received by the Local Planning Authority on the 18 June 2018.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD.
 2. Within one month of this permission, specifications of the proposed acoustic fencing to the external parameters of the exercise area shall be submitted to and agreed in writing by the Local Planning Authority. The agreed acoustic fencing shall be erected within one month following the agreement from the Local Planning Authority.
 3. There shall be no more than 30 dogs on site at any one time.

Reason: In the interests of protecting residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

4. There shall be no dogs on site in connection with the business hereby approved except between the hours of 1000 to 1600 from Mondays to Fridays and at no times at weekends or Bank Holidays.

Reason: To ensure that the use is compatible with the surrounding countryside and to protect the amenities of neighbouring residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

5. Dogs associated with the day care, shall be brought to the site by employees only and not by visiting members of the public.

Reason: To protect the amenities of neighbouring residents, and to reduce vehicular movements to accord with Policies DM10 and DM17 of the Site Allocations and Development Management Policies DPD.

11.4. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail or call 01455 238141.