

# Agenda Item 115.

Application Number	Expiry Date	Parish	Ward
222805	12/05/2023	Finchampstead	Finchampstead South;

<b>Applicant</b>	Mr G Capes
<b>Site Address</b>	High Barn, Church Lane, Finchampstead, Wokingham, RG40 4LR
<b>Proposal</b>	Full application for the change of use of agricultural paddock with proposed shed and part of private woodland to commercial land to be used for the provision of dog walking services. (Retrospective)
<b>Type</b>	Full
<b>Officer</b>	Marcus Watts
<b>Reason for determination by committee</b>	Major application (<1 Hectare)

<b>FOR CONSIDERATION BY</b>	Planning Committee on Wednesday, 10 May 2023
<b>REPORT PREPARED BY</b>	Operational Lead Development Management
<b>RECOMMENDATION</b>	<b>APPROVAL subject to conditions and informatives listed at Appendix 1 below.</b>

## SUMMARY

This proposal relates to a dog walking business use which is currently operating on a previously vacant agricultural paddock within the ownership of High Barn. Objections have been received from neighbours and the Parish Council which largely relate to the impact of the activity on the character and appearance of the area as well as noise and disturbance on neighbouring land users.

However, the scheme is an appropriate activity within the countryside being a sustainable rural enterprise, adequate parking provision has been demonstrated and there is limited impact on the character and appearance of the area and neighbouring amenities. The application does not seek to extend the operation outside of its current hours or area and operation hours can be secured by condition to prevent additional impact.

All other material planning considerations have been assessed and no adverse harm has been identified.

## RELEVANT PLANNING HISTORY

211201 – Full application for the change of use of agricultural paddock with proposed shed and part of private woodland to commercial land to be used for the provision of dog walking services, with access through private woodland from new parking area. (Retrospective) – Withdrawn – 07.09.2021

<b>DEVELOPMENT INFORMATION</b>	
Previous land use	Agricultural/Private Woodland
Existing parking spaces	1
Proposed parking spaces	1
<b>CONSTRAINTS</b>	Countryside Contaminated Land Consultation Zone Landscape Character Assessment Area Thames Basin Heaths - Special Protection Area – 5km Linear Mitigation Zone Great Crested Newt Consultation Zone Complete PrOW – FINC Footpath 10 SSSI Impact Risk Zones

<b>CONSULTATION RESPONSES</b>	
WBC Environmental Health:	No objection
WBC Highways:	No objection subject to condition
WBC Landscape and Trees:	No objection
WBC Public Rights of Way:	No objection
WBC Ecology Newts	No objection

<b>REPRESENTATIONS</b>
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**Town/Parish Council:**

Finchampstead Parish Council object on the following grounds:

- Change of use from agricultural to commercial constitutes development in the countryside and is contrary to policies in the emerging Neighbourhood Development Plan.
- Proposed fence height is too low to contain dogs, risk for livestock in adjoining fields and users on the public footpath.
- No easy access for emergency services, puts health and safety of employees at risk.

**Local Members:**

Cllr David Cornish objects on the following ground: The change of use from agricultural to commercial in the countryside, contrary to policies in the emerging Neighbourhood Development Plan.

**Neighbours:**

6 comments received objecting on the following grounds:

- Impact on the countryside.
- Impact of the change of use on neighbouring St James' Church (Grade I Listed) and Finchampstead Church Conservation Area.
- Impact on biodiversity.
- Noise and disturbance for users of the public footpath, adjoining fields and the surrounding area.

- Safety issues for users of the public footpath, boundary fencing is insufficient to contain dogs on the paddocks.
- Obstruction of the public right of way.
- Change of use is contrary to the emerging Finchampstead Neighbourhood Development Plan.
- Access is impractical and prevents emergency services from accessing the site, placing employees and members of the public at risk.
- The retrospective nature of the proposal.

2 comments received in support for the following reasons:

- Essential community service, unique to the area.
- The paddocks are a safe, secure location for the business which minimises disturbance for members of the public.
- Supports a local business.
- The proposed change of use does not represent a significant change in the character of the area.
- The proposed change of use would not intensify drainage issues and would not have a significant environmental impact on neighbouring land.

## **PLANNING POLICY**

### **National Planning Policy Framework National Planning Practice Guidance**

#### **Core Strategy (CS)**

CP1 – Sustainable Development  
 CP3 – General Principles for Development  
 CP6 – Managing Travel Demand  
 CP7 – Biodiversity  
 CP8 – Thames Basin Heaths Special Protection Area  
 CP9 – Scale and Location of Development Proposals  
 CP11 – Proposals Outside Development Limits (Inc Countryside)

#### **MDD Local Plan (MDD)**

CC01 – Presumption in Favour of Sustainable Development  
 CC02 – Development Limits  
 CC03 – Green Infrastructure, Trees and Landscaping  
 CC06 – Noise  
 CC07 – Parking  
 TB21 – Landscape Character  
 TB23 – Biodiversity and Development  
 TB24 – Designated Heritage Assets

#### **Other**

Borough Design Guide Supplementary Planning Document  
 Emerging Finchampstead Neighbourhood Development Plan

## PLANNING ISSUES

### Description of Development

1. This application is for the proposed change of use of the land to allow the provision of dog walking services and the retention of an existing mobile storage shed ancillary to the proposed use. The dog walking services take place in one of the four existing agricultural paddocks which are located to the north of Finchampstead Sports Club and to the east of High Barn (the residential dwelling within the Applicant's ownership). The application seeks to regularise this activity which has been occurring for the past 4 years, hence the retrospective nature of the proposal.
2. The proposed use currently takes place between 10:30 to 14:30 Mondays to Thursdays only, and no extension of these hours is sought. The maximum number of dogs per session is 20 and all are collected by staff members on their way to the site by appointment only. Clients do not drop off or collect their dogs from the site. The existing mobile shed is used for the storage of equipment relating to the activity and maintenance of the boundary treatment.
3. The site is accessed via the entrance to Finchampstead Sports Club off The Village (B3348). After collecting the dogs on route to the site, staff members drive through the car park associated with the sports club, which the applicant has a private right of way over, towards the rear of the car park where the vehicle is parked on hardstanding within the applicant's ownership. Under supervision the dogs then walk through the private woodland before crossing the public footpath and entering the paddocks.
4. Following the public consultation period, additional information including a set of revised plans was submitted by the applicant on 28 March 2023 to further clarify the scale of the activity and to clarify matters including access and parking.

### Principle of Development

5. The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.
6. The application site is located outside of development limits within the countryside as designated by Core Strategy policy CP9 and MDD Local Plan policy CC02. CP11 states that development proposal will not normally be permitted except where one or more of the specified exceptions apply.

Of the specific exceptions in Policy CP11, the following are considered to apply:

- 1) *It contributes to diverse and sustainable rural enterprises within the borough, or in the case of other countryside-based enterprises and activities, it contributes and/or promotes recreation in, and enjoyment of, the countryside; and*
- 2) *It does not lead to excessive encroachment or expansion of development away from the original buildings; and*

- 3) *It is contained within suitably located buildings which are appropriate for conversion, or in the case of replacement buildings would bring about environmental improvement;*
7. To begin with, dog walking is a typical recreational activity that does occur both in the countryside and urban areas. This proposal relates to a more formalised business arrangement for this activity which would only be practical with access to areas of public open spaces or open land sufficient for the exercise needs of the dogs. While the use of a private agricultural paddock appears to be unique to this case, the activity is not inappropriate in this location, nor wholly inconsistent with the use of the land for the exercise of horses or other animals. Moreover, the applicant has advised that the last agricultural activity on the site (sheep grazing) ceased in 2016. The proposal therefore represents a sustainable rural enterprise in context to the requirements of policy.
8. Concern has been raised about the use of the land by a business and the commercial nature of the proposal. While the activity is carried out by a professional business, it does not represent a significant intensification of a non-conforming use on this site, and for compliance with Policy CP11, the qualifying uses include commercial enterprises. Moreover, if permission were to be granted, it would only allow dog walking services to be carried out on the land and would not set a precedent for other commercial activities on the site or adjacent land, which would require permission in its own right and be determined on its own merits.
9. The proposed storage shed is the only form of operational development on the paddock. This structure is positioned on skids and is therefore mobile, this is typical of similarly sized structures on agricultural land and typically does not require planning permission in its own right. Due to its relatively small scale and mobile nature, it does not constitute excessive development within the countryside. While the paddock on which the activity is carried out is relatively isolated land which has not previously been developed, the nature and intensity of the use does not represent an excessive encroachment or expansion of inappropriate development within the open countryside as resisted by Policy CP11.
10. Comments have been received objecting to the proposal as it fails to comply with the emerging Finchampstead Neighbourhood Development Plan. Statutorily, this document is currently subject to limited weight as it is not adopted yet. Nevertheless, direct reference has been made to policies IRS1 – Protection and enhancement of Local Green Spaces and IRS4 – Implement strategy to preserve the identity of Finchampstead Parish through informal green spaces. The site is not designated as a Local Green Space within the neighbourhood Plan, so policy IRS1 does not apply. Regarding policy IRS4, due to the relatively limited scale of the activity and associated structure, any impact on the character and appearance of the countryside would be negligible.
11. Subject to impact on other material considerations, the proposal would constitute appropriate development in the countryside and is therefore acceptable in principle.

## **Impact on Character of the Area**

12. Policy CP1 of the Core Strategy states that planning permission will be granted for development proposals that 'maintain or enhance the high quality of the environment'. Policy CP3 of the Core Strategy states planning permission will be granted if development is 'of an appropriate scale of activity, mass, layout, built form, height, materials and character to the area together with a high quality of design without detriment to the amenities of adjoining land users including open spaces or occupiers and their quality of life'.
13. The paddocks run parallel to a Public Right of Way, Footpath 10, which cuts across the application site in between the private woodland and the paddocks and connects Footpath 6 with Footpath 9. When traversing the footpath, the boundary adjacent to the footpath is lined with mature trees which largely block views of the activity. This significantly mitigates the visual impact of the proposed use and storage shed.
14. The limited scale of the proposed use is exemplified by its limited operating hours of 10:30 to 14:30 Monday to Thursday only. To ensure that the scale of the activity remains at an acceptable level, a restrictive hours condition is recommended to limit the proposed use to within these hours.
15. The activity is of an appropriate scale for its countryside location and does not adversely detract from the appearance of the area. Additionally, the proposed scheme has a limited impact on the enjoyment of users of the public footpath and does not detract from the rural character of the area.
16. Objections have been raised about the height of the current fences and access gates which are at a maximum of 1.2 metres high, and the possibility of dogs being able to jump over the boundary treatment onto the Public Right of Way or neighbouring land. While these concerns are duly noted, it is impractical for all fencing in the countryside to be designed to height which would prevent such events occurring, and any significantly higher fences and gates are likely to be out of character within this setting and would detract from its appearance. Moreover, any potential security issues relating to the control of dogs is not a material planning consideration but would be the responsibility of the business operators who should always have suitable training and liability in place.
17. Overall, the proposed use is of an appropriate scale for its location and does not detract from the appearance and enjoyment of the surrounding countryside. The scheme is therefore acceptable in this regard and hence complies with Core Strategy policies CP3 and CP11.

## **Neighbouring Amenities**

18. The closest neighbouring residential property to the paddocks is Lower Cottage, Church Lane which is approximately 39 metres from the north-eastern boundary of the site. Adjacent to the western boundary of the paddocks is Rectory Farm.
19. Several objections have been received relating to the associated noise and disturbance with the activity. The applicant has advised that the maximum number of dogs per session is 20, and that they are supervised by 2 or 3 members of staff.

20. While it is acknowledged that noises associated with the activity, primarily dog barking, will be audible from adjoining land users, the scale of activity is not significant enough to amount to adverse harm on the enjoyment of neighbouring land including the public footpath. As already discussed, the activity is restricted to 16 hours per week Monday to Thursday. Hence, the proposal would have limited impact on the informal use of the public footpath with no impact outside of these times.
21. WBC Environmental Health have reviewed the application and raised no objection to the hours of operation or maximum number of dogs. Moreover, the Environmental Health Officer has searched the Council's database for neighbouring post codes and confirmed that there have been no recorded nuisance complaints since the dog walking activity was established on the site.
22. With the exception for a brief period of time in which the dogs are transferred in between the private woodland and the paddocks, the activity is fully contained within enclosed land with minimal disturbance to neighbouring occupiers or members of the public.
23. Therefore, there are no grounds to indicate that the level of activity has had a detrimental impact on neighbouring land users or have cause for concern in the long-term. The scheme is therefore acceptable in this regard and hence complies with Core Strategy Policy CP3.

### **Access and Movement**

24. Core Strategy Policy CP6 indicates that proposals should allow for transport choice, improve infrastructure, provide appropriate parking, mitigate adverse effects, enhance road safety and not cause highway problems. CC07 of the MDD Local Plan contains the Borough parking Standards. The NPPF advises at paragraph 111 that development should only be prevented or refused on highway if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
25. Following the submission of the application, additional information was submitted relating to access and parking provision. The plans propose parking provision for 1 vehicle on existing hardstanding to the north of the car park serving Finchampstead Sports Club and within the applicant's ownership. Visits to the site has confirmed that there is sufficient space within this area for two vehicles.
26. The Council's Highways Officer has reviewed the scheme and raised no objection to the parking arrangement.
27. Beyond the parking area, access to the site is on foot via an informal route through the private woodland and then across Footpath 10 into the paddocks. A gate entry system is used at this access point which temporarily blocks the footpath and would be a brief inconvenience for users. The Council's Public Rights of Way has reviewed the scheme and raised no objection to this arrangement.
28. Therefore, the scheme is acceptable in this regard.

## **Landscape and Trees**

29. The trees within and adjacent to the application site are not protected by a Tree Preservation Order but significantly contribute to the verdant character of the countryside. Further information submitted by the applicant has confirmed that the access route through the private woodland is well established and would not require the removal of any trees. The parking area also sits outside of the woodland on existing hardstanding.
30. The scheme does not require the removal of any trees or other soft landscaping features. The mobile shed is positioned within the paddock and is sited away from the mature trees adjacent to the public footpath. The Council's Landscape and Trees Officer has reviewed the application and raised no objection.
31. Therefore, the scheme is acceptable in this regard and hence complies with Policy CC03.

## **Ecology**

32. Policy CP7 of the Core strategy and TB23 of the MDD Local Plan relate to Biodiversity and Development. The application site falls within a habitat identified to be potentially suitable for Great Crested Newts, a protected species.
33. The Ecology Newts Officer has reviewed the scheme and confirmed that the change of use is unlikely to have resulted in impacts to GCN or their habitats and subsequently raised no objection. Due to the scale and nature of the activity there are no further concerns relating to biodiversity or protected species.
34. Therefore, the scheme is acceptable in this regard and hence complies with Policies CP7 & TB23.

## **Other Issues**

35. Concern has been raised regarding the impact of the scheme on Finchampstead Church Conservation Area and Grade I Listed Church of St James to the north-east of the application site. Due to the considerable distance from the application site to these designated heritage assets, approximately 70 metres, and the acceptable impact on the wider character of the area, it is not considered that the proposal would have a specific impact on the setting on these assets and is compliant with Policy TB24 of the MDD Local Plan.
36. Several objections have been received relating to safety concerns for users of the public footpath as well as the staff operating the business. As mentioned above, this is not a material planning consideration and would fall under Environmental Protection legislation relating to public dog handling and animal welfare legislation. The applicant has advised that the staff members of 'Paws 4 Walking' are fully licensed and accredited dog handlers, and the activity is covered by Liability Insurance.



## Conclusion

37. Overall, it is considered that the proposed use is not an incompatible countryside activity, has an acceptable impact on the character and appearance of the area, and does not cause any significant harm to the amenity of neighbouring land users. There are no concerns relating to other material planning considerations.

38. The application is therefore recommended for approval subject to the conditions in Appendix 1.

### **The Public Sector Equality Duty (Equality Act 2010)**

*In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts upon protected groups as a result of the development.*

## **APPENDIX 1 - Conditions / informatives**

*APPROVAL subject to the following conditions and informatives:*

- 1. Approved details – This permission is in respect of the submitted application plans and drawings numbered 01:B, 02:B, 03:B and 05 received by the local planning authority on 28 March 2023. The development shall be carried out in accordance with the approved details unless other minor variations are agreed in writing after the date of this permission and before implementation with the Local Planning Authority.*

*Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the application form and associated details hereby approved.*

- 2. Operating hours – The dog walking services hereby approved shall only be permitted to take place within the hours of 10:30 and 14:30 Monday to Thursday and at no time on Fridays, Saturdays or Sundays.*

*Reason: In the interests of the amenity of the Countryside and neighbouring land users. Relevant Policy: Core Strategy policies CP1, CP3 & CP11.*

- 3. Parking and turning space to be provided – The vehicle parking and turning space indicated in the approved plans shall be retained and maintained in accordance with the approved details and the parking space shall remain available for the parking of vehicles at all times and the turning space shall not be used for any other purpose other than vehicle turning.*

*Reason: To provide adequate off-street vehicle parking and turning space and to allow vehicles to enter and leave the site in a forward gear in the interests of road safety and convenience and providing a functional, accessible and safe development and in the interests of amenity. Relevant policy: Core Strategy policies CP3 & CP6 and Managing Development Delivery Local Plan policy CC07.*

*Informatives:*

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant in terms of:*

- o submitting revised plans and additional information to address concerns relating to the scale of the activity, parking provision and trees.*

*The decision to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the NPPF is considered to be a positive outcome of these discussions.*

- 2. The applicant is reminded that should there be any change from the approved drawings this may require a fresh planning application if the changes differ materially from the approved details. Non-material changes may be formalised by way of an application under s.96A Town and Country Planning Act 1990.*

## APPENDIX 2 - Parish Council Comments

PLANNING REF : 222805  
PROPERTY ADDRESS : FBC Centre  
: Gorse Ride, Finchampstead, Wokingham  
: RG40 4ES  
SUBMITTED BY : Finchampstead Parish Council  
DATE SUBMITTED : 19/01/2023

### COMMENTS:

The Council objects to this application on the following grounds:

- Change of use from agricultural to commercial constitutes development in the countryside and is contrary to policies in the emerging FNDP.
- The fence height is too low to contain dogs which is particularly concerning for both livestock in the adjoining fields and walkers on the footpath.
- There is no easy access for emergency services should the need arise onsite and therefore puts the health and safety of those working there at risk.

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