

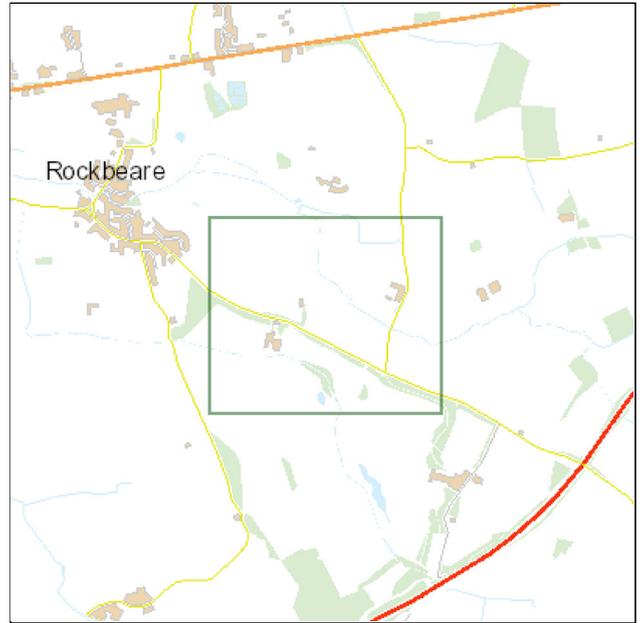
Ward Whimble And Rockbeare

Reference 21/1972/FUL

Applicant Mr J Haimes

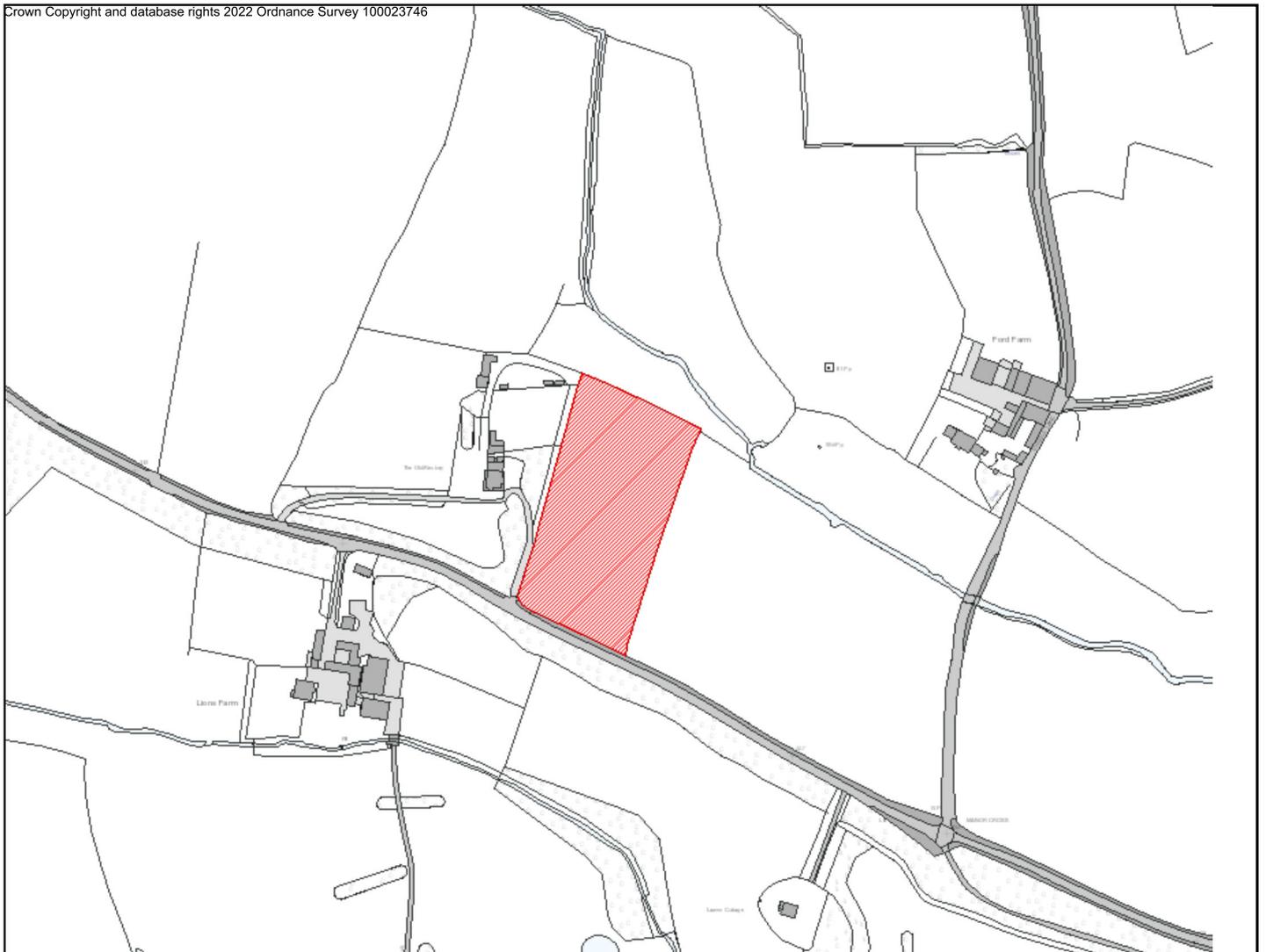
Location Land East Of The Old Rectory Rockbeare

Proposal Change of use of land from agricultural to dog walking area with the erection of a timber shed, fencing and hard standing.



RECOMMENDATION: Approval with conditions

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		Committee Date: 16th February 2021
Whimble And Rockbeare (Rockbeare)	21/1972/FUL	Target Date: 16.09.2021
Applicant:	Mr J Haimes	
Location:	Land East Of The Old Rectory Rockbeare	
Proposal:	Change of use of land from agricultural to dog walking area with the erection of a timber shed, fencing and hard standing.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Committee because the officer recommendation is contrary to the view of the Ward Member.

The application site lies in the open countryside and comprises an agricultural field (Grade 3) land outside the village of Rockbeare. The field is enclosed by hedging with western boundary of the site being shared with an existing residential property.

It is proposed to enclose the field by the installation of a perimeter fence within the existing hedge boundary to provide a secure dog exercise area. A small open sided shelter and off-road parking is also proposed. The site would be made available for hire/booking for individuals with an emphasis on providing a stress free environment for animals with behavioural problems, such as anti-social, timid and poor recall issues where mixing with the general public and other dogs is not practical or safe.

The location of the site is considered to be appropriate for the nature of the use and the limited nature of the proposed development is not considered to result in any adverse visual impact.

Whilst there is a dwelling located to the west of the site, its position and the presence of significant boundary planting is such that it is not considered that the small-scale use proposed would result in any unacceptable loss of amenity for the occupiers of this dwelling. There are no highway objections to the proposed development.

In light of the above, and subject to appropriate conditions the proposal is considered to be acceptable and the application is recommended for approval.

CONSULTATIONS

Local Consultations

Whimble And Rockbeare - Cllr Richard Lawrence

I cannot understand the reasoning behind this application. This is a rural village with ample dog walking areas, this type of facility is probably welcomed in an urban environment but totally unnecessary in Rockbeare.

I fully support the reasons given by objectors to this planning application and would urge Officers to reject it.

Clerk To Rockbeare Parish Council

This objection is made on behalf of Rockbeare Parish Council.
The Parish Council bases its objection on the following grounds:

The proposed amenity area, being remote from the operator, will be completely unpoliced. No-one will be able to ensure that dog owners do in fact clear all their dog excrement from the site. Over time this will create a significant bio-hazard, a persistent and unpleasant smell and will generate a fly and insect presence., which is likely to affect surrounding properties.

The hours of use run well into the late evening, when it will be unlikely that all dog excrement will be removed from the site.

Exiting the field in a vehicle after dark will be a dangerous.

Once someone has the access code to the padlock, there is nothing to prevent them using the site outside the 'formal' hours of operation.

It is perceived that the barking of dogs being exercised, will create a significant noise nuisance to adjacent property owners and to the occupiers of the two nearest farms - Lions Farm, Ford Farm.

The road access is entirely unsuitable, requiring vehicles to stop in the road while the gate is unlocked and opened for access to the site. This will create a hazard in the road to passing traffic and agricultural machinery.

Technical Consultations

Devon County Highway Authority

The booking system means the site should only be incurring an arrival and departure trip generation per hour at max. The parking area to be provided will be able to allow for the parking of two cars (in case of overlap) and turning off-carriageway, this is in accordance with our design best practice guidance, Manual for Streets.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Addendum 17/10/2021

The County Highway Authority has been re-consulted on the updated application for this site and has no further comments to add.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Environmental Health

I have considered the application 21/1972/FUL and I recommend refusal for the following reason:

There are a number of noise sensitive dwellings in close proximity to the development. The closest noise sensitive dwelling (The Old Rectory) is located less than 29m to the West of the proposed site with their external amenity area adjoining the Western boundary of the proposed site.

It is inevitable that some dogs will bark whilst using the proposed site. The noise level of dogs barking whilst using the site would be clearly perceptible and adversely affect the receptors at the nearest noise-sensitive dwelling. This would lead to unacceptable levels of noise pollution to local residents. Due to the close proximity of noise sensitive dwellings, I believe that this is not the right location for this development and therefore, I am recommending that the application is refused.

Further comments:

As per my previous comments - I have considered the application 21/1972/FUL and I recommend refusal for the following reason:

There are a number of noise sensitive dwellings in close proximity to the development. The closest noise sensitive dwelling (The Old Rectory) is located less than 29m to the West of the proposed site with their external amenity area adjoining the Western boundary of the proposed site.

It is inevitable that some dogs will bark whilst using the proposed site. The noise level of dogs barking whilst using the site would be clearly perceptible and adversely affect the receptors at the nearest noise-sensitive dwelling. This would lead to unacceptable levels of noise pollution to local residents. Due to the close proximity of noise sensitive dwellings, I believe that this is not the right location for this development and therefore, I am recommending that the application is refused.

Further comments:

07/01/2022

Thanks for sending through your noise management plan. I've reviewed the plan and I am happy with the content

Other Representations

Fourteen representations have been received, all raising objections on the following grounds

- Additional traffic
- Noise and disturbance from dogs barking
- Nuisance caused by increased activity
- Fencing inappropriate and unsightly
- Alternative areas which permit dogs off the lead exist nearby
- No economic benefit for the village
- No employment is proposed
- Environmental damage through the loss of trees
- Unsustainable location with users driving to the site
- Loss of agricultural land
- New development in the countryside
- Potential damage to wildlife
- Unsuitable access
- Land will be un-policed

PLANNING HISTORY

None relevant

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN14 (Control of Pollution)

RC4 (Recreation Facilities in the Countryside and on the Coast)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Rockbeare Neighbourhood Plan (2013-2031)

Rock07 Development Limits

Site Location and Description

The application site comprises an enclosed field within the open countryside, but adjacent to the curtilage of The Old Rectory. It lies around 600m to the south east of the edge of the village of Rockbeare.

The field is generally level and extends to an area of 1.32ha, and is enclosed by hedging on all sides.

Proposed Development

Planning permission is sought for the change of use of the field to form a secure exercise area for dogs. It is proposed to enclose the field by erecting a fence within the existing hedgerow, with a parking space proposed within the fenced area for the users of the field. The suggested height of the fence has been reduced during the course of the application, with the amended fence height being reduced to 1.58m. Access to the fenced area will be controlled by via a coded gate and users of the facility would have to book a slot in advance.

The site would be made available for hire/booking for individuals with an emphasis on providing a stress free environment for dogs with varying behavioural issues, including those with poor recall, strong chase instinct, timid nature, bitches on heat etc. where mixing with the general public and socialised dogs is not practical or safe.

In addition an area of hardstanding is proposed outside of the fenced area but within the field with the capacity to accommodate 2 vehicles with turning, in the event of any overlap of users. It is proposed to retain the existing field access gate.

A proposed 3m by 3m open sided shelter is also proposed adjacent to the eastern boundary of the field.

Consideration and Assessment

The main issues in the determination of this application are considered to be the policy context and principle of the development, and any impact on the character and appearance of the area, on residential amenity, or highway safety.

Policy Context

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016, and together with the adopted Rockbeare Neighbourhood Plan (11 October 2018) form the development plan and the policies contained within these are those against which applications are being determined and carry full weight.

Principle of Development

In planning terms the application site lies in the countryside, defined as being all those parts of the plan area that are outside Built-up Area Boundaries and outside of site specific allocations shown on the Proposals Map. Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013-2031 states that development will be strictly controlled and will only be permitted where it is accordance with a specific local or neighbourhood plan policy that explicitly permits such development and where it would not harm the landscape, amenity or environmental qualities within which it is located.

Policy E4 (Rural Diversification) permits proposals to diversify and expand on the range of traditional agricultural related economic activities subject to a range of criteria, the most relevant of which are that the use is complementary to, or compatible with agricultural operations; the character, scale and location are compatible with its landscape setting; they do not use the best and most versatile agricultural land; the traffic generated could be accommodated on the local highway network without harming road safety and without adverse visual impact, and the proposal would not cause noise pollution nor harm the amenity of local residents.

Policy RC4 (Recreation Facilities in the Countryside and on the Coast) allows for outdoor recreation facilities in the countryside provided that the nature of activities undertaken or the space requirements of the proposal require a countryside location and, amongst other criteria, that they are in scale with the character, environmental characteristics and setting of the area; do not conflict with countryside, nature or landscape policies; do not detract from the amenities of the area; and allow for safe access and discreet parking arrangements.

There are no policies within the Rockbeare Neighbourhood Plan which specifically permit the development proposed.

The proposal is not associated with an existing business in Rockbeare with which the proposed use would be operated or conveniently located, and there are no other known locations in the immediate area with a facility for members of the public to pay to walk and exercise their dog in a secure environment. Whilst there are numerous publicly accessible open spaces within the vicinity where dogs can be exercised, both on and off the lead, there are none in the vicinity which provide a secure environment where dogs with behavioural issues are catered for. In this respect, and given the space required to allow the dogs to be able to run freely, it is considered that a countryside location is appropriate for this type of proposal.

It is further considered that the nature of the use, and development proposed, essentially the construction of a small open sided shelter, and installation of fencing within the hedge boundary would have a minimal visual impact on the countryside. The site is well screened from any public vantage points, and there is an existing field entrance thereby negating the need for the removal of any boundary screening to provide access to the site. The land does not comprise high quality agricultural land (Class 3B) and has no restrictive landscape designations.

The location and nature of the use is considered to be appropriate in a countryside location, and, subject to an acceptable amenity impact, it is considered to be compliant with both policies E4 (Rural Diversification) and RC4 (Recreation Facilities in the Countryside and on the Coast) of the Local Plan.

Character and Appearance of the Area

The proposed development would result in minimal physical alterations. The access to the site is existing, and whilst it may be possible to have glimpsed views of the internal fencing from the entrance to the field, the proposed parking area and shelter would not be visible from outside of the site. As such it is not considered that the proposal is of a nature or scale which would result in any detrimental impact on the rural landscape or character of the area.

Residential Amenity

A residential property shares the western boundary of the site, with the dwelling being located, at its closest point, around 30m from this boundary. Given this proximity there is the potential for the proposed use to give rise to some nuisance through an increase in noise from dogs barking and human voices, and disturbance from the use of the site by additional vehicles.

However, the proposed intensity of use is very low, with only one user being present at any one time, and there is considerable screening in the form of established hedging and mature trees located along the party boundary which would significantly reduce any noise impact.

In light of the concerns of nearby residents and the Council's Environmental Health Officer a Noise Management Plan has been submitted which addresses the issues raised and which has found to be acceptable. This document details how noise complaints will be dealt with by the applicant including discussing mitigation with the dog owners and ultimately banning them from the field.

Following the withdrawal of the objection raised by the Environmental Health Officer, and subject to appropriate conditions (to ensure single bookings only, to restrict operating hours to between 7am and 7pm, and the number of dogs present at any time), it is not considered that the proposal would result in a significant increase in noise and disturbance such that it could reasonably justify the refusal of planning permission on the grounds of a loss of residential amenity.

Should the use be found to be otherwise acceptable, it is considered to be reasonable to restrict the hours of use to ensure that the facility does not result in the disturbance of nearby residents at unsociable hours.

Highway Safety

Whilst being located outside of any settlement and in a countryside location, the nature and intensity of the proposed use would not generate significant levels of additional traffic movements that would have an unacceptable impact upon the local road

network or lead to any undesirable dispersal of activity that could undermine the vitality or viability of an existing settlement.

The Highway Authority have considered the application, and do not consider that the number of vehicular movements would result in any material increase in traffic levels within the locality. The provision of a parking and turning area outside of the secured fencing means that any overlap of users can be accommodated within the site without vehicles waiting on the public highway, or any resultant danger to highway safety.

Other Matters

The applicant has confirmed that the site will not be supervised at all times whilst being used, which will require a degree of expectation that owners act responsively when using the facility. To a certain extent the proposal would be self-policing with the nature of the booking system being such that users agree to the management terms and conditions. Details of all users will be logged and available to the applicant should complaints be received due to the behaviour of individuals or dogs, which would allow appropriate action to be taken in the event of irresponsible or unreasonable behaviour.

CONCLUSION

The changing nature of agriculture and the need for rural diversification has resulted in a shifting focus towards alternative uses of the land within the countryside, with a significant rise in the demand for outdoor recreation facilities.

It is considered that, on balance, the proposed use would be acceptable for the location proposed and would not result in any material adverse or harmful visual or physical impact upon the landscape subject to a number of conditions.

It is accepted that the proposed facility justifies a rural location in view of its relative uniqueness and the particular nature of the service that it would provide. Whilst concerns raised are duly acknowledged, the scale and overall intensity of the use would be modest and would not affect the character of the area or have a material impact on residential or other amenity subject to those conditions.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. The use hereby permitted shall be restricted to one booking from an individual at a time and is not to be operated other than between the hours of: 7.00am until

7.00pm Mondays to Fridays and 9.00am until 6.00pm on Saturdays, Sundays, Bank or National Holidays. The maximum permitted number of dogs at any one time is as follows:

Between the hours 7am until 8am and 6pm until 7pm Monday to Friday and 2pm until 6pm Saturday and Sunday, Bank or National Holidays, the permitted maximum number of dogs is 4.

Between the hours of 8am until 6pm Monday to Friday and 9am until 2pm Saturday and Sunday, Bank or National Holidays, the permitted maximum number of dogs is 6.

(Reason - in the interests of residential amenity and to ensure that the development does not cause undue harm to the local highway network in accordance with Policies D1 (Design and Local Distinctiveness) and TC9 - Parking Provision in New Development of the East Devon Local Plan.)

4. The use of the site shall be operated in accordance with the Noise Management Plan submitted on 07 January 2022.

(Reason – To protect nearby residents from excessive noise and in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.

5. No lighting or floodlighting of any kind shall be installed around or within the site without a grant of express planning permission from the Local Planning Authority.

(Reason - In the interests of preserving the character and appearance of the open countryside in which the site is located in accordance with Strategy 7 (Development in the Countryside) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan.)

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

	Location Plan	22.07.21
JH01	Proposed Combined	22.07.21

	Plans	
JH02	Proposed Elevation	19.07.21
	Proposed Site Plan	12.10.21

List of Background Papers

Application file, consultations and policy documents referred to in the report.