



Report to Planning Committee: 11 November 2024

Business Manager Lead: Oliver Scott– Planning Development

Lead Officer: Steve Cadman, Planner (Development Management)

Report Summary			
Application No.	23/02141/FUL		
Proposal	Change of use of agricultural field to dog exercise area, construction of hardstanding, fence and gates.		
Location	Land at Highfields, Gonalston Lane, Epperstone		
Applicant	Mr A Worrall	Agent	Mr Tim Fletcher, TF Architectural Services
Web Link	23/02141/FUL Change of use of agricultural field to dog exercise area Land At Highfields Gonalston Lane Epperstone NG14 6AZ (newark-sherwooddc.gov.uk)		
Registered	15 th December 2023	Target Date EOT	9 th February 2024 EOT: 15 th November
Recommendation	That Planning Permission is APPROVED subject to the Conditions detailed at Section 10		

This application is being referred to the Planning Committee in accordance with the Council’s Constitution, due to a referral by the local ward member Councillor Roger Jackson, due to its impact on the privacy of neighbouring properties.

1.0 The Site

- 1.1 The site is a 0.65Ha approx. agricultural field, located in the Green Belt, approximately 1km east of Epperstone, 1.45km west of Gonalston, and set back approximately 430m to the north of Gonalston Lane. It is reached via a private tarmacked vehicle access (known as Netherfield Farm Lane) from Gonalston Lane to the south.
- 1.2 To the north of the site lies the dwelling of Highfields, with its associated outbuildings. The complex of farm buildings and livery stables of Netherfield Farm lie beyond this. To the south of the field lies the neighbouring dwelling of Netherfield Farm House with its associated outbuildings.

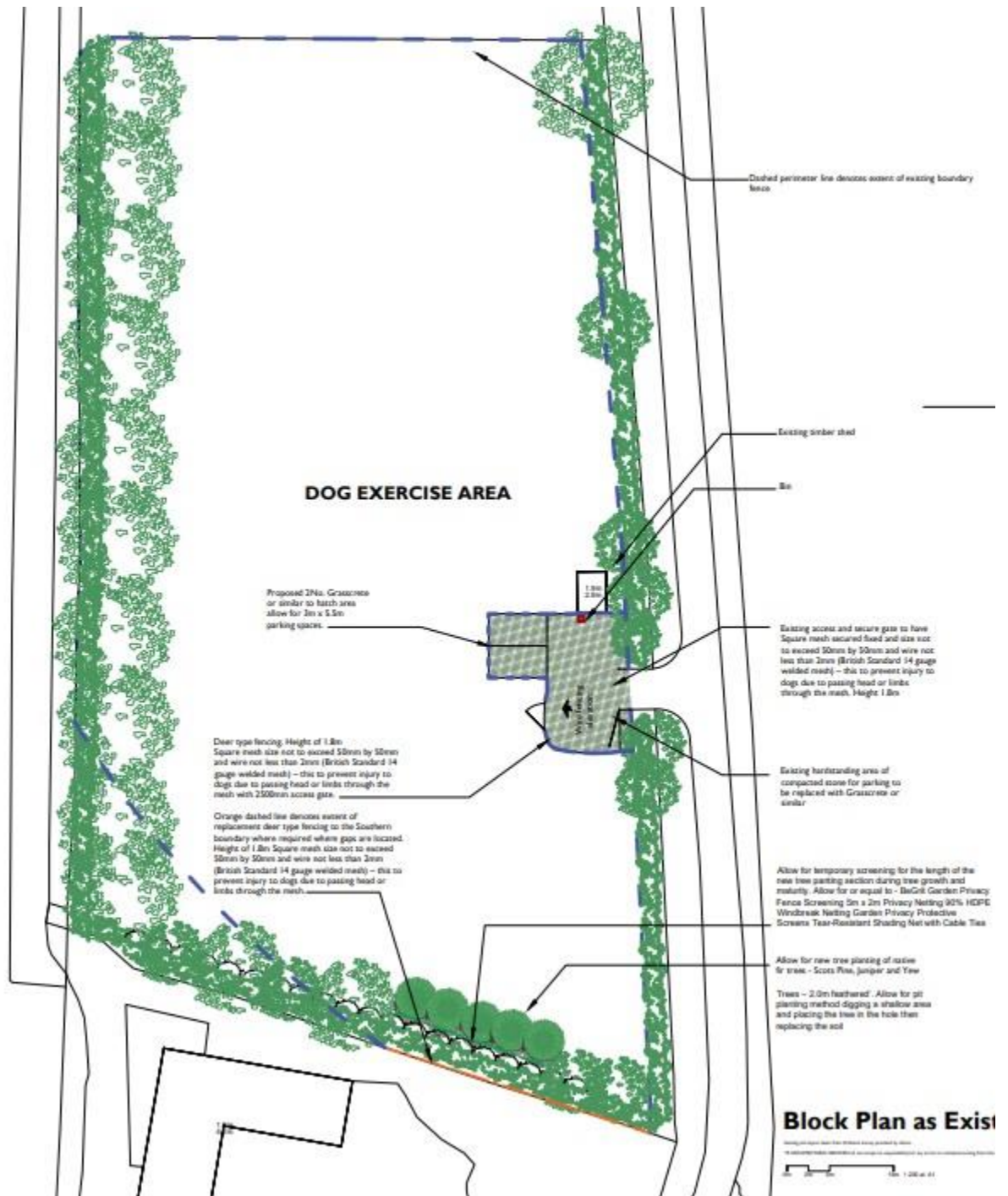
- 1.3 There is a change in levels across the site, with the land rising to the north. The site is surrounded by open fields to the west and east.
- 1.4 There is a small timber shelter on the site and historical aerial photographs show that a shelter of similar size to the existing appears to have been present on the site since circa 2007, although its position appears to have changed slightly.
- 1.5 The site has the following constraints:
- The site is located in the Nottingham-Derby Green Belt;
 - Some of the buildings at Netherfield Farm to the north of the site are considered to be non-designated heritage assets;
 - There is a watercourse at the western boundary of the site, and a small part of the site adjacent to this has been identified as being at low to medium risk of surface water flooding.

2.0 Relevant Planning History

- 2.1. None relevant.

3.0 The Proposal

- 3.1 The application seeks permission for a change of use from an agricultural field to a dog exercise area.
- 3.2 The scheme also includes the construction of a 1.8m metal mesh gate with a mesh panel on either side of the gate to the entrance and the installation of a 'Grasscrete' parking and manoeuvring area including two 3m by 5.5m parking spaces. The gateway would form part of a boundary of 1.8m high deer fence that fully encloses the site.
- 3.3 The site is currently operated by 'Mutts Go Nuts' and is used as an area for people to visit and exercise their dogs in a secure location. The business currently operates during the hours of 8am to 6pm daily. The applicant advises that dog exercising is available for hourly slots throughout the day, giving a maximum of 10 customer bookings. There would be no organised classes, and booking is limited to one hirer at a time, booked via an online portal. The field is otherwise used for dog exercise. It is anticipated that there would usually only be one vehicle on site at a time, and that they would use the gate and an existing hardstanding area (sufficient space to turn to enable vehicles to enter and leave in forward gear). The site operator provides customers with fresh water, shade, some limited seating and waste bins. The seating comprises two moveable picnic benches, one in the field, and one in the wooden field shelter that provides shelter/shade.
- 3.4 The applicant advises that those hiring the field are expected to keep the field clean and to keep off the grass with their vehicles. Customers are not permitted to arrive before their allocated slot and must leave before the end of the slot to avoid overlap with customers and avoid problems along the access off Gonalston Lane.



Proposed Site Plan

3.5 Documents assessed in this appraisal:

- Application form, received by the Local Planning Authority on 4th December 2023
- Location Plan, received by the Local Planning Authority on 4th December 2023
- Existing and Proposed Block Plan, drawing no. 670-2023-01 Rev C, received by the Local Planning Authority on 16th October 2024
- Planning Statement, dated November 2023, by town-planning.co.uk, received by the Local Planning Authority on 4th December 2023
- Flood Risk Assessment, dated December 2023 by town-planning.co.uk, received by the Local Planning Authority on 15th December 2023.

4.0 Departure/Public Advertisement Procedure

- 4.1 Occupiers of 3 properties have been individually notified by letter. A site notice has also been displayed near to the site.

Site visit undertaken on 23rd January 2024

5.0 Planning Policy Framework

5.1. Epperstone Neighbourhood Plan

- Policy EP11: Design Principles
- Policy EP18: Traffic Management in Epperstone Village.

5.2. Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

- Spatial Policy 1 Settlement Hierarchy
- Spatial Policy 2 Spatial Distribution of Growth
- Spatial Policy 4A Extent of the Green Belt
- Spatial Policy 4B Green Belt Development
- Spatial Policy 7 Sustainable Transport
- Core Policy 9 Sustainable Design
- Core Policy 10 Climate Change
- Core Policy 12 Biodiversity and Green Infrastructure
- Core Policy 13 Landscape Character

5.3. Allocations & Development Management DPD (2013)

- DM5 Design
- DM7 Biodiversity and Green Infrastructure
- DM8 Development in the Open Countryside
- DM12 Presumption in Favour of Sustainable Development

The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage and due to be examined between 5th – 14th November 2024 by the Planning Inspectorate. There are unresolved objections to amended versions of policies DM5, DM7, DM8 and DM12 emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

5.4. Other Material Planning Considerations

National Planning Policy Framework

Planning Practice Guidance (online resource)

National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

- 5.5. On 30 July 2024 the Government published a consultation on proposed reforms to the NPPF (2023). The consultation and draft NPPF do not constitute Government policy or guidance. However, they are capable of being material considerations in the assessment of this application.

6.0 Consultations and Representations

- 6.1. Comments below are provided in summary - for comments in full please see the online planning file.

Statutory Consultations

6.2. Local Highway Authority -

The proposed use is already operating, via an existing access. It is promoted as a dog walking field available for hire on an hourly basis. Similar ventures within the district are known to also offer such fields for classes and events, attracting multiple customers and vehicles at one time. Gonalston Lane is a narrow country lane popular with walkers, cyclists and equestrians and is not suitable for attracting numbers of vehicles at one time, therefore a condition to ensure the field is not used for classes or events is considered necessary.

Town/Parish Council

Epperstone Parish Council

- 6.3. The Parish Council unanimously object to this planning application. They believe it is misleading and advise that the business has been operating illegally for a number of years. They also raise concerns about impact on Netherfield Farmhouse, impact of traffic and visitors, the potential for dogs to spook horses at the nearby livery and general impact on the countryside.

Representations/Non-Statutory Consultation

6.4. Environmental Health Officer

Given the close proximity of the dog exercise area and other residential property, there is potential for noise and disturbance, which might include dog barking and vehicle movements, which may be greater than that already experienced in the vicinity.

When and how often barking is likely to occur is difficult to predict, although the proposal would provide scope for dogs to attend the exercise area for up to 10 sessions per day. While this may be limited to only one booking per hour, this does not prevent more than one dog attending each booking. While barking might not ultimately amount to statutory nuisance, it could result in a material change in the character of the noise environment.

Information provided with the application suggests that existing mature vegetation would likely provide some noise attenuation for the closest neighbouring property, but does not provide any information to support that assertion or demonstrate how effective that may be in the circumstances. The effectiveness of vegetation in attenuating noise is likely to be influenced by a complex interaction between the site, seasonality, and noise frequency. In reality this might not provide significant attenuation or eliminate barking noise at the closest neighbouring property.

The exercise facility does not require a licence under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. One person at a time on the field should not cause a noise nuisance but if a complaint was received then we would investigate the issue.

Security of the field and any entrance or exit is adequate to prevent any dog/s escaping into the surrounding area where livestock are grazing. For example there must be at least 2 secure physical barriers (gates) between a dog and any entrance or exit from the field to the outer curtilage to avoid escape.

Fencing must be:

- strong and rigid
- sufficient height
- in good repair to prevent an escape
- dig proof
- there must not be any sharp edges, projections, rough edges or other hazards which could injure a dog.

6.5. British Horse Society

Have concerns about horses being startled by vehicles on the lane, and by dogs barking, running at the gate, or running loose on the lane. This could cause injury to the horses, to people or to dogs.

Pointed out that horse are “flight animals” with a greater range of hearing than humans so are more likely to become stressed or panicked.

Provided summary statistics for 2023 listing the reported frequency of road incidents involving horses, and the frequency of incidents between dogs and horses.

6.6. Comments have been received from 17 third parties/local residents that can be summarised as follows:

- Harm to road safety through causing excessive traffic on an inadequate lane and through the entrance to the site being inadequate.
- Horses using the livery stables to the north need to ride past the site to exercise, so dogs and traffic using the site present a hazard and risk of injury to horses, riders and others (if horses bolt).
- Risk of dogs escaping.
- Harm to residential amenity through loss of privacy and noise.

- The site is poorly managed which creates problems such as:
 - o Cars parking on the verges, creating an obstruction and resulting in dogs not being contained within the site and posing a risk to horses.
 - o No vetting of the number of people, dogs and cars due to the online booking system and lack of security locks.
 - o No rules or warnings requiring users to be considerate.
 - o People using the site at inappropriate times (e.g. 7am in the morning).
 - o No 'break' between bookings, leading to more than one user being present.
 - o The owner of the site being absent when problems occur.
- The site has been operating for 2 ½ years without the necessary approvals.
- There is an existing dog exercise field within 3 miles and the need for a further facility has not been proven.
- Thefts (of garden implements) from neighbouring properties have happened recently
- The vehicle access onto the lane should not be described as "existing" as it has only been created recently, and without the permission of Nottinghamshire County Council (the owner of the lane).
- Fear of dog attacks and crime.

7.0 Comments of the Business Manager – Planning Development / Appraisal

7.1. The key issues are:

1. Principle of development
2. Impact on the Green Belt
3. Impact on Residential Amenity and on other nearby land uses
4. Impact on Highway Safety
5. Flood Risk and Drainage

7.2. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 'Presumption in Favour of Sustainable Development' of the Allocations and Development Management DPD.

Principle of Development

7.3. Spatial Policy 1 'Settlement Hierarchy' of the Amended Core Strategy DPD sets out the settlement hierarchy for the District, with Epperstone identified as an "other village". It also states that outside of Newark and identified Service Centres and Principal Villages, development within the Green Belt will be considered against Spatial Policy 4B 'Green Belt'.

- 7.4. Spatial Policy 4B 'Green Belt Development' of the Amended Core Strategy DPD provides clarification that, outside of a specific list of locations and specific types of development, proposals will be judged according to national Green Belt Policy.
- 7.5. National Green Belt Policy is set out in NPPF section 13 'Protecting Green Belt Land', with the purposes of Green Belt set out in paragraph 143 and specific guidance on assessing development proposals affecting the Green Belt provided in paragraphs 152-156.
- 7.6. Paragraph 143 states that the Green Belt serves five purposes:
 - a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land
- 7.7. Paragraph 152 states that 'inappropriate development' which is, by definition, harmful to the Green Belt, should not be approved except in very special circumstances.
- 7.8. Paragraph 153 directs local planning authorities to give substantial weight to any harm to the Green Belt, with 'very special circumstances' existing only where the potential harm to the Green Belt and any other harm resulting from the proposal is clearly outweighed by other considerations.
- 7.9. Paragraph 155 states that a number of other forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. This includes, at part e), material changes in the use of land.
- 7.10. The proposal under consideration is for a change of use, with the associated operational development limited to fences and gates together with a "Grasscrete" parking and manoeuvring area. There is an existing timber shed in the field, but this was in place prior to use as an exercise field, so no new buildings have been constructed. For clarity, the Council's Enforcement Team have confirmed the applicant's assertion that the shed was present in at least 2016 and therefore immune from enforcement (applying the 4 year rule).
- 7.11. The fencing along the western and eastern sides of the fields is of metal mesh and is installed against existing hedgerows and is considered to have minimal impact on openness.
- 7.12. Along the northern boundary of the site, the fencing also consists of metal mesh, but here it is supported by a mixture of vertical timber poles and horizontal timber rails. There is no significant vegetation at this side of the site, so this fence is more visually prominent than the others. This fence is however situated at the boundary between

the garden belonging to Highfields to the north, and the former field to the south, and the fact that there is no hedge at this point means that some kind of fence, most likely one capable of restraining animals, is effectively made necessary in this location. The type of fencing used is relatively inconspicuous, for example when compared with the type of close boarded fence which is often used to enclose gardens, and a similar fence of up to 2m in height could be installed under the permitted development rules, without the need to apply for planning permission.

- 7.13. In any case, given that the fence is largely open in character, that it would be screened from public vantage points along the lane to the east by the hedge at the boundary, it is considered that it would not be significantly harmful to the openness of the Green Belt.
- 7.14. The existing fencing along the southern boundary is considered to be inadequate where it is not backed by a hedge by the Council's Environmental Health section and so fencing in the form of a 1.8m-high, wire mesh "deer fence" has been proposed along the eastern part of this boundary. An additional condition has been recommended requiring a planting scheme to provide a screening hedge at the open part of the southern boundary. It is considered that a mesh fence would have a minimal impact on openness, particularly when installed adjacent to a hedge. While the use of privacy screening at the boundary while planting becomes established would necessarily reduce openness to some degree, its impact would only be equivalent to that of a typical boundary hedge, and would only be temporary, and it is not therefore considered as providing sufficient grounds for a refusal.
- 7.15. The provision of an additional gate (1.8m high), as recommended by the Council's Environmental Health section also requires a small amount of associated fencing to provide enclosure at its sides. Given their relatively small scale and location adjacent to the hedge at the eastern boundary, the only public vantage point from which these additions would be clearly visible would be from immediately adjacent the entrance on the lane to the east. From here, it is considered that the visual impact would only be slightly greater than the visual impact of a single, stand-alone gate. Given this, it is considered that these would not be harmful to the openness of the Green Belt either.
- 7.16. Given its minimal height and open nature, the "Grasscrete" hard standing would have a minimal visual impact, and it is considered that it would not be harmful to openness either. While provision has been made for 2 parked cars, it is expected that there would normally be just a single car parked on the site. Even with 2 cars parked, given the limited scale and temporary nature of the parking, this is not considered to be harmful to the openness of the Green Belt either.
- 7.17. It is possible that use of the site as a dog-walking field may involve other paraphernalia, however it is considered that this is unlikely to have a greater visual impact than the types of paraphernalia required for the keeping of livestock for example.
- 7.18. In summary, it is considered that the proposal would not be harmful to the openness of the Green Belt from either a spatial or visual perspective. Furthermore the proposal

is not considered to conflict with any of the purposes of the Green Belt set out in paragraph 143. The proposal is therefore not considered to constitute inappropriate development in the Green Belt.

Loss of Agricultural Land

- 7.19. Section 15, paragraph 180 part (b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of the best and most versatile agricultural land.
- 7.20. The site's previous and lawful use was as agricultural land, and it has been provisionally assessed as a mixture of Grade 2 and Grade 3 land in the Agricultural Land Classification (ALC). At least part of the site therefore falls within the category of the Best and Most Versatile (BMV) agricultural land. However, I note the limited area of the site at approximately 0.65Ha (only part of which is grade 2) and the fact that the proposal would not involve the permanent loss of the land for agricultural use. The proposal does not therefore conflict with part b) of paragraph 180 of the NPPF.

Impact on Landscape Character and Visual Amenity

- 7.21. Core Policy 9 'Sustainable Design' of the Amended Core Strategy DPD requires new development proposals to, amongst other things, "achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments". In accordance with Core Policy 9, all proposals for new development are assessed with reference to Policy DM5 of the Allocations & Development Management DPD, which, amongst other things, require new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing.
- 7.22. Core Policy 13 states that, based on the assessment provided by the Landscape Character Assessment SPD, the Council will work with partners and developers to secure new development which positively addresses the implications of relevant landscape Policy Zone(s), ensuring that landscapes have been protected and enhanced.
- 7.23. Policy DM5 'Design' of the Allocations and Development Management DPD states that in accordance with the requirements of Core Policy 9, all proposals for new development shall be assessed against a number of criteria, including a requirement that new development must reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing.
- 7.24. The Council's Landscape Character Assessment SPD identifies the surrounding landscape as forming part of the Mid Nottinghamshire Farmlands Regional Character Area, with the site itself located in the Thurgarton Village Farmlands with Ancient Woodlands Policy Zone. The actions for this particular policy zone are as follows:

Landscape Features

- Conserve permanent pasture and seek opportunities to restore arable land to pastoral.
- Conserve hedgerow planting along roadsides, seek to reinforce and enhance as appropriate.
- Conserve the biodiversity and setting of the designated SINCs, seek to enhance where appropriate.
- Conserve and enhance woodland/plantation blocks, seek to reinforce green infrastructure as appropriate.

Built Features

- Conserve the rural character of the landscape by concentrating new development around existing settlements.
- Conserve and respect the local architectural style and local built vernacular in any new development.

The proposal does not include any built features and is considered to be compatible with all of the listed actions relating to landscape features.

- 7.25. As discussed above, the fencing along the northern boundary is not visually obtrusive, while the fencing along all of the other boundaries would consist of mesh and would sit adjacent to hedges which are in place at the moment or to hedges which are to be required by condition. In view of this, it is considered that the visual impact of the fencing would be minimal and that it would not harm the character of the local landscape, or harm visual amenity more generally. Similarly, the temporary nature of the screening fence would ensure that it would not have a significant harmful impact on the surrounding landscape.
- 7.26. In summary, it is considered that the proposal would not be harmful to the character of the surrounding landscape, or to visual amenity generally. It therefore complies with Core Policy 9, Core Policy 13, Policy DM5 and has regard to paragraph 155 of the NPPF.

Impact upon Residential Amenity and Neighbouring Land Uses

- 7.27. Policy DM5 'Design' of the Allocations and Development Management DPD states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. It also states that separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity, including loss of privacy.
- 7.28. The comments of the Council's Environmental Health Officer regarding the potential for noise and disturbance as a result of dog barking are noted.

- 7.29. The dog exercise field is located close to Netherfield Farm House to the south of the site. It sits adjacent to the driveway at the northern side of the house, and also to some outbuildings which sit adjacent to the south-west corner of the site. It is set back by more than 10m from the house itself, but it is evident that part of the curtilage of this property close to the boundary, has been used for the installation of a table with brick seating, and a timber bench has also been installed close to the northern boundary.
- 7.30. The separation distance between the house and the boundary is considered to be sufficient that any noise impacts on the house itself would remain within acceptable limits. As regards the outdoor space around the house, it is acknowledged that some areas (including two outdoor seating areas) are close to the boundary, but the main garden belonging to the house is located to its south, and is unlikely to be significantly affected. While impacts on the seating area do weigh negatively in the planning balance, these impacts are given limited weight.
- 7.31. It is considered that potential noise and disturbance can be mitigated by the use of planning conditions restricting the hours of use of the site, and also the intensity with which the site is used. In addition, it is considered that a condition requiring visual screening in the form of planting at the boundary would reduce the likelihood of dogs running up to the boundary and barking in response to activity around the outbuildings or in the driveway area, and so it is recommended that such a condition be attached. Since this planting will take time to become established, temporary screening in the form of a 2m high section of BeGrit Garden Privacy Fence Screening will be provided in the interim.
- 7.32. The proximity to Netherfield Farm House also means that privacy impacts must be considered. At present the generally open nature of the boundary, together with the fact that the exercise field sits at a higher level, means that people using the exercise field are able to look through to the northern part of the curtilage, and to the northern side of the house. While, as noted above, the main garden belonging to the house is located to the south, and would remain largely unaffected, there would be a significant loss of privacy to the table and seating area adjacent to the northern boundary. Appropriate planting at the boundary would however be sufficient to mitigate this impact, so with a condition requiring this in place, it is considered that the impact would be acceptable. Planting would also mitigate any loss of privacy to the ground floor windows in the house and conservatory as well. As outlined above, temporary screening can be provided while the planting becomes established.
- 7.33. Given that the first floor of the house is higher up, and that the land rises to the north, a planting scheme will not be sufficient to fully block sight lines between the whole of the field and the facing window on the first floor of Netherfield Farm House.
- 7.34. This window provides light to a landing area, rather than to a habitable room which is likely to be occupied for substantial periods of time. It is acknowledged that landing areas are typically used for purposes such as passing between bedrooms and bathrooms, and also typically contain doors which open onto both of these types of room.

- 7.35. Achieving complete privacy to landing areas like this one is likely to be difficult. A farmer visiting the field to the north to feed livestock, or the driver of a delivery van pulling into the driveway would be able to see into the landing window to some degree. Typically, the occupiers of the house would be aware of this as they go about their daily activities.
- 7.36. It is acknowledged that, when compared with use as an agricultural field or paddock, the field to the north is likely to be visited more frequently as a result of the proposal, but the difference would be one of degree.
- 7.37. Given that the landing area would typically only be used briefly for passing between other rooms, and given that it could not be used with an expectation of complete privacy prior to the introduction of the dog exercise field, it is considered that the overall impact on the privacy afforded to this neighbouring dwelling would be modest, and in officer's opinion providing insufficient grounds for a refusal.
- 7.38. There is also the potential for noise and disturbance from dogs to impact upon the stables to the north, principally through horses using the lane at the eastern side of the site. In this case however, the hedge at the boundary provides a good degree of visual screening, except in the area around the gate. Furthermore, it is often hard to completely separate dogs from equestrian uses in rural areas, with them often having to co-exist to some extent – for example on public bridleways etc., so it is considered that it would be unreasonable to attempt to prevent any kind of proximity here.
- 7.39. The comments and recommendations from the Environmental Health Officer for Public Protection are noted, specifically their recommendations for:
- The use of 2 gates to prevent dogs escaping when the outer gate is opened.
 - Fencing which is of strong and rigid, of sufficient height, and dig proof.
- 7.40. Given the narrowness of the lane and its use by horses, the use of 2 gates is considered to be necessary to prevent dogs escaping and potentially startling horses or indeed creating problems for pedestrians or vehicle traffic on the lane.
- 7.41. The recommendation of dig-proof fencing would undoubtedly be necessary for land uses like kennels, where dogs are contained within a relatively small area for long periods of time. In practice however, it is considered that any given dog is only likely to be using the exercise field for relatively short periods, they are not contained within a highly restricted area, and they would be expected to be under some degree of observation during this time. For these reasons, dig-proof fencing is not considered to be necessary here, with it instead being the responsibility of the owner and operator to make repairs to the ground near any fencing, should this become necessary.
- 7.42. The existing fencing along most of the western and eastern sides of the site sits adjacent to thick hedges, and the combination of both fence and hedge is considered to be sufficient to provide adequate containment. The fencing at the northern

boundary serves to separate the site from the owner's house and is also considered to be adequate.



Photograph of existing fence at the south-eastern corner of the site

- 7.43. The fence in place along the southern boundary is considered to be of a sufficient height, but is not backed by a substantial hedge for its full length, so the installation of a better engineered and more durable solution in the form of 1.8m high mesh 'deer fencing' along the eastern part of the southern boundary has been agreed with the applicant. It is therefore recommended that a condition requiring that this takes place is attached. Concern has been raised by local residents that the use of the site should cease until the fence is installed on safety grounds. However, officers feel that the existing arrangements do provide some separation and therefore a 6 month period has been suggested by which the deer fence should be installed (to enable the applicant sufficient time to mobilise).
- 7.44. In view of the above, with appropriate conditions in place, any loss of residential amenity is considered to remain within acceptable limits. The proposal is therefore in accord with Policy DM5.

Impact upon Highway Safety

- 7.45. Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD requires development proposals to provide safe, convenient and attractive access for all, to be appropriate for the highway network, and to ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected. They should provide appropriate and effective parking.
- 7.46. Policy DM5 'Design' of the Allocations and Development Management DPD states that

provision should be made for safe and inclusive access to new development.

- 7.47. Nottinghamshire County Council Highways has concerns that any future use for classes and events would attract more vehicles than is appropriate, given the narrowness of Gonalston Lane and its potential for conflicts with walkers, cyclists and equestrians. This concern is considered reasonable, and it is noted that the use of the private Netherfield Farm Lane as an access makes this condition even more necessary. A condition has been recommended requiring that vehicle parking by users of the site be restricted to the parking area shown on the proposed plans and also be restricted to no more than 2 cars at any one time. This condition has the effect of preventing use for events etc. involving increased numbers of cars, and so a more specific condition relating to training and events is not considered to be necessary.
- 7.48. While the Local Highway Authority have raised no objections, subject to the above restriction being imposed, their comments relate to impacts on the public highway only. While the tarmacked lane known as Netherfield Farm Lane is owned by Nottinghamshire County Council, it is not adopted public highway, and as such falls outside their remit.
- 7.49. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. As regards its impacts on public highways, it is considered that the proposal would not cause either of these two distinct levels of harm.
- 7.50. As well as impacts on the public highway, any impacts on a private lane which might render it unsafe, or which would cause significant levels of inconvenience to other users are also material planning considerations.



“Passing opportunities” along the Lane

- 7.51. The ability of vehicles, horse riders etc. to pass each other varies significantly along the lane. At its southern end there is an approximately 250m long section without a verge wide enough to pull onto, and without any field / residential or other access which can be used as de facto “passing opportunities”. Along the rest of the lane to the north of this section there is either an entrance or a verge at 100m intervals or less.
- 7.52. The 250m section described above has an area of verge at its northern end, while at its southern end, adjacent Gonalston Lane, the tarmacked area is wide enough to accommodate 2 cars.
- 7.53. It is noted that this 250m stretch of the lane is straight with good visibility, so the absence of places to pull in is not considered as rendering it significantly unsafe. It may however result in users having to go forwards or backwards to one end or the

other of this part of the lane in order to allow passing to take place.



Bends in the lane

7.54. The lane is approximately 630m long, and contains 3 clearly-identifiable bends:

- a. Approx. 25m from junction with Gonalston Lane (at the entrance)
- b. Approx. 260m from junction (at the end of the first straight)
- c. Approx. 440m from junction (at Netherfield Farm House)

7.55. All of these bends involve a slight rather than an acute change in direction (i.e. they are not “hairpin” bends).

- 7.56. At all of these locations there is a hedge or trees on the inside of the bend which reduces visibility. However, given that the angle of the bend is moderate, there is visibility through the bend as it is approached and as you pass through. In addition, there are verges, entrances or other “passing opportunities” at or close to all 3 of the bends. The bends are not therefore considered to be unduly hazardous.
- 7.57. It is acknowledged that Netherfield Farm Lane is a narrow, private lane, which is not of a standard to be adopted as public highway by the Local Highway Authority. This does not however mean that it is automatically unfit for use by vehicle traffic of any kind.
- 7.58. The likely projected usage of 20 vehicle movements a day resulting from the exercise field (based on individual bookings, assuming a single car per visit) is not considered to be inappropriate for a private lane of this type. The most significant negative consequence likely to result from the increased traffic is for users to have to reverse or change direction on the lower part of the lane, so as to allow others to pass. Given the number of traffic movements, and the short amount of time that each of them would spend traversing the lower part of the lane (approx.. 20-30 seconds at speeds of 20-30 mph), this situation is expected to occur relatively infrequently, and to amount to an occasional minor inconvenience rather than a hazard or a significant obstruction to the use of the lane.
- 7.59. In view of the above, the proposal is considered to be in accordance with Spatial Policy 7 and Policy DM5.

Flood Risk and Drainage

- 7.60. Core Policy 9 ‘Sustainable Design’ of the Amended Core Strategy DPD states that new development will be expected to demonstrate a high standard of sustainable design, setting out a number of specific requirements, including the pro-active management of surface water.
- 7.61. Core Policy 10 ‘Climate Change’ states that the Council is committed to tackling the causes and impacts of climate change, including through steering new development away from those areas at highest risk of flooding, and also through ensuring that new development positively manages its surface water run-off to ensure that there is no unacceptable impact in run-off into surrounding areas or the existing drainage regime.
- 7.62. Policy DM5 ‘Design’ states that all proposals for new development shall be assessed against a number of criteria, including (in part 9) avoidance of areas at highest risk of flooding and the inclusion of measures to pro-actively manage surface water.
- 7.63. The proposal is located in Flood Zone 1 and is not therefore at increased risk of fluvial flooding. However, small parts of the site near the watercourse at its western side are at low, medium or high risk of surface water flooding, as are parts of the access lane to the east.
- 7.64. The Flood Risk Assessment accompanying the application concludes that the field shelter and hard standing should be safe for the lifetime of the development and that,

given the small extent of the site which is at high risk, that the proposal is acceptable. This assessment is considered reasonable.

- 7.65. The proposal would not therefore be at an unacceptable risk of flooding and would not increase the risk of flooding elsewhere and is therefore considered to comply with Core Policy 9, Core Policy 10 and Policy DM5.

Biodiversity Net Gain (BNG)

- 7.66. This application is for retrospective planning permission, and the development was carried out prior to the introduction of the requirement for BNG for “small sites” in April 2024. Provision of a Biodiversity Net Gain is not therefore required for this application.

Other Matters Raised in Representations

- 7.67. There is some frustration that the application is not described as ‘retrospective’. The Council recognises that the business is already in operation. However, the description of ‘retrospective’ is not *development*. It is not unlawful to submit an application retrospectively, and retrospective planning applications should be considered on their individual planning merits.
- 7.68. It is recognised that there might be other dog exercise fields in this part of the District. Potential competition between individual businesses and the financial impact on existing businesses is not a material consideration. A demonstration that the facility is ‘strictly necessary’ is not therefore required.

8.0 Implications

- 8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

9.0 Conclusion

- 9.1. In conclusion, it is considered that the proposal accords with Epperstone Neighbourhood Plan policies EP11, EP18 with Spatial Policies 1, 2, 3, 4A, 4B, 7, Core Policy 9, Core Policy 10, Core Policy 13 and with policies DM5, DM6, DM8 and guidance within the NPPF, and there are no other material reasons why this application should not be permitted, subject to appropriate conditions.

10.0 Conditions

01

The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference:

- Location Plan, received by the Local Planning Authority on 4th December 2023.
- Existing and Proposed Block Plan, drawing no. 670-2023-01 Rev C, received by the Local Planning Authority on 16th October 2024

Reason: So as to define this permission.

02

The approved alterations to the entrance of the site, the replacement deer type fencing at the southern boundary and the temporary screening fence shall be implemented within a period not exceeding 6 months from the date of this permission.

Reason: In the interests of public safety and residential amenity.

03

Within 3 months of the date of this permission, full details of soft landscape works to provide a screening hedge at the southern boundary of the site as indicated on drawing no. 670-2023-01 Rev C shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

Full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

Reason: Inadequate information has been provided and this condition is necessary to protect the residential amenity of nearby residents and in the interests of visual amenity and biodiversity.

04

The approved soft landscaping shall be completed during the first planting season following the date of this permission. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

05

The existing hedge along the southern boundary shall be retained at a minimum height of 2 metres for the lifetime of the development. Any trees or shrubs which die are removed or are seriously damaged or diseased shall be replaced by trees or shrubs of a similar size and species to those replaced.

Reason: In the interests of residential amenity.

06

The 2m high BeGrit Garden Privacy Fencing at the southern boundary, as shown in drawing no. 670_2023_01 Rev C, shall be retained until the approved soft landscaping provides satisfactory visual screening to a height of a minimum of 2 metres, and shall not be removed without the prior written consent of the Local Planning Authority

Reason: In the interests of residential amenity.

07

Parking for the development shall only be within the parking area shown on drawing no. 670_2023_01 Rev C and shall comprise no more than 2 vehicles at any time.

Reason: In the interests of residential amenity and highway safety.

08

The use hereby permitted shall only take place during the following hours:-

08:00h to 18:00h Monday – Saturday

10:00h to 16:00h on Sundays and bank holidays

Reason: In the interests of residential amenity.

09

The site shall not be floodlit or illuminated in any way.

Reason: In the interests of residential amenity and to prevent light pollution

Informatives

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

03

Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply:

- The approval is a retrospective planning permission made under section 73A.

BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 23/02141/FUL

