

Development Management Sub-Committee Report

Wednesday 23 August 2023

Application for Planning Permission

Land 200 metres north of, 11 Lochend Road, Newbridge.

Proposal: Change of use of agricultural land to use as a dog exercise area, erection of building for use as kennels in connection with the exercise area, parking and alterations to existing access.

Item – Committee Decision

Application Number – 22/01180/FUL

Ward – B01 - Almond

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than twenty material representations supporting the proposal and the recommendation is to refuse planning permission.

Recommendation

It is recommended that this application be **Refused** subject to the details below.

Summary

The proposed use would have an adverse effect on the amenity of neighbouring residential properties by virtue of increased noise and disturbance. The proposal does not comply with LDP Policy Hou 7. There are no other material considerations to outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a field of 0.703 ha (1.805 acres) and has an existing vehicular access onto Lochend Road. The western boundary is formed by a disused railway line and Lochend Road runs along the northern boundary. The eastern and southern boundaries are defined by field boundary fencing and rough shrub cover. A sewage treatment works lies immediately to the north of the application site and the M9 motorway lies to the west. Edinburgh Airport's runway lies a short distance to the east of the site.

There are residential properties 115 metres (approximately) to the south-east of the application site.

Description of the Proposal

The proposal is for a change of use of agricultural land to use as a dog exercise area, with kennels. A new building is proposed to be used for boarding kennel facilities (overnight stays), which includes a small reception/office and a toilet.

A parking and turning area are proposed within the site. Owners of dogs would visit the site to drop off their pets and the business would exercise and feed the animals at the site.

A 2.1-metre-high mesh fence would be erected around the perimeter of the land, with secure gates at the entrance. The field would be sub-divided into three or four smaller areas, using a standard stock fence.

10 customer car parking spaces would be provided, including two with re-chargeable points and five staff car parking spaces.

Supporting Information

Covering letter

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Archaeology

Environmental Protection

Transport Planning

Edinburgh Airport

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 25 March 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 1 April 2022

Site Notices Date(s): Not Applicable

Number of Contributors: 60

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF 4 Sustainable Places Policy 1
- NPF 4 Sustainable Places Policy 7
- NPF 4 Sustainable Places Policy 13
- NPF 4 Liveable Places Policy 14
- NPF 4 Productive Places Policy 29
- LDP Design Policies Des 1 and Des 4
- LDP Environment Policy Env 10
- LDP Housing Policy Hou 7
- LDP Transport Policy Tra 2

The non-statutory Development in the Green Belt and Countryside and Guidance for Businesses is a material consideration that is relevant when considering NPF 4 Policy 29 and LDP Policy Env 10.

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering NPF 4 Policy 14, and LDP Policies Des 1 and Des 4.

The non-statutory Guidance for Business is a material consideration when considering LDP Policy Hou 7.

Principle of Development

The proposal is located within the Countryside Area as defined in the adopted Edinburgh Local Development Plan (LDP).

The Council's non-statutory Guidance for Development in the Countryside and Green Belt states that provided it can be demonstrated that a countryside location is essential, a kennel use may be acceptable.

The applicant is currently running the business from Hallyards Farm and this proposal would allow it to expand and provide an increased service to its customers and employment opportunities.

The site retains an essentially rural nature and has an important role in contributing to the character of the surrounding countryside; the proposal would involve the construction of a stand-alone building for dog kennels within the site and a perimeter fence. The style of the building would retain the agricultural character of the site.

The proposal has a neutral impact in terms of NPF 4 Policy 1.

The proposal is in compliance with the requirements of NPF 4 Policy 29 and LDP Policy Env 10.

Scale, Design and Materials

The proposed kennels are of a plain and functional style and use materials appropriate to the countryside. There is existing screening to the north, west and south, which would ameliorate their visual impact.

The building would not detract from the rural character of an area.

The proposal complies with NPF 4 Policy 14 and LDP Policies Des 1 and Des 4.

Amenity

The kennels would be capable of housing at least 26 dogs, with an open amenity area.

Whilst the application site is located in an area which has a high background noise level due to transport sources, including aircraft noise, there are existing residential properties 115 metres of the site.

Environmental Protection (EP) has concerns regarding this application, as it is difficult to mitigate noise from dog barking and there is no competent technical acoustic guidance available regarding dog barking. EP frequently receive complaints relating to dogs barking, not only from within residential properties, but also from kennels, it considers that noise complaints would likely be received and that the residential amenity of the local area could be detrimentally affected. Accordingly, EP recommends that this application be refused.

The applicant is willing to erect acoustic fencing and planting along the southern and eastern boundaries of the site and if Committee were minded to approve the application, this could be subject of a condition.

However, notwithstanding this undertaking, given the difficulties in controlling noise levels from such a variable source as dogs, the proposal would have the potential to impact on the living conditions of the nearby residents to a significant degree.

The proposal does not comply with LDP Policy Hou 7 due to its impact on neighbouring residential amenity by virtue of noise and disturbance.

Road and Pedestrian Safety

Transport Planning had concerns regarding the initial access point on road safety grounds due to poor sightlines. A new access is now proposed which Transport Planning has confirmed meets the requirements for sightlines. The amended scheme is acceptable in relation to road safety.

To achieve a visibility splay of 2m x 70m, a small area of land outside the applicant's ownership/control would be needed to the east of the amended access location.

Archaeology

NPF 4 Policy 7 (Historic Assets and Places), aims to protect and enhance historic environment assets and places.

The City Archaeologist has confirmed that the site lies within an area of potential archaeological significance. If Committee were minded to approve the application, it is recommended that a condition be added requiring an archaeology survey to be undertaken.

The proposal would not have an adverse impact on a site of archaeological significance and complies with NPF 4 Policy 7.

Aerodrome Safeguarding

Edinburgh Airport was consulted on the proposal and raised no objection subject to the inclusion of suspensive conditions requiring details of a bird hazard management plan and control of lighting.

The proposal does not raise any issues in respect of aerodrome safeguarding.

Conclusion in relation to the Development Plan

The proposal is contrary to LDP Policy Hou 7 due to the adverse impact it would have on neighbouring amenity by virtue of noise from dogs barking.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

The application attracted 60 material contributors; of that 21 objected and 38 supported the proposals.

material considerations - objections

- Additional traffic - assessed in section (a)
- Dangerous junction and dangerous driving where kennels would be sited - assessed in section (a)
- Increased noise and disturbance both day and night - assessed in section (a)
- Increased smell nuisance - 100 dogs able to be boarded - assessed in section (a)
- Being on the flight path noisy already but number of dogs would worsen situation assessed in section (a)
- More suitable site could be found on owner's farm away from residential - assessed in section (a)

material considerations - support

- Good reliable business used for many years - assessed in section (a)
- Expanding existing business in the countryside - assessed in section (a)
- Employing local staff - assessed in section (a)
- Further employment opportunities-assessed in section (a)
- Good facility for day care when more people back to work - assessed in section (a)
- Upgrade current facilities giving more space for dog exercise - assessed in section (a)
- Didn't receive notification of development - the contributor wasn't a notifiable neighbour. Due to the nature of the proposed development the application was advertised as a bad neighbour.

non-material considerations

- Couldn't go on holiday without the business
- Dogs are very well exercised
- Business supports dogs in difficult times
- Dogs become more sociable
- Supporters of business are not local residents

Conclusion in relation to identified material considerations.

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposed use would have an adverse effect on the amenity of neighbouring properties by virtue of increased noise and disturbance. The proposal does not comply with LDP Policy Hou 7. There are no other material considerations to outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal: -

1. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as due to the nature of the business it would have adverse noise impacts on neighbouring residential amenity by virtue of noise and disturbance.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 10 March 2022

Drawing Numbers/Scheme

1-6

Scheme 1

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

Contact: Jennifer Zochowska, Senior Planning Officer
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Summary of Consultation Responses

NAME: Archaeology

COMMENT: The site lies within an important archaeological landscape centred around Newbridge to the west and the southern side of the River Almond dating back over 6000years.

The site is therefore regarded as occurring within an area of archaeological potential. . Given the sites location these works have the potential for disturbing archaeological remains dating back to prehistory. It is therefore recommended that a condition is attached if approved requiring a programme of archaeological work to be undertaken.

DATE: 5 April 2022

NAME: Environmental Protection

COMMENT: Environmental Protection has concerns regarding the application and recommends it be refused.

DATE: 23 June 2023

NAME: Transport Planning

COMMENT: No objections subject to appropriate conditions and informatives.

DATE: 28 November 2022

NAME: Edinburgh Airport

COMMENT: The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding criteria unless any planning permission granted is subject to the conditions relating to the submission of a Bird Hazard Management Plan and control of lighting.

DATE: 5 August 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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