

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
CAIA FARM, OLD WREXHAM ROAD, GRESFORD, WREXHAM**

COUNCILS STATEMENT OF CASE

**PLANNING REF: P/2020/0218
PINS REF: 3258360**

1.0 THE SITE

- 1.1 The Appeal site, known as Ryecroft Meadow, is located to the rear of the houses on Old Wrexham Road, at Caia Farm, Old Wrexham Road, Gresford, Wrexham. The site is outside of the nearest settlement limit of Gresford, and is within Green Barrier and Special Landscape Area.

1.0 PROPOSAL

- 2.1 The proposal is made in full and is for planning permission for the Change of Use of Agricultural Land to a Dog Exercise Area (In Retrospect), Ref: P/2020/0218.
- 2.2 Planning permission was refused on 07.08.2020 for the following reason:
By virtue of the noise levels, non-continuous sources of noise, and the general character of the noise associated with the proposed use (dogs and their handlers), to allow the development would be a constant source of irritation and disturbance to neighbouring noise sensitive properties, detrimental to their amenity and contrary to Wrexham Unitary Development Plan Policy GDP1 (f).

3.0 PLANNING HISTORY

- 3.1 P/2019/0473 Change of Use of Field south of Caia Farm from Agricultural to Sui Generis Use As Dog Exercise / Training Area (In Retrospect) – Permission Refused on 02/12/2019 (See Committee Report at Appendix 1).

4.0 LOCAL AND NATIONAL PLANNING CONTEXT

- 4.1 Planning Policy Wales (PPW) Edition 10.
- 4.2 The site lies outside any settlement limit as defined in the current development plan for the area, which is the Wrexham Unitary Development Plan (UDP) 2005. Policies PS2, EC1, EC5, T8 and GDP1 of that document are applicable. Copies of the relevant UDP policies are contained within the submitted questionnaire bundle.

5.0 MATTERS OF COMMON GROUND

- 5.1 *Character and Appearance of the Site* - Policy EC1 (Green Barrier) allows for recreation facilities such as this which maintain the openness of the area and do not conflict with the purpose of including the land within it. Policy EC5 advises that development should be strictly controlled with special attention paid to minimising the impact of development from both nearby and distant viewpoints. The proposed change of use will have little or no impact upon the appearance of the area, and the development complies with both Policy EC1 and EC5.

5.2 *Site Access* - The highway authority has confirmed that the proposed development site is located on Old Wrexham Road which is a narrow, classified, rural lane subject to a 60mph speed limit. Visibility from the existing / proposed access is adequate in the southerly direction providing a splay in excess of 2.4 x 43m measured to the centreline of the adjoining highway. However, visibility in the northerly direction is inadequate providing a visibility splay of approximately 2.4 x 33m measured to the centreline of the adjoining highway. Visibility is impeded in this direction by the existing hedgerow and trees. The highway authority would not normally support any proposed development that would result in any significant increase in vehicle movements through this existing access. However, it is understood that the Appellant has control of the land either side of the access and has offered to improve visibility in the northerly direction by the removal of the Ash tree and approximately 15 metres of hedgerow (both to be replanted outside of the visibility splay). Subject to conditions securing the resurfacing works and highway improvements described above the highway authority has confirmed that there are no objections to the proposed change of use, and the use complies with Policies GDP1 (d) and T8.

5.3 *Trees* - The Council's arboricultural officer has confirmed that there are no objections to the removal of the Ash tree to provide visibility at the site access point provided that there will be compensation tree planting nearby. The officer recommends the planting of a Lime (*Tilia cordata*) tree in a suitable gap in the hedgerow along the roadside boundary.

6.0 COUNCIL'S CASE AGAINST THE PROPOSAL – RESIDENTIAL AMENITY

6.1 The training field backs onto 7 residential properties, 4 of which have gardens immediately adjoining the Appeal site. Numerous concerns have been expressed in relation to loss of privacy, loss of security and noise nuisance. A large number of dogs are proposed along with their handlers which have a significant impact upon the ability of the occupiers of the dwellings to enjoy peaceful use of their properties. Noise ranges from vehicles, dogs barking, handlers shouting commands and more generally from groups of people attending the site in such large numbers, repeatedly throughout the day. The training field can be used all day every day and, if fully booked, there is no time during the day when the occupants' of the adjacent properties will not suffer from the noise generated by the proposed change of use unlawfully established at the site. There are also patches long the rear boundary which allow users of the field to look into the gardens of the houses resulting in a loss of privacy and reported incidents of dogs entering the gardens. The Council does however note the recent erection of some sort of plastic covering along the boundary hedge.

- 6.2 The Council's Environmental Health Officer (EHO) confirmed that the noise report submitted in support of the planning application (please see appendix 2) concluded that the proposed walking of a single dog on the land would not cause a statutory nuisance. However, the proposal is for the use of the Appeal site for up to 14 dogs together with 7 handlers. This was not properly assessed in the submitted noise report and planning permission was therefore refused for a second time.
- 6.3 A further noise report has been submitted as part of this Appeal (please see Appendix 3). The EHO has confirmed that the noise report concludes that the proposal for the use of the Appeal site for up to 14 dogs at a time is unlikely to cause a significant noise nuisance that would represent a Statutory Noise Nuisance. This is subject to the erection of the 2.1 acoustic fencing proposed within the noise survey.
- 6.4 However, whilst the fencing may reduce the likelihood of instances of statutory nuisance caused by barking dogs, the fence will not properly safeguard against the noise levels, non-continuous sources of noise, and the general character of the noise associated with the proposed use (dogs and their handlers), which would remain a constant source of irritation and disturbance to neighbouring noise sensitive properties, detrimental to their amenity. The Council does not accept that the dogs are likely to be spread out evenly across the field, particularly during play sessions when they are more likely to be grouped together, as will their handlers.
- 6.5 The noise report submitted in support of this Appeal again does not consider the noise generated by the dog handlers when attending the site in large groups, by nature, or when shouting to the dogs when training and practicing recall. The Council received objections to the proposed change of use as part of the application notification process. These representations provide clear evidence that the proposal has a significant impact upon the peaceful enjoyment of their homes and that the dog training facility continues to operate unlawfully, and is significantly detrimental to local residential amenity.
- 6.5 The Council has viewed the examples of other dog exercising facilities in Neston, Northop and Sutton Weaver, as provided by the Appellant. It is immediately obvious that these examples are not relative in character to the Appeal site, as they are not similarly inappropriately sited directly to the rear of residential properties. In drawing comparisons with these sites, it appears that the Appellant does not fully appreciate the nature of concerns in relation to the incompatibility of the proposal with the existing (residential) uses. These examples demonstrate locations which have limited impact upon residential amenity, as would this proposal if it were more sympathetically located away from residential properties. The Council maintains that the use of the Appeal site is incompatible with the adjoining residential use.

7.0 CONCLUSION

- 7.1 The Council is in no doubt that this facility is very popular with its users and that it is a useful facility for those wishing to train, socialise and exercise their dogs in a secure location. However, greater weight must be given to protecting the amenities of the existing local residents, and the principle of such a facility which is attended by large groups of people and dogs, so close to residential properties, is not acceptable. To allow the use of the land for dog exercising / training purposes to continue would be significantly detrimental to the amenities of the occupiers of the adjoining dwellings and the proposed use is not compatible with the existing dwellings.
- 7.2 By virtue of the noise levels, non-continuous sources of noise, and the general character of the noise associated with the proposed use (dogs and their handlers), to allow the development would be a constant source of irritation and disturbance to neighbouring noise sensitive properties, detrimental to their amenity and contrary to Wrexham Unitary Development Plan Policy GDP1 (f).
- 7.3 For the reasons given above, the Inspector is respectfully requested to dismiss the Appeal. If however the Appeal is allowed, imposition of the following planning conditions is suggested:

7.3.1 - Conditions

1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any statutory instrument revoking and re-enacting that Order with or without amendment), no part of the premises shall be used except for the precise purposes described in the application plans and documents.
2. No use of the development shall be made before 7am or after 7pm Monday to Friday, or before 8am or after 6 pm on Saturdays, Sundays and Bank Holidays.
3. The maximum number of dogs and their handlers attending the site shall not exceed 14 no. and 7no. respectively, at any one time. For the avoidance of doubt, no other persons should attend the site except for 1 no. staff member.
4. The vehicular parking area as shown on approved drawing no. PL/TR/103 Rev A be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking of motor vehicles at all times.
5. Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4

metres x 43 metres in both directions measured to the centreline of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

6. Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5 metres behind the adjoining highway.
7. There shall be no removal of trees or hedges between the months of March to August inclusively in any calendar year.
8. Within one month of the date of this decision, full details of a tree (1 no. standard 12-14cm diameter lime - *Tilia cordata*) and hedgerow planting scheme together with a plan indicating the position, height, design and materials for the acoustic boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.
9. The tree, hedgerow and boundary treatment scheme approved in connection with condition 8 shall be fully implemented within one month of the date of approval.
10. The tree, hedgerow and boundary treatment scheme as carried out in connection with condition nos. 8 and 9 shall be permanently retained. Any planting or fencing becoming severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced with trees, shrubs or fencing of similar size and species to those originally required to be planted / erected and within a timescale all to be submitted to and approved in writing by the Local Planning Authority.

7.3.2 Reasons

1. To protect the amenities of the occupiers of adjoining properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
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4. To provide for the parking and turning of vehicles in accordance with Policies GDP1 and T8 of the Wrexham Unitary Development Plan.
5. To ensure that adequate visibility is provided at the proposed point of access to the highway in accordance

- with Policy GDP1 of the Wrexham Unitary Development Plan.
6. To ensure that no deleterious material is carried onto the highway, in the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
 7. In order to protect wildlife interests, which are afforded special protection in accordance with Policies GDP1 and EC6 of the Wrexham Unitary Development Plan.
 8. To ensure a satisfactory standard of development in the interests of the visual and residential amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
 9. To ensure a satisfactory standard of development in the interests of the visual and residential amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
 10. To ensure a satisfactory standard of development in the interests of the visual and residential amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

APPENDICES

Appendix 1 - Planning Committee Report

Appendix 2 – Noise Report Version 1

Appendix 3 – Noise Report Version 2