



Appeal Decisions

Site visit made on 6 October 2025

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 December 2025

Appeal Ref: APP/V4630/X/23/3334991

Paddock Land Corner of Beacon Road, Bridle Lane, Streetly, Walsall WS9 0RG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Henry Golland on behalf of Bruces Doggy Day Care against the decision of Walsall Metropolitan Borough Council.
 - The application ref 23/0961, dated 27 July 2023, was refused by notice dated 9 November 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is the erection of means of enclosure of up to 2m in height.
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Appeal B Ref: APP/V4630/X/23/3334990

Paddock Land Corner of Beacon Road, Stables, Bridle Lane, Streetly, Walsall WS9 0RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Henry Golland on behalf of Bruces Doggy Day Care against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 22/1596.
 - The development proposed is the change of use of land and conversion of existing stables to a site for Dog Day Care.
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Appeal A decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.

Appeal B decision

2. The appeal is allowed and planning permission is granted for the change of use of land and conversion of existing stables to a site for Dog Day Care at Paddock Land Corner of Beacon Road, Stables, Bridle Lane, Streetly, Walsall WS9 0RG in accordance with the terms of the application, Ref 22/1596, dated 23 December 2022, subject to the conditions contained in the Schedule attached to this decision.

Appeal A

Main Issue

3. The main issue in this appeal is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

4. An application under section 192(1)(b) of the Town and Country Planning Act 1990 (the Act) seeks to establish whether any operations proposed to be carried out in, on, over or under land, would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
5. The erection of a gate, fence, wall, or other enclosure can be permitted development under Article 3, Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). However, the erection of a gate, fence, wall, or other enclosure over 1m in height, which is adjacent to a highway used by vehicular traffic, is not permitted development and planning permission is required for such development.
6. There is no dispute that the fence would be below 2m in height nor that Beacon Road and Bridle Lane are highways for the purposes of the GPDO. The crux of the matter is whether the proposed fence would be adjacent to them.
7. The word 'adjacent' is not defined in the Act. Although the High Court judgment of *Simmonds v SSE and Rochdale MDC* [1981] considered the meaning of 'abutting', as that was the word used in the GPDO at the time, it is reasonable to take the same meaning when considering the word 'adjacent'. It was found that 'adjacent' did not necessarily mean the fence has to be abutting or touching the highway. It is not disputed between the parties that a wall or fence can be set back from a highway, but still be 'adjacent' to it, as a matter of fact and degree, provided that the enclosure is clearly to define the boundary of the property concerned from the highway and is perceived to do so.
8. The boundary of the appeal site is currently demarcated by a post and rail fence. The appellant confirms that this would remain in situ. Between the fence and the highway, is a well-established tree line along Bridle Lane and a well-established, dense hedgerow along Beacon Road. The appeal site is on a significantly lower ground level to both of the roads, with the tree line and hedgerow being positioned on an embankment rising up from the site to the road.
9. The proposed fence would be positioned at least 2m back from the existing fence and would be approximately 10m from the metalled part of the highway. It would be set some distance within the site, behind two existing physical boundaries (the existing fence and tree line/hedgerow). Although there would be glimpsed views of the proposed fence, particularly from Bridle Lane, there would be sufficient separation between it and the existing fence for them to be read as two separate entities, with the existing fence being clearly read as the boundary of the site. As a result of the intervening embankment and tree line/hedgerow, as well as the existing boundary fence and the separation distance between it and the proposed fence, I do not find the proposed fence would be perceived as defining the boundary of the appeal site.
10. I find, as a matter of fact and degree, the proposed fence would not be adjacent to the highway. As such, it would be permitted development under Part 2, Class A of the GPDO.

Other Matters

11. I have had regard to the appeal decision¹ referred to me by the Council. However, I cannot be certain the physical characteristics of that site were so similar to the appeal before me to draw a direct comparison between them. The appeal decision highlights that it is matter of fact and degree based on the specific circumstances of the case as to whether the fence would be adjacent to the highway.

Conclusion on Appeal A

12. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Appeal B

Preliminary Matter

13. Since the planning application was determined by the Council, the National Planning Policy Framework (the Framework) has been revised. Whilst the numbering of the relevant paragraphs of the Framework that the parties have referred to has changed, the substance of them has not. Accordingly, it is not necessary to seek comments from the parties on the revised Framework and no injustice would be caused to any party by my determination of the appeal having regard to the most up to date version of the Framework.

Main Issues

14. The main issues are:
- Whether the development would be inappropriate development in the Green Belt, including having regard to its effect on the openness of the Green Belt and the purposes of including land within it; and,
 - Whether the development would preserve or enhance the character or appearance of the Great Barr Conservation Area (the CA).

Inappropriateness

15. The appeal site is located within the Green Belt. Paragraph 154 of the Framework confirms development in the Green Belt should be regarded as inappropriate unless it complies with one of the exceptions listed. Exception h)v. allows material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy GB1 of the Walsall Site Allocation Document 2019 (WSAD) relies on the definition of inappropriate development as set out in the Framework and similarly restricts it.
16. The existing site is in equestrian use and comprises a stable block; a menage; post and rail fencing demarcating field boundaries; and, an area of hardstanding adjacent to the stable block.

¹ Appeal reference APP/Q3115/X/16/3150593

17. The first limb of exception h)v. is that it allows material changes of use of land in the Green Belt. Although it lists uses such as outdoor sport or recreation and cemeteries and burial grounds, the inclusion of the words 'such as' clearly indicates that this is not a closed list. The proposed dog day care use would result in a material change in the use of the land and therefore would satisfy the first limb of exception h)v.
18. The second limb of exception h)v. is that the material change of use of the land must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
19. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
20. The proposed use would not introduce built structures beyond lightweight 2m high fencing that would enclose a number of separate areas and minor alterations to the existing stable block. Whilst the fencing would be substantial in terms of its total length, its chain-link design would allow significant intervisibility between the areas it would enclose, including visibility into the site from outside its boundaries. Consequently, the physical characteristics of the proposed use would retain the visual and spatial aspects of the openness of the Green Belt.
21. Notwithstanding the above, the proposed activities associated with the use could also have an effect on the openness of the Green Belt. The use would accommodate up to 71 dogs at a time. Whilst on the face of it, this seems a large number of dogs. However, they would be accommodated across the entirety of the site, including within the stable block building. Having regard to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, which states that dogs in day care should have a minimum space of 6 sqm, the proposal would significantly exceed this by providing approximately 228 sqm per dog when it is at the full capacity of 71 dogs.
22. In addition, the dogs would be collected by staff members and brought to the site, rather than owners dropping them off. Therefore, vehicular traffic to and from the site would be limited.
23. Taking the above activities into account, I do not consider that the use would be so intensive that it would unduly harm the openness of the Green Belt.
24. I find therefore that the proposal would be a material change of use of land that would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. As such, it would satisfy exception h)v. of paragraph 154 of the Framework and therefore would not be inappropriate development in the Green Belt. As such, it complies with Policy GB1 of the WSAD and saved Policy GP2 of the Walsall Unitary Development Plan 2005 (UDP), which does not permit development which would have an unacceptable adverse impact on the environment.

The Great Barr Conservation Area

25. The site is located within the Great Barr Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the

LBCA Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

26. The CA comprises open countryside used as agricultural land, sparsely populated with farmsteads and other sporadic twentieth century residential development. In general, field boundaries have formed through the amalgamation of smaller parcels of land since the land was enclosed in the 18th century, with further changes undertaken in the 20th century. Its significance derives from its historical landscape. The open character of the appeal site makes a positive, albeit limited, contribution towards the significance of the CA.
27. At the time of my site visit, the appeal site was subdivided into smaller paddocks, not too dissimilar to that proposed, each enclosed by post and rail fencing. The proposed fencing would be significantly higher than the existing fencing and its chain link design would be a less common feature in the rural setting. Nevertheless, the fence would retain a significant degree of intervisibility.
28. Although the site can be glimpsed through gaps in the tree/hedgeline along Bridle Lane, this is very limited. I do not consider that the proposed fencing would be unduly prominent in views from Bridle Lane and its lightweight appearance would enable views through it, limiting its visual prominence.
29. Due to the natural boundary treatment along Beacon Road being more dense than that on Bridle Lane, views of the site from it would be almost non-existent.
30. From within the site itself, the extensive fencing would clearly be visible. However, again, due to its lightweight appearance and the areas it would enclose being relatively large, the fencing would not unduly diminish the openness of the site nor create a sense of urbanisation. The rural character of the site would be retained.
31. With regard to the alterations to the existing stable block, externally these would be largely limited to the blocking up of existing openings. Its stable block design would be retained and when viewed from Bridle Lane it would still be read as a stable block. I note the appellant's confirmation that there would not be any external lighting, further limiting its effect on the CA.
32. I therefore conclude that the proposal would not harm, and therefore would preserve, the character and appearance of the CA. As such, it would comply with saved Policy GP2 of the UDP and Policies ENV2 of the Black Country Core 2011 Strategy and Policy EN5 of the WSAD, which seek to protect historic character, including conservation areas.

Other Matters

33. I acknowledge the concerns raised regarding the effect the dogs may have on horses in nearby fields and riders passing the site. However, the dogs will not be unattended. There would be sufficient staff to ensure dogs are monitored at all times. Whilst the proximity of the site to the fields to the south of the site would enable dogs and horses to be close, it is likely that staff would correct the behaviour of dogs if they did happen to bark at the horses and it is more than likely that the animals would get used to each other after a short period of time. Although the site could accommodate up to 71 dogs, they would be separated into smaller groups. Even if some do bark on occasion at riders passing by along

Bridle Lane or Beacon Road, there would be some distance between the proposed fenced enclosure and the lane to ensure that horses would unlikely be spooked.

34. In terms of dogs being able to jump over the 2m high fence, this is likely to be in very exceptional circumstances, if at all. Again, staff would likely be in attendance to ensure that this would not happen.
35. I note the concerns raised about toys and apparatus within the enclosures to entertain the dogs. However, it is not uncommon for similar, colourful paraphernalia to be found in such areas, notably horse jumps.
36. With regard to smell and waste, there is no substantive evidence that the proposed use would cause any undue harm in this regard.
37. Although the ownership of the appeal site has changed since the appeal was lodged, the planning permission would run with the land and not the appellant. Accordingly, this has had no bearing on my consideration of the appeal.

Conditions

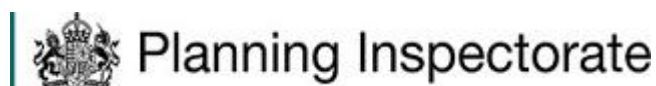
38. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
39. For the avoidance of doubt, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
40. In the interests of the character and appearance of the area and the CA, conditions are necessary regarding external lighting, boundary treatments and landscaping.
41. In the interests of protecting the amenities of nearby residents a condition is necessary regarding the opening hours.
42. In the interests of promoting sustainable forms of transport a condition is necessary regarding the provision of a cycle shelter/racks.

Conclusion on Appeal B

43. For the reasons given above, having regard to the development plan as a whole, the appeal is allowed.

A Walker

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 27 July 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development shown on drawings P02 Rev A and P03 Rev B would have been development permitted by Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) and would therefore have been granted planning permission by Article 3(1) of the GPDO.

Signed

A Walker

Inspector

Date: 9 December 2025

Reference: APP/V4630/X/23/3334991

First Schedule

The erection of means of enclosure of up to 2m in height.

Second Schedule

Land at Paddock Land Corner of Beacon Road, Bridle Lane, Streetly, Walsall WS9 0RG

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

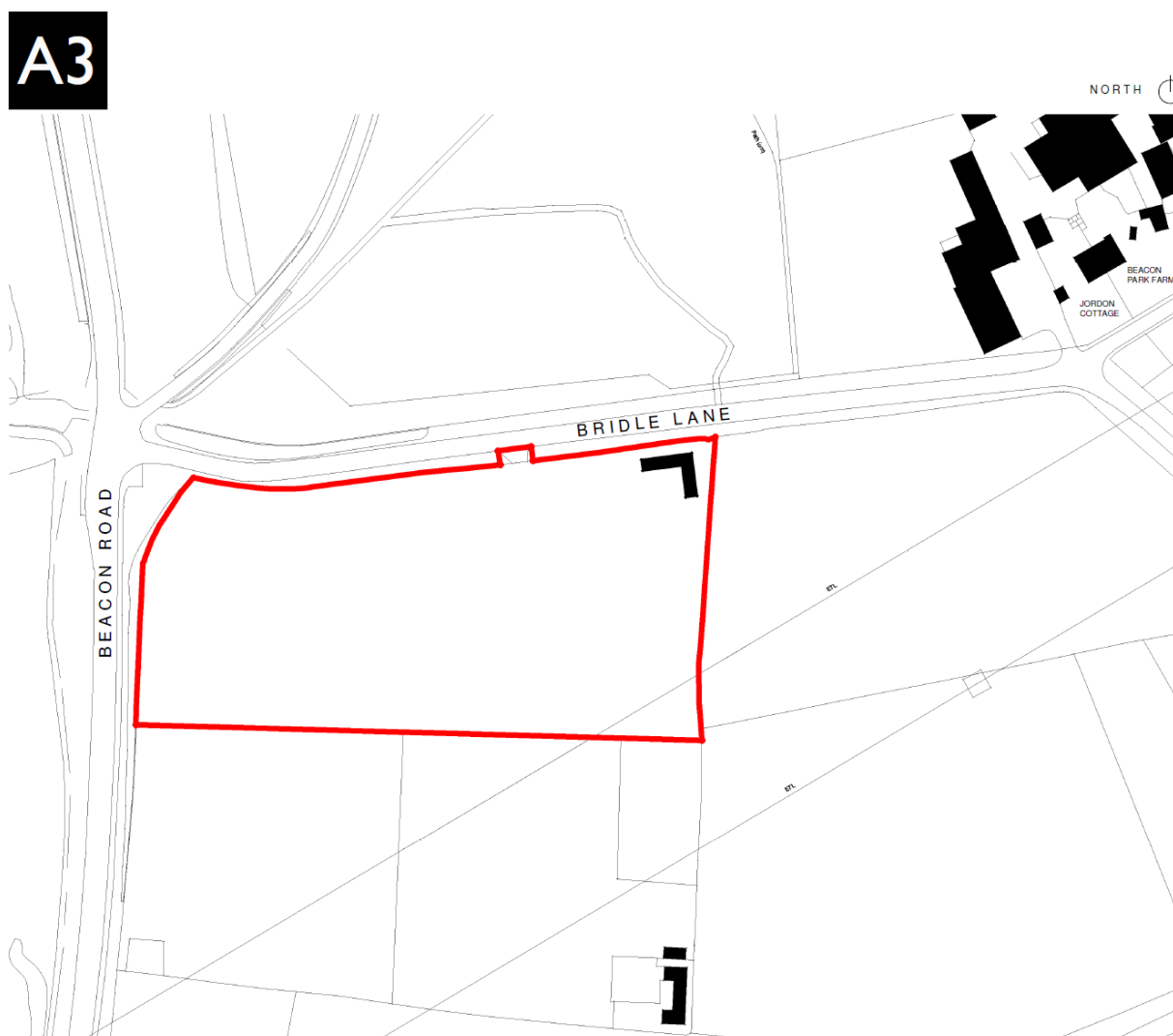
This is the plan referred to in the Lawful Development Certificate dated: 9 December 2025

by A Walker

Land at: Paddock Land Corner of Beacon Road, Bridle Lane, Streetly, Walsall WS9 0RG

Reference: APP/V4630/X/23/3334991

Scale: Not to Scale



SCHEDULE OF CONDITIONS IN RESPECT OF APPEAL B

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan P01 Rev A; Visibility Splays 2023/7186/001 Rev. P1; Proposed Site Plan - overall P03 Rev D; Proposed Site – Reception & parking P04 Rev C; Proposed stables plans & elevation P10 Rev B; Block plan P02 Rev B; Existing site X01 Rev A; Existing site X02 Rev A; Existing site sections thru access X04 Rev A; Existing stables – plans & elevations X10 Rev A; and, Proposed site P05 Rev B.
- 3) No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted to and approved in writing by the Local Planning Authority. No external lighting shall be installed on the site otherwise than in accordance with the approved details.
- 4) Prior to the commencement of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all fences, gates or other means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatment and all gates shall be designed and installed so they cannot open outwards onto a highway. The development shall be carried out in accordance with the approved details prior to the first use of the hereby approved development.
- 5) Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the development hereby permitted the approved landscaping details shall be carried out. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.
- 6) The development hereby permitted shall not be open to customers outside the hours of 0800 hours to 18:00 hours Mondays to Friday.
- 7) Prior to the development hereby permitted first coming into use, details of a cycle shelter / racks to be installed are to be submitted to and approved in writing by the Local Planning Authority. The approved cycle shelters / racks shall be fully implemented in accordance with approved details prior to the development hereby permitted first coming into use.