



Appeal Decisions

Site visit made on 18 March 2026

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2026

Appeal A Ref: APP/B3030/C/25/3363851

Land at Highfields, Gonalston Lane, Epperstone NG14 6AZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Adrian Worrall against an enforcement notice issued by Newark & Sherwood District Council.
 - The notice was issued on 24 March 2025.
 - The breach of planning control as alleged in the notice is “Without planning permission, ‘development’ consisting of the material change of use of the land to a dog exercise area.”
 - The requirements of the notice are:
 - A. Cease the use of the land for a dog exercise area.
 - The period for compliance with the requirement is 40 days after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/B3030/W/25/3363855

Highfields, Gonalston Lane, Epperstone, Nottinghamshire NG14 6AZ

- 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 A Worrall against the decision of Newark & Sherwood District Council.
 - The application Ref is 23/02141/FUL.
 - The development proposed is “Change of use of agricultural field to dog exercise area, construction of hardstanding, fence and gates”.
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld.
2. Appeal B is dismissed.

Preliminary Matters

3. Planning permission for the development has been refused within two years of the date the enforcement notice (EN) was issued. Appeal A is therefore barred from proceeding on ground (a). The issue of whether planning permission should be granted will be dealt with under Appeal B.
4. At the time of my site visit the dog exercise field was not in use. I did not therefore experience activities associated with its use firsthand. During my site visit I was able to view the appeal site from the neighbouring property, Netherfield Farm House. While the occupier, Mr Liffe, was present, no discussion regarding the merits of the appeals took place.
5. The appellant has directed me to numerous legal authorities on matters pursuant to Appeal A. I have had regard to those identified and shall refer to them below if necessary.

6. From the information provided by interested parties the livery business has operated for more than 20 years. The Council has not raised any concern that the livery business is unlawful. I shall therefore proceed on the basis that the livery business is lawful.
7. Whether the appellant has authority to grant third party access rights over the occupation lane is not a matter before me for consideration. This is a civil issue between the relevant parties.
8. The Council's decision in respect of Appeal B was based on 'Existing and Proposed Block Plan, drawing number 670-2023-01 Rev C' received by the Council on 16 October 2024. Appeal B is accompanied by that drawing and a further drawing, 'Existing and Propsoed [sic] Block Plan, DRG NO: 670_2023_01 Rev D' dated Nov 2023 (plan Rev D). While plan Rev D did not form part of the original application submission, it details additional works to address the reason for refusal and shows some additional works that have already been completed. The Council and interested parties have had the opportunity to comment on plan Rev D and I shall therefore have regard to it.
9. I note the officer recommendation in respect of application reference 23/02141/FUL was to grant permission. The Planning Committee does not have to endorse that recommendation and may, subject to sound material planning reasons, arrive at a different decision. While the committee minutes do not record refence being made to specific planning policies, the reason for refusal does. The Council's decision was not challenged through the courts for reason of soundness. I shall proceed on the basis that the Council decision as written is sound.

Appeal A on Ground (c)

10. An appeal on this ground is that the matter alleged, if it has occurred, does not constitute a breach of planning control. It is for the appellant to show, on the balance of probability, the change of use of the land to a dog exercise area is not development.
11. It is the appellant's contention that the appeal site forms part of a larger planning unit, whose use comprises a mixed use of residential and agricultural purposes. Further, the appellant contends agricultural fields within the planning unit, including the appeal site, have been used "*for exercising the family dogs*"¹.
12. There is no dispute that the appeal site was previously used for agriculture. Section 336 of the 1990 Act states agriculture includes "*horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly*". This definition clearly does not include the exercising of dogs. If I were to accept that the dog exercise area formed part of a planning unit in mixed use, it would not therefore be unreasonable to conclude the exercising of the family dogs to be incidental to the agricultural and/or residential use element of that mixed use.

¹ Paragraph 39 of the appellant's Enforcement Appeal Grounds of Appeal dated April 2025

13. The concept of material change of use is not defined in statute or statutory instrument. The courts have however held that, for a material change of use to have occurred, there must be some material change in the definable character of the activities taking place to what has gone on previously, as a matter of fact and degree.
14. It is the appellant's contention that use as a dog exercise area is not materially different to the exercising of the family dogs or use of the land for agricultural purposes. Prior to the unauthorised use commencing I find it more likely than not that dog exercising would have only taken place once or twice a day, and for limited amounts of time. There would also have been no need for vehicles to be utilised to bring dogs to the appeal site as the associated dwelling is adjacent.
15. Use of the appeal site for livestock grazing would have resulted in animals being present for longer periods, it would however be unusual for livestock to generate vocal noise comparative to that generated by dogs when they are responding to stimuli. While some vehicle movements associated with the grazing of livestock may have occurred, I find it unlikely that these would have occurred on a potentially hourly basis between 8 am and 6 pm, 7 days a week.
16. In comparison, given the remote location of the appeal site, use as a dog exercise area will require users and their dogs to travel by vehicle. While timeslots may be restricted to one booking per slot, this could potentially generate 16 vehicle movements per day based on hourly slots throughout the suggested operating hours. There is also the potential for vehicles arriving and leaving to overlap. Dogs visiting the appeal site are also more likely to have behavioural issues that could result in them being more vocal when using the dog exercise area than "family dogs" that are familiar with it and its surroundings.
17. Taking the above factors together, I find as a matter of fact and degree, that the characteristics of the dog exercise area are materially different to the former mixed use comprised of agricultural and residential purposes. The appellant has therefore failed to show, on the balance of probabilities, that a material change of use has not occurred.
18. For the above reasons, the appeal on ground (c) fails.

Appeal A on Ground (f)

19. An appeal on this ground is that the steps required to be taken, or activities required to be ceased, exceed what is necessary to remedy the breach of planning control which may be constituted by those matters or, as the case may be, the injury to amenity. It is for the appellant to show what lesser steps could be taken to remedy the breach of planning control.
20. The purpose of the notice is taken from the wording of the requirements and what compliance with them would achieve. It is not taken from the reasons for issuing the notice. The step to be taken requires the use as a dog exercise area to cease, so the purpose of the notice is to remedy the breach of planning control.
21. Restricting the hours when the Land can be used as a dog exercise area, the provision of a buffer zone, planting and/or fencing may address any injury to amenity arising from the development. However, considering the acceptability of these lesser steps would involve an element of planning judgement. There is no

scope under this ground to consider the effects of these lesser steps on the amenity of the neighbouring occupier. Furthermore, they are akin to planning conditions which, in the absence of a ground (a) appeal, there is no mechanism by which conditions could be imposed.

22. Furthermore, the lesser steps would not address the purpose of the notice as these measures would not remedy the breach of planning control. There are therefore no lesser or obvious alternative steps that could be taken to remedy the breach of planning control.
23. For these reasons, the appeal on ground (f) fails.

Appeal A on Ground (g)

24. An appeal on this ground is the period specified in the notice falls short of what should be reasonably allowed. The appellant argues that 40 days is unreasonable as it does not provide sufficient time for those individuals that rely on this dog exercise area to make alternative arrangements or for the appellant to relocate their facility to alternative land in the locale.
25. It could be argued that the dog exercise area provides a service to the public, it is however a chargeable service and not an exercise area available to the public at large. It is therefore for me to balance the public interest explicit in the notice being complied with expeditiously against the private interests of the appellant operating a business.
26. Users are willing to travel to this facility, and I do not doubt that they will find an alternative within a distance they are willing to travel. While the appellant may wish to pursue providing the facility elsewhere, that is a matter for them, and it is not determinative in this case.
27. Ceasing the use does not entail any works to be carried out. The appellant would need to put his clients on notice that the exercise area would no longer be available after a specific date and ensure that any bookings after the compliance date are cancelled. I find the 40 days period specified in the notice is sufficient for the appellant to take the necessary action to cease the use.
28. For these reasons, the appeal on ground (g) fails.

Appeal B

29. The change of use from an agricultural field to a dog exercise area is confirmed as having begun on 2 August 2021. The field has native species hedgerows to the west and east boundaries, and the northern boundary is post and wire fencing. Since the refusal was issued, a high close boarded fence has been erected along the southern boundary. I also saw a timber building on the field that contains a picnic bench and a second picnic bench is sited within the field. There is an area of hard surfacing adjacent to the access gate, which could accommodate 2 to 3 vehicles. I also saw signage requesting that vehicles not be parked or manoeuvred on the grass.
30. The appeal site is in Green Belt, where inappropriate development is, by definition, harmful to openness. Paragraph 154 of the National Planning Policy Framework (the Framework) identifies forms of development that are not inappropriate in

Green Belt. Paragraph 154 h) v. identifies “*material changes in the use of land*” provided they preserve openness and do not conflict with Green Belt purposes.

31. The Council concludes the proposal, including its associated fencing, hard standing and parking of associated vehicles do not affect openness or Green Belt purposes. From the evidence before me, I see no reason to disagree and find the proposed development accords with the framework and is not inappropriate in Green Belt.

Reasons

32. The main issues are usually taken from the Council's reasons for refusal, however matters raised by interested parties can be elevated to a main issue if it is substantive. The Highway Authority, elected members of the Planning Committee and interested parties raise concerns relating to highway safety. Having regard to those concerns, and what I saw during my site visit, I find the **main issues** are the effect of the proposal on:
- the living conditions of neighbouring occupiers; and
 - highway safety for other road users.
33. The appellant is aware of the highway safety concerns to which I have had regard. They had an opportunity to address those concerns in their appeal submissions.
34. There is no dispute the Newark and Sherwood Amended Core Strategy DPD (2019) (the CS) and the Allocations and Development Management DPD (2013) (the ADM) are the relevant parts of the development plan. I acknowledge that the CS and ADM were adopted some considerable time ago, but it is still appropriate to apply those parts of relevant policies that accord with the Framework.
35. The reason for refusal claims the proposed development is contrary to Core Policy 9 ‘Sustainable Design’ of the CS. Given the proposed development relates to the use of land, I find the issue of sustainable design does not arise.

Living Conditions

36. The dog exercise area adjoins two residential properties, one occupied by the appellant and one occupied by a neighbour. I saw that it is nearer to the neighbouring property, Netherfield Farm House (NFH). While NFH has a substantial garden area to the south of the dwelling this is visible from the surrounding highway network due to its elevated position in the landscape and use of green coated paladin style boundary fencing. In contrast, the garden area to the north, adjacent to the dog exercise area is partially enclosed by high brick walls. While it provides vehicle parking and manoeuvring facilities, it also contains outside seating areas that would, more likely than not, be used by the occupiers of NFH as their private garden.
37. The field also occupies an elevated position above NFH. Users of the dog exercise area can therefore see into the neighbouring property's first floor window and conservatory, notwithstanding the 2 metres high close boarded fence that has been erected. This leads to loss of privacy for occupiers of NFH. While views into the neighbours' property may be mid to long distance views, the level of activity taking place in the dog exercise area represents a significant increase over and above that associated with the keeping of livestock and exercising of family dogs.

38. The use operates between 8 am to 6 pm 7 days a week and the dog exercise area is available for hourly hire. While the appellant claims customers are not permitted to arrive before their allocated time and they must leave before the end of their allocated time, there is nothing to show how that would be managed. Furthermore, evidence provided by interested parties shows there has been up to four vehicles associated with the use of the dog exercise area parked at times and that the appellant is not averse to agreeing to extend the hours of operation to accommodate user's needs.
39. Use of the dog exercise field may be a daytime activity. However, in my judgement, its operating hours coincide with times when the occupiers of NFH should benefit from the quiet enjoyment of their home associated with living in the countryside. It is not unreasonable to conclude that noise and disturbance will arise in the form of barking dogs, car doors opening and closing, users of the dog exercise area talking to one another or on their phones/calling to their dogs etc, and the comings and goings of vehicles. The neighbours' written submissions assert that this has significantly impacted on their health and quality of life, which I do not doubt.
40. The 2 metres high fencing is identified as screen fencing, there is nothing before me to show it provides any acoustic qualities to address noise arising from the proposed development. Noise may be reduced or contained in time through the suggested planting in conjunction with the screen fencing. This will however take some time to become effective and does not address the harm arising now.
41. There is nothing before me to show how the operation of the dog exercise area is to be overseen or managed. In fact, from the signage I saw on the land, the appellant takes no responsibility for the actions of the users or their dogs.
42. Taking these factors together, as a matter of fact and degree, the proposed development causes significant harm to the living conditions of neighbouring occupiers. I am unconvinced that this harm could be overcome by the imposition of conditions relating to hours of operation or reducing the area that can be utilised for exercising dogs. The proposal is therefore contrary to the provisions of policy DM5 of the ADM, which seeks amongst other things to protect the amenity of neighbouring land uses.

Highway Safety

43. The appeal site is in the countryside and accessed via a private occupation lane located off Gonalston Lane. The private occupation lane serves five properties, including a livery business. The lane is narrow (a single carriageway) and winds uphill past two dwellings before reaching the appeal site. Beyond the appeal site are the appellant's dwelling, Netherfield Farm and the livery business. I saw no passing places on the lane, only property driveways/entrances, where the carriageway widens.
44. The Highway Authority highlights that Gonalston Lane is a narrow country lane popular with walkers, cyclists and equestrians and is not suitable for activities attracting numbers of vehicles at one time. They suggest their concern can be addressed by preventing the field being used for classes or events. It is not however clear whether their response considers the highway safety effects on other users of the occupation lane or just the use of the public highway.

45. Gonalston Lane differs from the occupation lane in that it can accommodate two-way traffic and has verges on both sides, upon which vehicles can pull if they meet a larger on-coming vehicle or upon which equestrians, walkers or cyclists can take refuge as necessary. It is also relatively straight, allowing good visibility of other road users.
46. Given the limited width and construction of the accommodation lane, as well as the lack of passing places, I do not doubt that conflict arises between vehicular traffic generated by users of the dog exercise area, equestrians and pedestrians using the lane. It could be argued that such conflict could arise regardless of whether vehicles are associated with the dog exercise area or not. However, residents, farmers and users of the livery yard are more likely to be aware of the constrained nature of the occupation lane in conjunction with the likely presence of equestrians and pedestrians.
47. Anyone attending the dog exercise area will travel by vehicle due to its location away from any settlement. Users of the dog exercise area are likely to be unfamiliar with the occupation lane's constraints and therefore represent a significant danger to other users of the occupation lane, in my opinion. No mechanism is provided to show how the appellant will enforce that users of the exercise area will not arrive before their allocated time and leave before their session ends. Conflict between users of the dog exercise area is also therefore likely to occur as they will no doubt be arriving and leaving at similar times.
48. While not suggested by either main appeal party, the provision of passing places could alleviate some of my highway safety concerns. However, I understand the occupation lane to be outside the appellant's ownership and as such there is no mechanism before me to secure such provision.
49. For these reasons, the proposal is also contrary to policy DM5 of the DPD, which seeks amongst other things to provide safe and inclusive access to new development.

Other Matters

50. The activity taking place is not something usually expected in countryside locations such as this. The introduction of significant numbers of unknown people and their dogs will also, more likely than not, generate a significant degree of unease and disquiet for neighbouring residents and equestrians using the established livery business. This has been evidenced in the interested parties' submissions that refer, in particular, to dogs being unrestrained in the lane, causing horses to panic and, allegedly in one instance, a horse being injured.
51. The provision of fencing and a gate within the land to separate the dog exercise area from the parking area could go some way to address some of the concerns raised. Again however, the operation of such a dual gated system would be reliant on users to be effective as there would be no oversight by the appellant or any person responsible for the day to day management of the use.
52. I do not doubt that the dog exercise area provides a secure and safe environment for dogs to be exercised, as is attested by the significant number of positive reviews provided in Appendix 2 of the Planning Appeal Statement. This does not however demonstrate that adverse effects on the living conditions for neighbouring

occupiers or highway safety issues for other road users of the occupation lane do not arise.

53. No viability or other financial information has been provided to show what, if any, economic benefit to the rural economy the business provides. If the business is operated on a “one person” at a time basis, I find it unlikely that any material contribution is being made to the rural economy, such that it could outweigh the harms I have identified.
54. The occupiers of NFH may have felled trees within their property. Those trees were presumably outside the control of the appellant. As such, the appellant could place no reliance on those trees in terms of off-setting or preventing harm arising from the proposed development.
55. I have been directed to several other appeal and planning decisions for similar facilities elsewhere, including within Newark and Sherwood district. The Inspector in APP/K3415/W/20/3264866 may have found that the proposal they considered could be adequately controlled by a condition set out in paragraph 62 of the Planning Appeal Statement. The details of that case have not however been provided, and I cannot therefore draw a direct comparison between it and the case before me. I have set out above why I do not find that identified harms can be satisfactorily addressed by condition. Furthermore, I find the wording of the imposed condition to be impractical, unless some form of manager is to be present throughout the hours of operation.
56. In respect of planning permission reference 24/01311/FUL, from the limited information provided, that dog exercise facility is operated by “staff”, it is not a self-regulating operation like that being operated at the appeal site. There is also no information as to whether that business had already commenced operating before being granted permission or whether objections to it were received from neighbouring occupiers or highway users. I find the lived experiences of interested parties to be compelling in the determination of Appeal B.

Conclusion on Appeal B

57. Taking the development plan as a whole and having regard to other considerations, for the reasons given above, the appeal should be dismissed.

M Madge

INSPECTOR