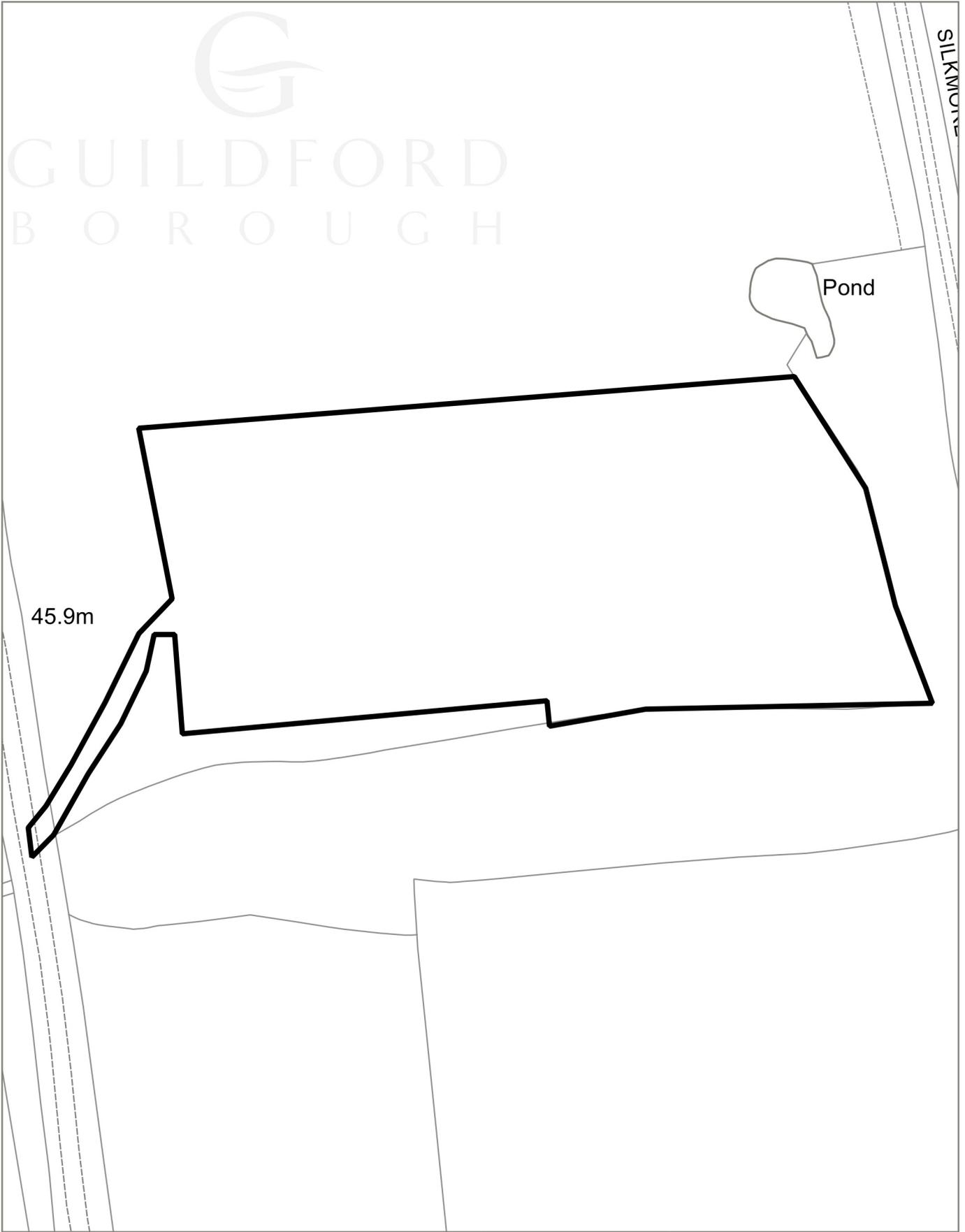


**20/P/01359 - Land North Of Hambledon Cottage And East Of,
Ripley Lane, West Horsley, Leatherhead**



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20/P/01359 Land North of Hambledon Cottage and East of, Ripley Lane,
West Horsley



Not to scale

App No: 20/P/01359 **8 Wk Deadline:** 08/10/2020
Appn Type: Full Application
Case Officer: Sakina Khanbhai
Parish: West Horsley **Ward:** Clandon & Horsley
Agent : Mr. Geoff Douglass **Applicant:** Mrs Karen McCarthy
Pelham Planning Associates
Ltd
2 Stag Leys
Ashtead
KT21 2TD
Its the Dogs Ltd
15 High Street
West Molesey
KT8 2NA

Location: Land North of Hambledon Cottage and East of, Ripley Lane, West Horsley, Leatherhead, KT24 6JS
Proposal: Proposed change of use of land from agriculture to a use for the walking, day care and training of dogs. (retrospective application) (description amended 27/01/2021).

Executive Summary

Reason for referral

This application has been referred to the Planning Committee by Councillor Catherine-Anne Young who believes that the application represents inappropriate development in the Green Belt and no very special circumstances exist. Furthermore, there may be conflict with local character and West Horsley neighbourhood plan policy WH3 along with noise disturbance.

Key information

The application seeks retrospective permission for the material change of use of the land for dog walking/day care and training.

The site has been formed with two penned areas with dividing fence and is operated by collection of dogs off site and brought to the land.

The site is located within the Green Belt and within the West Horsley Neighbourhood Plan area.

The nearest residential properties are more than 200 metres from the site.

Summary of considerations and constraints

The material change of use of land within the Green Belt can be appropriate under para 150(e) of the NPPF subject to preserving the openness of the Green Belt. There is a limited amount of operational development associated (fencing) and the level of intensity would not be to a degree that erodes the openness of the Green Belt. Furthermore, there is little physical change to the land and therefore impact on character is not harmful.

Neighbouring dwellings are more than 200 metres away and the site is well screened by vegetation. Conditions are suggested limiting hours of operation and requiring a noise management plan. It is noted that the Council's environmental health officer has not objected.

No objections have been received by the County Highway Authority.

Weight has been given to the retrospective nature of the application.

RECOMMENDATION:

Approve - subject to the following condition(s) and reason(s) :-

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 20066-01 received on 15/09/20 and P50 Rev C received on 22/12/20.

Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.

2. The use hereby permitted shall not operate other than between the hours of 08:00 to 19:00 Mondays to Sundays (inclusive) with the gates of the premises being closed and locked between the hours of 19:30 and 07:30.

Reason: To safeguard the residential amenities of neighbouring properties and to limit the intensity of the site in terms of Green Belt use.

3. There shall be no more than 24 dogs on the site at any one time during the operating hours.

Reason: To safeguard the residential amenities of neighbouring properties and to limit the intensity of the site in terms of Green Belt use.

4. The vehicular access to Ripley Lane, hereby approved shall be provided with visibility zones in accordance with the approved plan 20066-01, and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1m high.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

5. Within 3 months of the date of this decision, a noise management plan must be submitted to and approved in writing by the local planning authority. The documented noise management plan should be produced by an independent consultant and specify noise management practices and noise mitigation measures for the control of noise emanating from the site. It should include a timescale for any measures to be implemented and those measures should be implemented in accordance with that timescale. The approved noise management plan shall then be maintained in perpetuity.

Reason: To safeguard the residential amenities of neighbouring properties from noise disturbance.

6. Within 3 months of the date of this decision, the unauthorised storage container on the site shall be removed. The land shall be restored to its condition before the development took place.

Reason: The development would constitute inappropriate development in the Green Belt.

Informatives:

1. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:
 - Offering a pre application advice service
 - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
 - Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

In this case, pre-application advice was not sought prior to submission and minor alterations were required to overcome concerns, these were sought and the applicant agreed to the changes.

2. The applicant is reminded that any operation development at the site including development such as the laying of any additional hardstanding or erection of shelters and buildings would require further planning permission.
3. The applicant must also be aware of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, Guidance notes for conditions for providing day care for dogs:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936829/animal-welfare-licensing-providing-day-care-for-dogs-guidance.pdf. The applicant will have to apply for an animal licence to operate a day care for dogs.

Officer's Report

Site description.

The application site is an agricultural field located on land to the south east of Jury Farm and north of Hambledon Cottage. The site is one part of a larger agricultural field owned by the applicant. The field is accessed via Ripley Lane and the boundaries of the site are a mix of post and wire fencing, hedging and trees. To the south, the site is bounded by a dense area of Ancient Woodland. The site is currently in use for the walking of dogs, day care and training of dogs.

The site is situated within a rural area in the Green Belt outside of an identified settlement area.

Proposal.

Proposed change of use of land from agriculture to a use for the walking, day care and training of dogs. (retrospective application) (description amended 27/01/2021).

Following discussions with Officers, the Applicant has agreed to remove the storage container from the site and therefore planning permission is not sought for this element. Therefore, the existing storage container no longer forms part of the assessment of the revised scheme. The removal of the unauthorised storage container is a matter for the Council's Planning Enforcement Team.

Relevant planning history.

None.

Consultations.

Statutory consultees

County Highway Authority: No objection subject to conditions. There is sufficient space within the site for vehicles to turn so they enter and leave in forward gear. Access onto Ripley Lane has the required visibility in both directions. The Highway Authority considers that the proposal is unlikely to have a material impact on highway safety issues.

Environment Health Officer: There is some concern regarding the length of time applied for dog day care throughout the year which could result in noise complaints. A noise management plan condition is recommended. Whilst preparing the noise management plan, the applicant must consider both management practices as well as noise mitigation measures, that must be put in place to control the noise.

West Horsley Parish Council

- Impact on the openness of the Green Belt
- The recreation use of the site is limited and is not open to the community.
- A laurel hedge has been planted which is out of keeping for the rural nature of the site. Any hedge should be of native species to ensure bio diversity (Officer note: this is not a material planning consideration to this application)
- A black screen material has been applied to the fence between the site and the rest of the field which remains in agricultural use, this is out of keeping with the rural nature of the site.
- The development has no economic or other gain to West Horsley as the business is based in West Molesey. The proposal results in a loss of agricultural land.
- Hours of use are excessive

Third party comments:

4 letters of representation have been received raising the following objections and concerns:

- The container will detract from the natural beauty of the area and is out of keeping
- Noise from dogs barking
- Change of use not in keeping with surrounding agricultural fields
- Laurel hedging planted are poisonous to farm animals (Officer note: Not a material planning consideration).
- Impact on the Green Belt
- Traffic will increase to the site

8 letters of support have been received outlining the following positive comments:

- The site is a considerable distance away from residential properties
- The storage container is not clearly visible from the road and has been carefully painted to be in with surroundings
- Noise from dogs barking is minimal. noise from dogs barking at the nearby kennels or farm is more intrusive.
- There is a lack of safe and secure areas to exercise dogs so this site is providing a much needed service in this area.

Following the receipt of amended plans to show the removal the detached storage container from the proposals and amended location plan to show the marked out parking bays and visibility lines no additional letters have been received.

Planning policies.

National Planning Policy Framework (NPPF):

Chapter 2. Achieving sustainable development

Chapter 6. Building a strong, competitive economy

Chapter 13. Protecting Green Belt land

Chapter 15. Conserving and enhancing the natural environment

New Local Plan 2019:

The Guildford Borough Local Plan: Strategy and Sites was adopted by Council on 25 April 2019. The Plan carries full weight as part of the Council's Development Plan. The Local Plan 2003 policies that are not superseded are retained and continue to form part of the Development Plan (see Appendix 8 of the Local Plan: strategy and sites for superseded Local Plan 2003 policies).

P2	Green Belt
D1	Place shaping
ID3	Sustainable transport for new developments
ID4	Green and blue infrastructure

Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):

G1	General Standards of Development
G5	Design Code

Neighbourhood Plans:

West Horsley Neighbourhood Plan

WH3: Design Management within Rural Areas

Planning considerations.

The main planning considerations in this case are:

- the principle of development - Green Belt
- the impact on the character of the area and
- the impact on neighbouring amenity
- the impact on traffic and parking
- retrospective application

The principle of development

The application is for a retrospective development for change of use of a agricultural land to be used for recreational dog walking and training area for dogs. The application also seeks permission for dog day care which is not currently in operation at the site. Following receipt of amended plans, the proposals include the provision of two pens divided by fencing with a small enclosed area in front of pen 1 which includes the parking area. The pens and reception area are bordered with 2m high post and wire fencing on the majority of the boundaries.

The dog walking facility is a business operation for the applicant, which is operated through a pay to access basis with bookings taken online via the website. The business allows no more than 24 dogs on the site at any one time. The applicant has advised that it would be unlikely this maximum number would be reached due to different booking options available to customers. For example, for dog walking, one of the pens may be booked by a customer with two dogs for private hire, whilst the other pen is used by a dog walking company with 12 dogs within the same hour slot. The next hour could be booked by dog walkers with up to 12 dogs in each pen and the following hour may be a private hire with one dog in each pen. The booking system is designed to be flexible but is monitored by the applicant and the booking system prevents double bookings. The other uses on the site include dog training and a proposed dog day care service. The Applicant has advised that whilst day care is in operation there would be no other bookings in the field. The site is either booked out for dog day care, training or walking with some exceptions where multi-uses occur. For example, a dog training session in one pen and private individual hire in another pen.

The dog walkers use vans and collect and deliver the dogs at different times. Private hire is scheduled outside of these times when the site is used by a company for dog walking. As there are only two pens this means that only two bookings could take place at any one time resulting in two vehicles parked on site at the same time.

The business operates, currently, a 14 hour day from 6am to 8pm everyday. Therefore if the site is used to its maximum capacity for just the walking of dogs, this would result in 336 dogs and 28 vehicles on the site per day everyday. During the course of the application, the applicant has agreed to reducing the operating hours which are set out in the recommended conditions. In this case, if the site is used to its maximum capacity for just dog walking, it would result in 264 dogs and 22 vehicles on site per day.

The site is used for dog training at set times in the week for 1 hour classes which take place on Thursdays at 1pm for 4 dogs, Friday 10.30-2.30pm up to 5 dogs, Saturday from 10-2pm between 1 and 7 dogs, Sundays 9.30-12pm up to 5 dogs and some 1 to 1 classes where the other pen could be booked out for private hire.

It should be noted that as the site can also be booked out for private hire, training classes and day care it is unlikely that this maximum capacity of 264 dogs and 22 vehicles per day could be reached due to the other booking options and services available to customers using the site. It is also unlikely that professional dog walkers would have 12 dogs each in both pens per booking slot. It is considered that limiting the number of dogs using the site at any one time would limit the intensification of the site rather than limiting each specific sub use.

Paragraph 150 (e) of the NPPF allows material changes on use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) provided it preserves the openness of the Green Belt and do not conflict with the purposes of including within it.

The submitted statement states that planning permission is required for the change of use of the land and no operational development forms part of the application. Whilst some fencing has been erected it is considered that both this and the access track is likely to fall under permitted development and therefore this would act as a fall-back position.

The material change of use of the land needs to be considered under the provisions of para 150 (e) set out above, the key test is whether it preserves the openness of the Green Belt.

The site comprises of open fields, bounded by a post and wire fence which is partially masked by trees and vegetation. Access would be via a field gate accessed from Ripley Lane. The siting of the storage container which originally formed part of the application has been removed from the application and therefore is no longer considered. Therefore, there is little physical effect on the Green Belt. In terms of the use the report has set out the maximum level of intensity, which is predominately general comings and goings of dogs and individual staff. This is not a particularly intensive activity and has a limited impact on openness in terms of on site activity. There is associated activity in terms of car parking etc. This is limited to the operation of the business and whilst it has some effect the test of para 150 is whether it preserves the openness of the Green Belt. Agricultural land (which was the previous use of the land) would have a level of comings and goings with machinery used on the land, therefore some level of activity is not unexpected on rural land in the Green Belt. The associated car parking would not erode the openness of the Green Belt beyond the expected activities with the previous use of the land.

The proposal is considered to preserve the openness of the Green Belt and is considered to be appropriate development in the Green Belt in accordance with Policy P2 of the adopted Local Plan and the NPPF.

Impact on character of the surrounding area

The surrounding area comprises of open fields, farm building and cottages set within a rural landscape setting. The site lies within an area which provides locally important roadside views as identified within the West Horsley Neighbourhood Plan. There are sweeping views towards the North Downs AONB west of Long Reach and via Ripley Lane and Silkmore Lane.

The site is screened by vegetation, trees and Ancient woodland beyond with some open vantage points from Ripley Lane. Following the removal of the storage container from the application, the proposal does not result in a very different appearance to a normal agricultural field and would not result in any detrimental harm to the rural character or appearance of the existing site or surrounding area.

The numbers of dogs and customers using the site is likely to be lower than the figures outlined in the paragraphs above due to the various booking options and services provided at that the site which are limited to the use of two pens only.

It should also be noted the number of dogs at the site at any one time could also be reasonably conditioned. Furthermore, it is considered that the comings and goings and the parking of cars are largely screened by landscaping and woodland.

From key public vantage points from Ripley Lane and Silkmore Lane, there is very little visual difference compared to the former agricultural use of the land. Overall, the proposal does not result in a negative visual impact on the rural nature of the area.

The proposal is therefore deemed to be compliant with policy G5 of the saved Local Plan 2003, policy D1 of the adopted Local Plan, the NPPF and policy WH3 of West Horsley Neighbourhood Plan Adopted (November 2018).

The impact on neighbouring amenity

The site is located a significant distance away from residential properties, the nearest dwelling is Hambledon Cottage which is located approximately 285m away from the site. There is also intervening landscape screening, a track road and woodland.

With regard to noise, the site is well screened by trees and vegetation which creates a buffer and the site is located in excess of 200m from the nearest neighbouring property. Whilst it is acknowledged that the dogs may bark occasionally, the dogs would be under the supervision of the dog walker at all times. The Council's Environment Health Officer has been consulted on the application and does not object to the application but raises a concern regarding the length of time for the proposed day care use throughout the year from 08:00 until 19:00hrs. The longer days over the summer months could result in noise complaints. It is recommended that the applicant provides a noise management plan to outline further details on management practices as well as noise mitigation measures to be put in place to control noise in respect of the dog day care use. This can be secured by a suitably worded condition.

It should be noted that audible noise on it's own is not an indication of planning harm, additionally complaints investigated under statutory noise nuisance powers are not planning matters. These controls are set out under separate regulations and can be investigated as such. In planing terms any effect would be for small periods at a time and limited only to the operating hours of the business. The site will also require a dog care license (under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018) prior to the operation of dog day care services on the site. It is also important to note that the proposal does not include the boarding of animals. Furthermore, no customers call to the site and dogs are only transported there by pre-arranged booking sessions. This results in only a small number of vehicle trips to the site per day, which does not lead to any unacceptable level of noise and disruption to local residents.

Subject to the suggested conditions, it is considered that the proposal would not result in material harm to the amenity of occupants of nearby dwellings, in accordance with saved policy G1(3) of the Local Plan 2003.

The impact on traffic and parking

The site is located on north of Hambledon Cottage off Ripley Lane. The lane is an adopted unclassified highway. The site is accessed by an existing gate and there is a hard standing area which allows vehicles to turn and exit the site in forward gear.

It should be noted that during the course of the application, the applicant has agreed to reduce the operating hours from 08:00 to 19:00, with gates being closed by 7.30pm, which would result in no more than 22 vehicles per day. As such, it is considered that the trip generation of 22 vehicles per day would not be a significant increase in traffic travelling down Ripley Lane.

There is sufficient space within the site for vehicles to turn so they enter and leave in forward gear. Access onto Ripley Lane has the required visibility in both directions. The Highway Authority considers that the proposal is unlikely to have a material impact on highway safety issues.

The proposal is considered acceptable in accordance with policy ID3 of the adopted Local Plan and the NPPF.

Retrospective application

A ministerial planning policy statement on 31 August 2015 introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This has been supplemented by a written answer to the House of Commons on 19 October 2018 confirming that it remains a potential material consideration.

The statement does not advise the level of weight it that should be applied, neither does it override Section 73A of the Town and Country Planning Act 1990 (as amended) which provides the legal basis for submitting a retrospective application. The NPPG also confirm the use of an application as a legitimate means of regularising a breach of planning control. Given these factors it is unlikely that where development accords with the provisions of the Development Plan that refusal could be justified only on the grounds that it was unauthorised.

In considering this current application, which seeks to regularise unauthorised development, the local planning authority has given weight to the fact that the application is retrospective. In this case, the applicant was informed the development is unauthorised and required planning permission by the Council's Planning Enforcement Team. Subsequently the applicant sought to regularise the unlawful development by applying for planning permission. However, in the absence of any evidence to demonstrate that the applicant intentionally sought to breach planning legislation, or any detailed guidance from central government on the level of weight that should be applied in such circumstances, the fact that this application is retrospective is only considered to weigh against granting planning permission to a limited degree.