The Planning Inspectorate

Appeal Decision

Site visit made on 30 January 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Appeal Ref: APP/B3438/W/23/3327130
Kerry Hill Farm, Eaves Lane, Armshead, Staffordshire ST2 8NA

- 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 Ms. Laura Robinson against the decision of Staffordshire Moorlands District Council.
- The application Ref is SMD/2023/0065.
- The development proposed is for the change of use from agricultural field currently used as grazing land for horses to use as a dog exercise field. The area of development will utilise a previously fenced paddock used for grazing of horses which will result in no physical changes to existing boundary hedges and fences which have been in place for agricultural purposes for the past 40 years.

Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is located within the Green Belt and therefore the main issues are:

   - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
   - The effect of the proposal on the openness of the Green Belt;
   - Whether the appeal site is suitable for the type of development proposed;
   - The effect of the proposal on the living conditions of neighbouring occupiers; and,
   - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

3. Paragraph 152 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

4. Subject to a number of exceptions, as listed in Paragraphs 154 and 155, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include the provision of appropriate facilities for outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy SS10 of the Shropshire Moorlands Local Plan (February 2018, the SMLP) relies, in so far as it is relevant to the matters of the appeal before me, on the exceptions set out within the Framework.

5. The Framework does not define what is covered by the term outdoor recreation. However, in a broad sense I consider activities which are typically undertaken outside and which are done for fun, relaxation or exercise would be outdoor recreation. I consider that the exercising of dogs would meet this description given that it would likely entertain and exercise both owner and dog. The proposal would, therefore, meet the first part of this exception and, subject to the openness of the Green Belt being preserved and there being no conflict with the purposes of including land within the Green Belt, it would not be inappropriate development.

6. Paragraph 147 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and permanence. Openness has both a spatial and visual aspect, and an adverse impact to either can harm the openness of the Green Belt as a whole.

7. At the time of my visit, the field covered by the appeal site was empty and was bounded by hedgerows and fencing. However, adjoining the vehicular access was an area where vehicles could turn and park. There had been heavy rains on the lead up to my site visit and this parking area was covered in thick mud rather than the compacted earth noted by the Council. As the access area forms only a small portion of the overall field, I find the site currently makes a strong contribution to the openness of the Green Belt.

8. Concerns have been raised over the potential for dogs to escape the exercise area and worry livestock in neighbouring fields. I consider this a very real risk and note that the appellant has submitted that a 2 metre high fence could be erected to prevent this. I find such a treatment would be necessary. No details of the fencing have been provided and the appellant has suggested these could be sought through a condition. This would introduce a significant, and prominent, feature around the boundaries of the appeal site, which, as it does not fully follow the field's boundary, would subdivide the field.

9. Given the quality of the existing vehicular access and parking, it would also be necessary for this area to be improved, likely with some type of hardstanding to prevent vehicles from becoming stuck in the mud and from mud from being tracked onto the carriageway. The provision of a large area of hardstanding, providing four parking spaces as shown on the submitted plans, would introduce a prominent feature visible from the adjoining carriageway. This would be further exacerbated by the increase in parking on site.

10. Whilst a vehicle can already park on site, the proposal would increase the number that could be there at any one given time, as well as the intensity of the site's use. I therefore find that the increase in parking would additionally harm the openness of the Green Belt.

11. Collectively, the provision of parking and secure fencing would adversely affect the spatial and visual aspects of the openness of the Green Belt. Further harm would be caused should paraphernalia associated with the exercising or training of dogs, such as agility courses, be placed in the field.

12. I note that the appellant has referred to a potential fallback position regarding the erection of fences, of up to 2 metres in height, under permitted development rights. However, no demonstrable evidence has been supplied to confirm that the appeal site would benefit from permitted development rights, nor that the scheme would comply with them. Moreover, I consider it would be unnecessary for such a tall fence to be erected for agricultural or equestrian purposes. Consequently, it is very unlikely that the necessary fencing would be erected without another use first being permitted. In all, therefore, I find that there is only a theoretical possibility of, and so no real prospect for, the fallback position being carried out.

13. I recognise the scale of the proposal in relation to the Green Belt as whole, as such I find that the harm to its openness would be more limited. However, the Framework, under Paragraph 153, is clear that any harm to the Green Belt should be given substantial weight.

14. By harming the openness of the Green Belt, the proposal would conflict with SMLP Policy SS10 which relies upon the exceptions set out in the Framework. The proposal also conflicts with Section 13 of the Framework, including Paragraphs 143 and 153 as noted above.

Whether Suitable

15. SMLP Policy SS10 sets out the strategy for development within rural, or countryside, areas. This largely restricts development in the countryside other than where it has an essential need to be located in the countryside, supports rural diversification and sustainability, and enhances the countryside.

16. In this case the proposal requires a large open space to allow for dogs to properly exercise in a natural environment. Finding such a space within a built-up or urban area would be very difficult. Consequently, I find the rural location of the proposal, which is for a business with employment opportunities, is justified. Moreover it would attract an employee, providing some diversification of, and support for, the rural economy.

17. The proposal's location and lack of connection to public transport links means that future clients would primarily be reliant upon private motor vehicles to reach the site. I note that the site is close to the public rights of way network and consider that a small number of journeys may be made on foot. I am also mindful that the road provides access to a small number of commercial or agricultural uses as well as being a through route in itself. Given the above, and mindful of the small scale of the scheme, I find that the increase in trips would not be substantial taken on its own or relative to the wider area.

18. As noted above, the proposal would need to include the provision of fencing and hardstanding to ensure that it operates safely and effectively. No details of these features have been provided and so it is not possible to assess their impact on the wider area. Such details could, in the event the appeal were to be allowed, secured through conditions. However, I find it unlikely that suitable designs could be achieved for the tall fencing and large parking area so that

they would be appropriate for such a rural location. Consequently, I find that the proposal would not protect the quality, character and appearance of the surrounding area.

19. The proposal, by way of the changes to the site necessary for the scheme to operate, would unacceptably affect the character and appearance of the surrounding area. The proposal would therefore be contrary to SMLP Policy SS10 which, amongst other matters, directs development and seeks to protect the quality and character of an area. The proposal would also conflict with the Framework, and in particular Paragraph 135 which sets out that developments should ensure they are sympathetic to the local character, maintain a strong sense of place and add to the quality of an area.

Living Conditions

20. As noted above, the site is within a predominantly rural area and fields immediately adjoin it. However, on the opposite side of Jack Haye Lane there are two or three dwellings. Given the rural location, I consider that background noise levels would be relatively low and stem mostly from the use of the road network, livestock and the use of farming machinery.

21. I understand from the submissions before me that the proposed exercise area would be available for use by only one connected group, such as a family, at a time and that they would be able to bring only up to four dogs on to the site. In this way it is likely that any dogs on site would know the accompanying dogs and people. I do not find, however, that this would necessarily mean that the dogs would not bark. This is especially so as the site would likely attract more anxious or excitable dogs that cannot easily be let off lead in public places.

22. There is usually a degree of play and excitement involved in the exercising of dogs and this can include shouts and calls from the owner as well as barks from the dog, or dogs. Further barking could occur as a result of pedestrians and vehicles passing the site, or from the presence of livestock in neighbouring fields. Barks, calls and shouts would be loud and impulsive noises which would occur randomly throughout the operating hours and, lacking any evidence to the contrary, would be audible over the background noise. This would be especially so during the summer opening times when the site would be operating until later in to the evening, when background levels would be lower.

23. I therefore find that the proposal would risk unacceptably affecting the living conditions of the neighbouring occupiers as a result of disruptive noise levels being generated at the site. It has also not been demonstrated by the appellant that this risk could be mitigated.

24. Although the appellant has suggested that conditions could be used to require noise mitigation, I am not certain that any mitigation would suitably reduce the level of noise generated so as to protect the living conditions of neighbouring occupiers. Such a condition could put the Council under pressure to allow the proposal to be carried out without their agreement of a suitable mitigation scheme.

25. The proposal would unacceptably affect the living conditions of neighbouring occupiers through the creation of noise levels that would be audible from, and disruptive to, these properties. The proposal would therefore conflict with SMLP Policy DC1 which requires proposal to respect their surroundings, including the amenity of the area and residential amenity, making particular reference to noise pollution. It would also conflict with the Framework in regards to Paragraph 135 which seeks for proposals to promote well-being, high standards of amenity and to not undermine quality of life.

Other Considerations

26. I recognise that the Covid-19 pandemic has had an impact on the socialisation of dogs and that a safe, recreational area for dogs, and in particular poorly socialised dogs, would be beneficial to their well-being. I note that the appellant has been supported by vets in this. I afford this matter, moderate weight in support of the proposal.

27. The proposal would likely make a positive contribution to the local economy as a result of the provision of employment and the spending of money in the local area. Given the scale of the proposal this benefit would be modest.

Green Belt Conclusion

28. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. Further harm would also occur, through its siting and the impact on the living conditions of neighbouring occupiers. These matters carry substantial weight. I have attached moderate weight to the consideration in support of the proposal. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with SLMP Policy SS10 as outlined above.

Conclusion

29. There are no material considerations that indicate the appeal should be determined other than in accordance with the development. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR