
Appeal Decision

Site visit made on 19 September 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th September 2016

Appeal Ref: APP/M3645/W/16/3151171

Land adjacent St George's Road, Salfords, Outwood, Surrey RH1 5QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Charlie Harber against the decision of Tandridge District Council.
 - The application Ref TA/2015/941, dated 11 May 2015, was refused by notice dated 23 September 2015.
 - The development proposed is use of agricultural land for exercising dogs.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Part of the appellant's site, namely the access and parking area, is within an adjoining Local Authority's Boundary. As a consequence, I have confined my assessment to those aspects of the development within Tandridge District, as it is these parts of the overall proposal that was the subject of the application considered by the Council and is now the focus of the appeal before me.

Main Issues

3. The main issues in this appeal are: 1) Whether the proposal would be inappropriate development in the Green Belt and its effect on the openness of the Green Belt 2) The effect of the proposal on the character and appearance of the area and the users of the public footpath network and 3) If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether or not the proposal would be inappropriate development

4. The appellant has suggested that the appeal site is 'brown belt' or previously developed land¹. But it is apparent to me from viewing the site that it is currently agricultural land where any previous development has blended back

¹ To this end the appellant has referred to *Developing farmland: regulations on land use and Planning Policy Statement 7*. However, these documents were withdrawn/superseded December 2014 and March 2012 respectively.

into the landscape over the process of time. As such, the appeal site is undeveloped land covered by the Green Belt designation.

5. The fundamental aim of Green Belt policy is to keep land permanently open and thus free of development. A material change of use is development. All development in the Green Belt is usually inappropriate unless it is one of the exceptions set out in Policies DP10 and DP13 of the Local Plan² and Paragraphs 89 and 90 of the National Planning Policy Framework (the Framework).
6. The appeal scheme would involve the change of use of an agricultural field to an area to exercise dogs. Such a change of use would not fall within any of the exceptions in Policy DP13 of the LP and Paragraphs 89 and 90 of the Framework. As such, I conclude that the proposal would be inappropriate development for the purposes of Policy DP10 of the LP and Paragraph 87, 88, 89 and 90 of the Framework and would thus, by definition, harm the Green Belt.

The effect of the proposal on the openness of the Green Belt

7. The appeal site encompasses a field towards the eastern end of St Georges Road. The field is mainly open and has recently been used for the production of hay. The southern section has been divided into four enclosures delineated by post and wire stock fencing. Small field shelters are present within some of the enclosures. To the west of the fenced areas is a small timber structure, which has an appearance akin to a garden outbuilding. No substantive evidence has been submitted to demonstrate that it is moveable, or would be moved, and thus it has a degree of permanence.
8. The four enclosures would be used to keep and exercise dogs between 1100 and 1600 (Monday to Friday) and the small timber structure would be used as a 'staff room' and store. A portable toilet would also be brought onto the site and positioned next to the timber structure. It is also the appellant's intention to erect a further fence around the perimeter of the field. This would demarcate the public footpath and provide additional protection to users of the footpath when dogs are travelling between the enclosures and the parking area and in the event a dog was to escape from an enclosure.
9. The erection of fencing around fields, and small field shelters within, is not uncommon in the countryside. However, the proposal would result in an excessive proliferation of fencing in a relatively small area and this, in combination with the field shelters, staff room, activity and paraphernalia associated with the development would change the character of the land from an open agricultural field to something more intensively used and commercial in nature. This would result in a moderate but adverse impact on the openness of the Green Belt as an inevitable consequence of the change of use proposed.

The effect of the proposal on the character and appearance of the area

10. The appeal site is flanked on all sides by woodland and thick hedgerows. It is currently a grass paddock and has an attractive rural and tranquil character and appearance³. Public views of the operation would be broadly contained to the public footpaths that follow the northern, eastern and southern perimeter of the field. These views would be uninterrupted by any landscape feature or

² Tandridge Local Plan P Part 2: Detailed Policies 2014-2029

³ Reference has been made to sheep grazing but there was no evidence of this at the time of my visit.

topographic change. As such, the operation would be highly conspicuous to users of the footpaths.

11. The overt presence of four enclosures containing groups of dogs, ancillary structures and high perimeter fencing would appear, when compared to more conventional farming activity, as an incongruous intrusion into the rural setting of the countryside. Moreover, the activity and noise associated with the use would harm the rural tranquillity and character of the site. The operation would thus significantly harm the character and appearance of the area.
12. In forming this view I acknowledge that a dog exercising facility is likely to require a remote and often rural location due to the inherent need for space and to be away from residential properties. Nevertheless, in my view the presence of the footpath around the appeal site would render such a use, in the location proposed, as unduly prominent to users of the footpath.
13. Thus, I conclude that the appeal scheme would be harmful to the rural character and tranquillity of the countryside. Such an impact would be contrary to Policies CSP18 and CSP21 of the Tandridge District Core Strategy 2008 (CS) and Policy DP7 of the LP, which seek to protect the character and appearance of the countryside, an aim consistent with Paragraphs 17 of the Framework.

The effect on users of the public footpath network

14. The dog enclosures would be located a reasonable distance from users of the footpath when walking along the northern boundary of the field. However, walkers would be positioned in close proximity to the dog enclosures when traversing the eastern and southern sections of the footpaths within the appellant's field. The presence of such a large number of dogs is likely to be intimidating to users of the footpath, especially if they are accompanied by their own dog. This is likely to deter and detract from the use of the footpath, especially so when considered in combination with the noise and activity that would be generated by the operation, such as dogs barking.
15. In reaching the above view I note that the appellant has suggested that an additional 1.8m high stock fence could be erected around the perimeter of the field. Such fencing could provide some comfort to users of the footpath but would not obscure the operation from view or limit the ability of dogs on the footpath to perceive the presence of dogs in the enclosures and vice versa. The fence would also be a hard, stark feature around the perimeter of the field, especially so given the height proposed. As such, the additional perimeter fence would not satisfactorily alleviate the harmful impacts I have identified.
16. I also note that the intended operators of the business would carefully select and screen the dogs they take into their care and that on site staff would endeavour to control the behaviour of the dogs. However, dogs can be unpredictable animals and it is not inconceivable that they could become excited by the presence of dogs and people on the footpath and this could result in excessive barking. As such, these measures are unlikely to sufficiently guard against the likelihood that the amenity and enjoyment of the footpath would be adversely affected by the operation of the appeal scheme.
17. I therefore conclude that the proposal would harm the amenity and enjoyment of the public footpath contrary to the aims of Policy CSP12 of the CS and Policy

DP5 of the LP, which seeks to promote walking and retain and enhance existing footpaths. These aims are consistent with Paragraph 75 of the Framework.

18. Such an impact on users of the footpath would also be contrary to the requirements of the Framework, which at Paragraph 81 states that the beneficial use of the Green Belt should be positively planned for, including seeking opportunities to improve access and recreation. This conflict with Paragraph 81 of the Framework also weighs against the appeal scheme.

Other Considerations

19. The proposed change of use would support a local business. This has the potential to maintain and create jobs, including apprenticeships. As a result, the proposal has the potential to support the local rural economy, which is an important objective of the Framework. Moreover, the petition and letters submitted by some local residents is evidence that the business provides an important service for those that require it. These are noteworthy potential benefits of the proposal.
20. Nevertheless, the overall weight I attach to these economic and social benefits is diminished as it has not been demonstrated that it is essential for the business to have a presence at the appeal site for it to continue. This is because it is not apparent that alternative sites are unavailable within a reasonable proximity of the catchment area of the business. It may be that sites outside of the Green Belt are available or sites within the Green Belt but away from areas accessible to the public and of less environmental quality. As such, I afford the potential economic and social benefits of the scheme only moderate weight in favour of the proposal, as it has not been demonstrated that these benefits, as well as adequate dog welfare, could not be accrued at other, more suitable sites.
21. The proposal would also facilitate a farm diversification. The appellant, in his Planning Statement, has suggested that the land is too small to be viably farmed and thus a diversification has been sought. During my visit I observed that the land had recently been cropped for hay and therefore I am not persuaded the land cannot be farmed adequately. Nevertheless, a farm diversification has the potential to support the rural economy and this also needs to be weighed as a potential benefit. However, it is a benefit to which I can only attach limited weight as details of the extent of the farm, its operations and its need to diversify have not been provided.
22. The appellant suggests that the appeal scheme constitutes a form of recreation in the countryside and this could amount to very special circumstances when applying Paragraph 81 of the Framework. I disagree. The proposal would assist a commercial operation in offering a service for the day care and exercising of dogs. It would not facilitate recreation by the public. As such I afford this point very limited weight in my overall assessment.
23. The appellant has suggested that vehicular movements on the local road network may reduce as customers of the business would not need to drive anywhere to walk their dogs. However, no substantive evidence has been provided to support this point and therefore I also afford it very limited weight.
24. My attention has been drawn to an application submitted to, and approved by, Elmbridge Borough Council (Ref. 2013/4641). This application was also for a

change of use from agricultural land to dog exercising. The appellant is of the view that the approval of this application is a matter that justifies the proposed appeal scheme. However, the Elmbridge scheme is described as being adjacent to the M25 and well away from residential properties. Consequently, the Elmbridge site does not appear to be in as rural and tranquil location as the appeal site. There is also no indication that a footpath(s) runs close to the Elmbridge site. As such, the circumstances are not sufficiently similar to justify the appeal scheme before me. In any event I have considered the appeal scheme on its own merits.

25. The Council have indicated that the proposed use of the field would have some adverse impacts on the living conditions of nearby residents through noise and disturbance, although this has not featured as a reason for refusal. Moreover, this contention is not supported by the Council's Environmental Health Officer. Given the distance to neighbouring properties and the daytime hours of the operation proposed, I am not persuaded the effect would be harmful. Nevertheless, the absence of harm to the living conditions of neighbours is to be expected from a new development proposal and therefore this is a neutral matter in the overall balance.
26. I therefore conclude that when taken together, the other considerations I have identified attract only moderate weight as benefits in favour of the proposal.

Whether there are Very Special Circumstances

27. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
28. I have concluded that the proposal would be inappropriate development and would therefore, by definition, harm the Green Belt. There would also be moderate harm to the openness of the Green Belt. Paragraph 88 of the Framework requires substantial weight to be given to any harm to the Green Belt. I have also identified significant harm to the character and appearance of the area as well as harm to users of the adjoining footpaths.
29. On the other hand, the other considerations I have identified only carry moderate weight in favour of the proposal. As such, the harm to the Green Belt, and any other harm, is not clearly outweighed by the other considerations I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal is therefore contrary to Policies DP10 and DP13 of the LP, which seek to prevent inappropriate development in the Green Belt without very special circumstances having been demonstrated. An aim consistent with the Framework.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR