
Appeal Decision

Site visit made on 17 October 2017

by Rory MacLeod BA MRTPI

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

Decision date: 8th December 2017

Appeal Ref: APP/K3605/W/17/3178979

Land to the west of Ditton Hill Nursery, Summerfield Lane, Long Ditton, Surbiton KT6 5DZ

- 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 The Dogfather Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2016/2612, dated 5 August 2016, was refused by notice dated 31 January 2017.
 - The development proposed is change of use of land for dog day care with provision of a mobile field shelter.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are
 - (a) whether the proposal would constitute inappropriate development in the Green Belt,
 - (b) the effect of the proposal on the openness of the Green Belt,
 - (c) the effect of the proposal on the living conditions of residents in Summerfield Lane arising from additional vehicle movements, and
 - (d) if it is 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 the development.

Reasons

Inappropriate development

3. The appeal relates to a rectangular parcel of open land about 0.8 hectares in area. It is largely hard surfaced having previously been used as an overspill parking area in relation to other activities at the Ditton Hill Nursery site but is currently unused. Access to the site is gained via a track that passes through various commercial operations within Ditton Hill Nursery to the north east and connects with Summerfield Lane where there are dwellings. The appeal site and nursery businesses are located within the Green Belt.

4. The proposed change of use to dog day care would involve the erection of a field shelter close to the entrance from the access track to provide a storage facility and shelter for staff and dogs during inclement weather. Although described as a mobile field shelter the parties have treated it as operational development and I have no reason to consider it otherwise. The submitted drawings show the building to be 10.8m long, 3.8m wide and 3m high with brown shiplap stained cladding to the walls. The site would be enclosed by a fence and gates and artificial grass laid over parts of its surface.
5. Paragraph 89 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate development in the Green Belt but cites a list of exceptions to this. The appellant points out that one of these is the provision of appropriate facilities for outdoor sport and outdoor recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Whilst the proposal includes recreation for dogs, it is essentially a business use that does not fall within this exception. Neither does it fit within any of the other exceptions listed in paragraph 89 or within any of the list of other forms of development in paragraph 90 that are also not inappropriate development in the Green Belt.
6. Whilst the appellant has considered the operational changes to the site to be modest, to my mind the proposal is primarily a change of use as the land would be used for another purpose. As paragraphs 89 and 90 contain closed lists, the change of use of the land to dog day care is inappropriate development under the wording of the Framework. Therefore this scheme must also be considered as inappropriate development in this Green Belt location.
7. Paragraph 87 of the Framework confirms that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Policy DM17 of the Elmbridge Development Management Plan (2015) (DMP) is compatible with the Framework and has similar comments in relation to inappropriate development in the Green Belt.

Openness of the green belt

8. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The field shelter would be sited close to the boundary with the A309 where there is a small embankment and hedgerow that would screen the building from the road. It would be a relatively small building but would clearly be seen against this hedgerow when viewed from the open ground to the north. The presence of the field shelter would thereby have some effect on the openness of this part of the Green Belt.
9. There is a requirement for a fence to enclose the site to contain the dogs. Details of this have not been submitted but the appellant indicates that it would be of open mesh construction. This would reduce its visual impact to some degree but the length and height of the fence would also have some impact on openness.
10. The site and its immediate surroundings have an unkempt appearance. There are piles of spoil close to the site relating to former activities. Most of the site's surface comprises loose hardstanding materials relating to previous uses whilst there is rough grassland to the eastern side where land levels fall away. The

provision of artificial grass to the surface would change its appearance but have only a limited impact on its openness.

11. The Council points out that structures and various paraphernalia associated with the use would be introduced to an area which is predominantly open including dog tunnels, dog agility activities and a paddling pool. Whilst these would be light weight and capable of being stored in the field shelter at night and when not required, to the degree that they would be laid out when the use is operating they would also detract from the open appearance of the site.
12. My findings on this issue are that overall the Green Belt would be less open than at present and so its sense of openness would be harmed. Paragraph 88 of the Framework states that substantial weight is given to any harm to the Green Belt. The proposal would also conflict with policy DM17 of the DMP that aims to keep land within Green Belt designation permanently open.

Living conditions

13. The business model proposed is for dogs to be picked up and dropped off using the appellant's vehicles as opposed to customers undertaking this activity. This would reduce the number of vehicle movements. The appellant estimates a daily trip count of 4-8 vehicular movements; this could increase depending on how employees access the site. The vehicles would pass dwellings in Summerfield Lane before joining the wider road network. Summerfield Lane is also currently used by vehicles associated with the equestrian, horticultural and other business activities spread across the Ditton Hill Nursery site. The estate manager for the wider site estimates the weekday vehicle movements from these activities to be in excess of 100 a day. Some of the traffic involves larger vehicles such as for the tree care business. Set against the existing levels of vehicle movements, the proposal would result in only a small increase in traffic levels and this would not have a significant effect on the living conditions of residents in Summerfield Lane.
14. The second refusal reason also refers to disturbance from dog walking, but the Council has withdrawn this part of the reason.
15. The proposal would not conflict with policies DM2 and DM7 of the DMP and Policies CS8, CS17 and CS25 of the Elmbridge Core Strategy (2011) which amongst other matters seek to safeguard local character and the living conditions of residents including in relation to disturbance from vehicular activity.

Other considerations

16. The appellant has raised several other considerations in favour of the proposal. There would be economic benefits through the provision of employment of full and part time site. Employees are likely to be local and the site is accessible by public transport. It is claimed that there is demand from customers in the locality for this service and that the site is more suitably located and more accessible than other similar facilities, although these factors have not been fully demonstrated. The proposal would thereby contribute to some degree towards a prosperous rural economy in accordance with section 3 of the Framework. But most alternative uses of the site would also have some economic benefits. The economic benefits therefore attract only limited weight in favour of the proposal.

17. Paragraph 81 of the Framework encourages the enhancement and beneficial use of the Green Belt, including the improvement of damaged and derelict land. The proposed change of use would make effective use of unkempt and unused land that currently has limited visual or agricultural value with much of the land being hard surfaced. Whilst this may be a benefit, it is also in part an issue of maintenance. The site specific environmental benefits therefore also attract limited weight in favour of the proposal.
18. The appellant also asserts that the field shelter and other physical elements could be readily removed on cessation of the use to increase the openness of the land in the long term. However, this acknowledges that there would be harm to openness arising whilst the proposal is in operation.
19. The specific nature of the proposed use requires open space to exercise dogs and is not particularly suited to sites close to residential areas. The appellant claims that there are few alternatives to Green Belt sites within this predominantly urban area and points out that this type of use has been provided satisfactorily on other Green Belt sites within the borough where the case for very special circumstances has been accepted. However, the proposal is not an essential service that requires being located in this immediate area. The appellant claims to run similar business activities from other sites so alternative locations can be found. The particular circumstances at the appeal site differ from those elsewhere where a similar activity has been undertaken. It is also pointed out that planning conditions can be used to limit the scope of the use and business hours to avoid any noise that could be attributed to the proposed use during unsocial hours. The particular suitability of the proposed use to the appeal site coupled with constraints in finding suitable sites for this type of activity attracts moderate weight in favour of the proposal.
20. The site is adjacent to Kingston By-Pass and busy A3 dual carriageway; it is suggested that there would not be an increase in noise above this background noise level. This is a neutral consideration as alternative acceptable uses of the site would equally be expected to not result in excessive noise.
21. I have concluded that the proposal would be inappropriate development and would therefore by definition be harmful to the Green Belt. I have also concluded that there would be harm to the openness of the Green Belt. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt.
22. On the other hand I have concluded that the proposal would result in economic benefits and site specific environmental benefits and that limited weight should be afforded to both these factors. I have also concluded that moderate weight should be given to the suitability of the proposal to the site coupled with the constraints in finding suitable sites for a service for which there is a demand. The appellant's assertion that there would not be noise above background traffic noise and is a neutral consideration. Overall, having regard to all the circumstances of the appeal, I conclude that the economic, environmental and site specific benefits arising from the proposal would not clearly outweigh the harm to the Green Belt from inappropriate development and the loss of openness. The benefits do not amount to the very special circumstances necessary to justify the proposal.

Other Matters

23. There have been several representations both in support of and against the proposal. Several local residents have raised objections on highway grounds pointing out that Summerfield Lane has been resurfaced recently, that it does not have a separate footway and that pedestrians, cyclists and horse riders that use it could be put at risk by the additional traffic. Some point out that there would be nothing to stop customers and others visiting the site and so adding to traffic volumes. Others suggest that access should be restricted to directly from the A309 adjacent to the site to preclude traffic using Summerfield Lane. The Highway Authority raised no objection to the application commenting that the traffic generation and parking demand would be very low. I concur with this view. Having regard to the present use of Summerfield Lane by activities at the wider nursery site, I consider that the access arrangements as proposed would not result in undue harm to highway safety.
24. Many residents have also objected on the grounds of excessive noise from dogs barking. Local residents may hear some barking of dogs, but as the site is over 250m from the main residential area in Summerfield Lane and about 220m from dwellings in Love Lane to the north, any effect on living conditions would not be significant. Moreover, the activity would be limited to day time hours. The Council's Environmental Health Officer considered there to be a satisfactory care ratio to ensure that the dogs are properly cared for and has not objected to the proposal on the grounds of noise. I have no reason to disagree with these findings.

Conclusion

25. For the reasons set out above and having regard to all other matters raised, I conclude that the proposal would be inappropriate development in the Green Belt and would result in harm to the openness of the Green Belt. In the absence of any other considerations that clearly outweigh this harm, the development would be contrary to policy DM17 of the DMP and the Framework. The appeal is therefore dismissed.

Rory MacLeod

INSPECTOR