
Appeal Decision

Site visit made on 2 June 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2020

Appeal Ref: APP/P1805/W/19/3241000

Dog Park, Holyoakes Lane, Bentley, Worcestershire B97 5SR

- 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 Ms Heather Jo Bushnell against the decision of Bromsgrove District Council.
 - The application Ref 19/00632/FUL, dated 14 May 2019, was refused by notice dated 17 September 2019.
 - The development is change of use of land from agricultural use to use as dog training/exercise park and operational development consisting of the erection of gates and fencing.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agricultural use to use as dog training/exercise park and operational development consisting of the erection of gates and fencing in accordance with the terms of the application, Ref 19/00632/FUL dated 14 May 2019 subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. The Council have stated that Policy BDP14 of the Bromsgrove District Plan (2017) (BDP) has been incorrectly referred to in the reason for refusal. I have taken this into account in making my decision.
3. The development includes operational development in the form of hardstanding, gates and fencing. The Council's decision notice indicates that it is the use of the site that is the matter in dispute. I have no reason to disagree with the Council's conclusion that the fencing and gates are permitted development and that the hardstanding is acceptable in planning terms. My reasoning below therefore relates to the use of the site.
4. At the time of the site visit I noted that the development has been implemented. I have dealt with the appeal on this basis and therefore this appeal seeks retrospective permission.

Application for costs

5. An application for costs was made by Ms Heather Jo Bushnell against Bromsgrove District Council. This application is the subject of a separate Decision.

Main Issue

6. The main issue is whether the appeal site is an appropriate location for the development having regard to the development plan and relevant national planning policies.

Reasons

7. The appeal site comprises an undulating field located between Holyoakes Lane and the busy A448 located within a rural setting and within the Green Belt. There is a dedicated access from the lane leading to a small area of hardstanding. Fencing has been erected to divide the field in two and to define the area of hardstanding. At the time of the visit it was noted that dog training paraphernalia including a small shed, tyres and pools were located within the field.
8. The Hewell Bowling club neighbours the site and existing houses extend along Holyoakes Lane. Holyoakes Lane is a country lane and is devoid of street lighting, although it benefits from a footpath along the southern side and leads to nearby settlements including Tardebigge and Hewell Grange.
9. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Material changes in the use of land, such as outdoor recreation, is one such exception provided it preserves openness.
10. Whilst the development has resulted in the installation of gates, fencing and dog training paraphernalia they do not, in my view, have a significantly harmful impact on the openness of the Green Belt in both spatial and visual terms. As such, the development does not constitute inappropriate development as set out in paragraphs 145 and 146 of the Framework.
11. Policy BDP2 states that new development should be located in accordance with the defined settlement hierarchy in order to reduce the need to travel and to promote sustainable communities. The site is not isolated by virtue of its close proximity to existing residential development and a leisure use, nonetheless it is located outside the boundary of a settlement. Therefore, new development outside of existing boundaries will be considered to be located within the countryside.
12. In such areas Policy BDP15 encourages small scale rural businesses and leisure opportunities that are appropriate to local employment needs, minimise environmental impacts and harmonise with local character and the natural environment.
13. The development, in my view, is a small-scale rural business which provides employment opportunities. Furthermore, the use and the associated paraphernalia does not unduly harm the rural character and appearance of the area as the field is largely open and the fencing and hardstanding is contained to a small area of the site. I am also mindful that the associated paraphernalia are not permanent structures and so could be removed or repositioned as required.
14. Whilst I note that some dogs are brought to site from farther afield, in my view, the development provides a service that clearly meets a need for the

community within the area and has done so for the last few years which could include residents of the local community.

15. It is acknowledged in the Framework in paragraph 103 that transport solutions will vary between urban and rural areas. Taking into account the site's rural location visitors would be more reliant on private vehicles to access the service. However, this could be said for existing residents along Holyoakes Lane and patrons of the bowling club. Furthermore, the nature of moving dogs tends to mean a greater reliance on the use of private vehicles irrespective of whether this is within a rural area or within an urban one.
16. I find that the location of the development and its accessibility is not unacceptable. Existing and future users would not be solely reliant on motor vehicles as there is access to alternative modes of transport such as public transport, in the form of bus services and footpaths leading from nearby settlements to the site. I also note that dogs are brought to site by a van which further reduces the number of trips to the site by private vehicles and the reliance on them. I therefore consider the location of the development is accessible and there are economic and social benefits resulting from it.
17. As such, the development accords with Policies BDP1, BDP12, BDP15, BDP16 and BDP22 which, amongst other things, requires new development to be compatible with adjoining uses; meet the need of the community in accessible locations; contribute to a diverse and sustainable rural enterprise and rural diversification; and incorporate safe and convenient access in locations well served by public transport.
18. The development would also accord with the Framework, which aims to achieve sustainable development where it will maintain the vitality of rural communities and provide appropriate opportunities to promote sustainable transport modes given the type of development, its location and the provision of a safe and suitable access.

Other Matters

19. I note the representations made in respect of the planning application. There is no substantive evidence before me to suggest that the development is adversely affecting the safe operation of the adjoining highway, particularly as the Highway Authority have raised no objection.
20. In respect of noise I note that a noise report has been undertaken which outlines that the site has high background noise resulting from traffic using the A448. I acknowledge that the use may result in barking, but this would be intermittent and in short bursts. As such, there is no compelling evidence before me to indicate that the living conditions of nearby occupiers are being adversely affected. Planning conditions would limit the operating hours of the site.
21. I acknowledge the comments in respect of car headlights and torches shining into nearby properties. However, the Council has not raised concerns regarding the impact of the development on the living conditions of nearby residents. I find no reason to disagree.
22. The reuse of car tyres, the potential for additional structures on site and risk to other animals is beyond what I can consider in this appeal.

Conditions

23. The Council have not suggested any conditions if this appeal was to be allowed although the officer's report indicates that conditions relating to the hours of operation, a limitation of the number of users on site and submission of a noise management plan could be imposed.
24. I have considered the imposition of conditions in relation to the contents of the Framework and the Planning Practice Guidance (PPG). As the development is retrospective it is not necessary to impose a time limit condition for implementation. In the interests of certainty, I have specified the approved plans. I have imposed a condition for a noise management plan and restricted the hours of operation to safeguard the living conditions of nearby occupiers.
25. It would be unreasonable for me to impose a specific condition limiting the number of users on site as no indication of users has been provided and, in my view, would be difficult to enforce. As such this condition has not been imposed.

Conclusion

26. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No PL001 Location Plan; Drawing No PL002 Existing Site Plan; and Drawing No PL010 Proposed Site Plan.
- 2) The use hereby permitted shall only take place between the following hours:
0900 - 2000 Mondays - Fridays
1000 - 1900 Saturdays
1100 - 1600 Sundays and Bank Holidays
- 3) Within 6 months of the date of this decision a Noise Management Plan should be submitted to and approved in writing by the local planning authority. The measures shall be completed within 3 months and retained thereafter for the lifetime of the development.