
Appeal Decision

Site visit made on 8 December 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

Appeal Ref: APP/K2420/W/20/3258978

Land East of Higham Lane, Stoke Golding CV13 6JH

- 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 N Aponso, Nilz & Harley Pet Services, against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 20/00570/FUL, dated 11 June 2020, was refused by notice dated 18 August 2020.
 - The development proposed is erection of building and change of use of land to form a dog day care centre.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have removed the site address from the description as this does not describe development. The site address is already provided in the header.
3. I note that the Council consider the land is currently being used commercially in breach of planning control. This is a matter for the Council and does not form part of the appeal.

Application for costs

4. An application for costs was made by Mr N Aponso against Hinckley & Bosworth Borough Council. This application is the subject of a separate Decision.

Main Issues

5. The main issues are:
 - whether the location is suitable for the proposal, including its effect on the character and appearance of the area, having regard to local and national planning policies.

Reasons

6. The site comprises part of a field located to the east of Higham Lane in an area designated as open countryside for planning policy purposes. The field has a hedgerow around its boundary along with several field boundary trees. Access to the site is via a gate located in the south-western corner and a public right of way runs past its southern boundary. The land has an agricultural use.

7. The area has a tranquil character comprising of open fields bounded by hedges, trees and timber post and wire/horizontal rail fences. A canal passes the site on the western side of Higham Lane, where a small pond is also located. There are a small number of dwellings, farmsteads, agricultural buildings and equestrian facilities scattered across the area.
8. Policy DM4 of the Site Allocations and Development Management Policies DPD-2016, (SADMP), seeks to protect the intrinsic value, beauty, open character, and landscape character of the countryside and safeguard it from unsustainable development. The policy specifies certain types development that are deemed to be sustainable, ie development:
 - a) for outdoor sport & recreation;
 - b) involving a change of use, re-use or extension of existing buildings that would enhance the immediate setting;
 - c) which would significantly contribute to economic growth, job creation and/or diversification of a rural business;
 - d) that relates to the provision of stand-alone renewable energy (in line with Policy DM2), and
 - e) comprising of accommodation for a rural worker (in line with Policy DM5).Additionally, such development shall:
 - i) not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside;
 - ii) not undermine the physical and perceived separation and open character between settlements;
 - iii) not create or exacerbate ribbon development;
 - iv) not, if within a Green Wedge, threaten its role and function (in line with Core Strategy policies 6 and 9), and
 - v) if within a National Forest, contribute to the National Forest Strategy (in line with Core Strategy Policy 21).
9. The proposal is not for either type of development outlined in 'a', 'b', 'd' or 'e' of Policy DM4; and no evidence has been provided that leads me to conclude that the proposal would significantly contribute to economic growth or job creation (the first part of bullet point 'c').
10. As regards the second part of bullet point 'c', the appellant suggests that, as the landowner would rent the field to the appellant and continue to harvest a crop from it each year, the additional income for the landowner from rental represents diversification of a rural business. However, other than the landowner's name and address and noting that the only other land edged blue around the site is the other half of the field, I have not been provided with any details regarding the landowner's business. Consequently, I am not able to conclude that the proposal constitutes diversification of a rural business. As such, the proposal does not satisfy development referred to in point 'c' of Policy DM4.

11. In addition to changing the use of the land, the proposal includes erecting a building around 14 m long x 9 m wide with a ridge height of around 3.7 m, and the provision of an on-site parking area for up to 4 cars. The facility would cater for up to 16 dogs and would open 09:30-16:00 Monday to Saturday and occasionally on Sundays between 10:00 and 16:00. The field would be used to exercise the dogs.
12. I consider that the design, size and appearance of the proposed building would be similar to other equestrian and agricultural buildings located within the surrounding countryside. However, the proposal would introduce built form where there is currently none. With regard to layout, the building would be sited close to Higham Lane, where it would be highly visible. I consider the combination of a new building, its siting, the parking of up to 4 cars in the field and the proposed activity/use, would significantly harm the tranquil, open character and appearance of the site, thereby eroding part of the intrinsic value and beauty of the countryside.
13. Consequently, for the reasons outlined, and with regard to local and national planning policies, I conclude that the location would not be suitable for the proposal as it would significantly harm the character and appearance of the open countryside. As such, the proposal does not accord with policies DM4 and DM10 of the SADMP or paragraph 9 and sub paragraphs 127 (c) and 170 (b) of the Framework. Collectively, and among other things, these policies seek to recognise and protect the intrinsic character and beauty of the open countryside, only allowing development that is sympathetic to, compliments or enhances local character.

Other considerations and planning balance

14. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires determination under the planning Acts to be made in accordance with the development plan, unless material considerations indicate otherwise.
15. The appellant highlights that the Framework identifies 3 dimensions of sustainable development: economic, social, and environmental. Additionally, the appellant draws my attention to paragraph 83 of the Framework, which advises that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas.
16. I acknowledge that the proposal would have some economic benefits and it may be said that the facility would provide a social benefit for dog owners using the service. However, both benefits would be small scale; I therefore attach limited weight to these considerations. Furthermore, bearing in mind the conclusion I reached above, it has not been demonstrated that the proposal represents sustainable growth and expansion of a rural business.
17. The appellant contends that without the proposed building and exercise area they would be unable to provide a dog care facility in accordance with the required animal welfare legislation. I attach moderate weight to the matter of animal welfare.
18. The appellant considers the proposal to be similar to other applications the Council has approved. I have not been provided with the details of the applications referred to by the appellant and cannot be certain of the extent to which either are comparable to the appeal proposal. In any event, each

proposal must be decided on its own merits. Consequently, the other decisions referred to do not attract any weight to support the proposal.

19. Bearing in mind the other considerations outlined, I consider that they neither individually nor collectively outweigh the significant environmental harm to the countryside I have found.

Other Matters

20. The appellant is dissatisfied with the service received from the Council during the application process, in particular with reference to paragraph 38 of the Framework. This is a matter that will be addressed in the costs application decision; though I note that the issues raised do not alter my decision on the appeal.

Conclusion

21. Notwithstanding my opinion regarding the appearance of the building, for the reasons outlined, I consider that there are no other material considerations, including policies in the Framework, which lead me to conclude otherwise than in accordance with the development plan. I therefore conclude that the appeal is dismissed.

J Williamson

INSPECTOR