



Appeal Decision

Site visit made on 7 December 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2022

Appeal Ref: APP/F0114/W/21/3278320

J A W Bendall & Sons, New Farm, Marksbury Lane, Priston, Bath BA2 9HJ

- 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 JAW Bendall and Sons against the decision of Bath and North East Somerset Council.
 - The application Ref 21/01722/FUL, dated 9 April 2021, was refused by notice dated 15 June 2021.
 - The development proposed is change of use of agricultural land to a mixed agricultural and sui generis use for the training of canines.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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), any relevant development plan policies and the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the character and appearance of the surrounding area;
 - whether or not the proposed development is an acceptable form of farm diversification with reference to local policy;
 - whether or not the proposed development would provide a suitable location for the training of dogs, with particular reference to local and national policy;
 - 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

Green Belt

3. The appeal site covers an area of land that partially extends across two agricultural fields and is located close to the farmhouse and buildings associated with New Farm.

4. The revised Framework stipulates, amongst other things, that development in the Green Belt is inappropriate unless it meets one of the exceptions listed in either paragraphs 149 or 150 of the Framework.
5. Paragraph 150 e) of the Framework states that material changes of use, including 'outdoor sports' are not necessarily inappropriate in the Green Belt provided they preserve its openness and the purposes of including land within it. Openness is an essential characteristic of the Green Belt and has a spatial and visual aspect. Green Belt purposes that appear to be served by the designation of the appeal site within the Green Belt include, amongst others, checking unrestricted sprawl and safeguarding the countryside from encroachment.
6. Policy CP8 of the Core Strategy¹ states that the openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy, and in this respect, I consider that it is consistent with the Framework.
7. The Framework does not define an outdoor sport, while there are no details before me of any definition from the development plan. The appellant indicates that the dog training area would be used for dog agility sessions, whereby a handler guides a dog through a series of obstacles in a race against the clock. It therefore involves an element of physical activity and skill on the part of the handler, while the timing of the event suggests that the handler and dog are competing against others. To my mind the combination of physical activity and competition would likely be entertaining and enjoyable for participants, factors that would commonly be associated with sporting activities. Therefore, in the terms of the Framework, I have determined that the proposal would constitute an 'outdoor sport'.
8. Although I have not been provided with any details of case law or precedent that dog agility would be an 'outdoor sport', the absence of that information does not preclude me from making my own reasoned judgement based on the evidence submitted.
9. A '3G astro turf' surface would be used for the dog training area. The arena would be enclosed with stock proof fencing and surrounded to the north and east by a large stone surfaced car park comprising 26 spaces. The presence of parked cars would result in a more intensive use of the land. Although no specific details have been provided, I would expect the car park to also include lighting columns and apparatus for the charging of vehicles. Apparatus used for the dog agility activities would also occupy the site. Consequently, the existing improved grassland would be more intensively occupied by a combination of physical structures, agility equipment and parked vehicles across the site and would reduce the openness of the Green Belt in spatial terms.
10. The appellant proposes the planting of new hedgerow around the site's southern and eastern perimeters. Once matured, this could, in combination with the existing hedge to the north screen the presence of park cars, fencing and other physical equipment/apparatus. Yet, the land surrounding the appeal site is undulating, and it would be highly likely that parked and manoeuvring vehicles, other physical features and the harsh stone surface of the car park, would be perceptible above the boundary vegetation from higher vantage

¹ Bath and North East Somerset Core Strategy - Part 1 of Local Plan, adopted July 2014 (Core Strategy)

points. Furthermore, the unenclosed western boundary would allow for clear views through the site of the arena and car park. Therefore, the proposal would have a pronounced visual impact that would reduce the openness of the Green Belt.

11. In view of the above, in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation. While the harm would be moderate, this would be contrary to the Framework where it states an essential characteristic of Green Belts are their openness.
12. Therefore, the proposal would comprise inappropriate development in the Green Belt, resulting in a loss of openness and would impact on the purposes of including the land within the Green Belt. The proposal would therefore fail to accord with Policy CP8 of the Core Strategy and be at odds with paragraph 150 e) of the Framework. Moreover, it would not accord with any of the other exceptions listed in the Framework.

Character and appearance

13. The appeal site is located within an undulating landscape characterised by fields, bordered by trees and hedgerow, interspersed with sporadic farms and individual properties.
14. The large car park associated with the proposal would, when used, have an intensive appearance, while its expansive stone surface would appear visually harsh in context with the adjacent verdant fields. This impact would be most apparent from the higher land to the south and would be at odds, and harmful to, the rural character of this part of the Green Belt.
15. I therefore find that the proposal would have a harmful effect on the character and appearance of the surrounding rural area. It would fail to accord with Policy GB1 of the Placemaking Plan², where it requires proposals within or conspicuous from the Green Belt to not prejudice but enhance the visual amenities of the Green Belt in terms of siting, design and use of materials.

Land use

16. Policy RE3 of the Placemaking Plan states amongst other things that farm diversification uses must compliment the agricultural function of the holding, protect higher grade agricultural land, while ensuring that the use does not lead to fragmentation or severance of the holding. The policy provides some examples of farm diversification schemes and these may include sporting facilities. As I have viewed the proposal as an outdoor sport it would therefore accord with that aspect of the policy.
17. The appellant indicates that the proposal would support the farm by providing income on an area of low-grade agricultural land currently not utilised. It would be located on pastureland close to the existing farm buildings and accessed off the track serving the complex. In this context the dog agility area, would not appear disconnected or detached from other buildings or land on the holding. Moreover, the land use would not restrict any of the other farming activities from operating. I am therefore satisfied that the proposal would not result in

² Bath and North East Somerset Local Plan 2011-2019 - Core Strategy and Placemaking Plan, adopted July 2017 (Placemaking Plan)

the severance or fragmentation of the holding or compromise the farm business.

18. Therefore, the proposal represents an acceptable form of farm diversification that meets the requirements of Policy RE3 of the Placemaking Plan, the requirements of which are referred to above.

Accessibility

19. Policy ST1 of the Placemaking Plan requires development proposals to reduce the growth and dependency on the private car and supports measures that would reduce that dependency in the interests of improving health and reducing the harmful impacts on the natural and built environments. The Framework is broadly consistent with those aims; however, it also states (Paragraph 85) that planning decisions should recognise that sites that meet local business needs in rural areas may have to be found beyond existing settlements. In those circumstances opportunities should be made to make a location more sustainable.
20. The appeal site is located in a rural location that is not readily accessible to public transport connections. The nearest bus stop is around 20 min walk away and that journey would be along narrow, unlit roads with no footways. In the context of the proposed use, transporting dogs and possibly agility equipment by foot, public transport or bicycle may not be the safest or most practical form of transport for a dependent animal and its handler. It is therefore likely that most journeys to the site would be by private motor vehicle.
21. In order to reduce the dependency on private car travel the appellant proposes a car sharing scheme. This could be secured through a travel plan condition, were I to allow the appeal. It could also include measures for electric charging points and a commitment for future users to be collected from the nearest settlement. Accordingly, whilst the proposal is in a relatively remote location, I am satisfied that measures could be put in place to reduce car journeys and pollution.
22. While not determinative of whether the proposal is inappropriate development or not, and notwithstanding my findings on the effect on the openness of the Green Belt and the character of the area, the proposal would provide a suitable location for the training of dogs having regard to local and national policy. As such the proposal would accord with Policy ST1 of the Placemaking Plan and the Framework.

Other considerations

23. As part of my assessment, the Framework requires me to come to a view as to whether or not, in Green Belt terms, there are other considerations that clearly outweigh the totality of the identified harm so as to amount to very special circumstances.
24. I have found that the proposal would be an acceptable form of farm diversification. This would inevitably improve the economic fortunes of the holding; however, I can only attach minor weight to this benefit as I have no specific details of the financial contribution to the enterprise the proposal would make.

25. An extensive area of hedgerow and wildflower planting would take place on the land surrounding the site. The creation of these new habitats would have positive benefits in terms of local biodiversity and as such I attach moderate weight to this. I have also attached a similar level of weight to the proposals that would reduce car journeys to the site as this would have environmental benefits.

Green Belt Balance and Conclusion

26. The proposal would be inappropriate development in the Green Belt, while there would also be harm to the character and appearance of the area. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Moreover, it would lead to a moderate loss of openness to the Green Belt.
27. For the reasons outlined above, the overall scheme benefits would be moderate at best and, as such, do not clearly outweigh, either individually or cumulatively, the substantial weight given to the harm to the Green Belt.
28. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would be contrary to the development plan when read as a whole and the provisions of the Framework.
29. Therefore, for the reasons given I conclude that the appeal is dismissed.

R E Jones

INSPECTOR