



Appeal Decision

Site visit made on 25 January 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal Ref: APP/K2420/W/21/3281616

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 and Bosworth Borough Council.
 - The application Ref 21/00251/FUL, dated 22 February 2021, was refused by notice dated 27 July 2021.
 - The development proposed is the erection of a 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 note that both the Council and the appellant have referred to the appeal site already being used for the walking/exercising of dogs. I observed during my site visit that several objects and pieces of equipment related to the use were located on the site, supporting the view that the site was already in use. I have therefore dealt with the appeal on that basis.

Main Issues

3. The main issues are whether the proposed development represents sustainable growth by way of diversification, and its effect on the character and appearance of the area.

Reasons

4. The appeal site is part of an agricultural field situated to the east of Higham Lane. The field has a hedgerow around along its boundary with several trees sporadically located around its perimeter. Access to the site is via a gate located in the south-western corner which leads onto a small parking area.
5. The area is characterised by open fields bounded by sparse hedges, trees and timber post and wire/horizontal rail fences, giving a tranquil feel. There are a small number of dwellings, farmsteads, agricultural buildings and equestrian facilities scattered across the area.
6. The appeal proposal seeks the change of use of the land and the erection of a building in order to form a dog day care centre. A similar proposal has been subject of a previous planning application which was refused and subsequently dismissed at appeal in February 2021 (Ref APP/K2420/W/20/3258978). The main difference between the two schemes is that the building was previously

proposed to be located towards the western boundary of the site adjacent to Higham Lane, whereas in the appeal before me the building is now proposed to be located towards the south-eastern corner of the site.

7. Policy DM4 of the Site Allocations and Development Management Policies DPD (adopted July 2016) (SADMP) seeks to protect the open countryside and safeguard it from unsustainable development. The Policy goes on to specify certain types of development that are deemed to be sustainable. Only one of the specified types is potentially applicable to the appeal proposal, which is criterion 'c' which states that development will be considered sustainable where *'it significantly contributes to economic growth, job creation and/or diversification of rural businesses'*.
8. The Inspector for the previous appeal stated that no evidence had been provided that would lead them to conclude that the proposal would significantly contribute to economic growth or job creation. I have not been presented with any additional evidence or information that would result in me reaching an alternative view.
9. Whether the proposal satisfies criterion 'c' is therefore dependent upon it constituting the diversification of a rural business. Evidence has been provided to show that the landowner operates an active farming enterprise and that the appeal site is leased to the appellant, hence providing an additional income stream to the existing farming enterprise.
10. However, notwithstanding the additional information provided I do not consider that sufficient justification or evidence has been provided to demonstrate that the appeal proposal would represent a diversification of the existing farming enterprise. Furthermore, no information as to how the income generated would be used to support its growth has been provided. It is also noted that the lease between the landowner and appellant is only for a short period and would only generate a moderate amount of additional income per month.
11. In addition to having to represent the diversification of a rural business, Policy DM4 also requires that such development shall *'not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside'*.
12. As well as the change of use of the land, the proposal also includes the erection of a building. The proposed building would have a simple metal box profile with a dual pitched roof, with a footprint of approximately 125sqm and would cater for up to 16 dogs. The business would operate from the site between the hours of 09:30 – 16:00 Monday to Saturday and occasionally on Sundays between the hours of 10:00 and 16:00.
13. When discussing the effect of the proposed building in the previous appeal, the Inspector concluded that *'the design, size and appearance of the proposed building would be similar to other equestrian and agricultural buildings located within the countryside. However, the proposal would introduce built form where there is currently none. With regard to layout, the building would be close to Higham Lane, where it would be highly visible'*. To seek to overcome these concerns, the appellant has proposed the re-positioning of the building from adjacent to Higham Lane to the south-eastern corner of the site.

14. Whilst the building's proposed new location in the south-eastern corner of the site would reduce its dominance in comparison to its previously proposed location, I still find that the building would be highly visible and introduce a built form into an area of countryside where there is currently none. This is further exacerbated by the topography of the appeal site which slopes gently upwards away from Higham Lane and would result in the building occupying a slightly elevated position within the landscape. As a result, the building would appear highly visible from the highway and introduce built form into what is currently open countryside.
15. I therefore consider that the cumulative impact of the new building along with the proposed use, which includes various physical and moveable items scattered around the site, would significantly harm the tranquil, open character and appearance of the site, thus eroding part of the intrinsic value and beauty of the countryside.
16. Consequently, for the reasons given above I conclude that the proposed development would result in significant harm being caused to the character and appearance of the open countryside. The development would therefore conflict with Policy DM4 of the Site Allocations and Development Management Policies DPD (adopted July 2016) (SADMP) which seeks, amongst other things, to protect the intrinsic value, beauty, and landscape character of the open countryside.

Other Matters

17. I have given due regard to the appellant being agreeable to the building being removed, and the land reverted to back to its previous agricultural use upon their vacating of the site. There is however no information provided as to how long any 'temporary' occupation of the site would last, which could potentially be for several years. I do not consider therefore that such an agreement justifies the harm that I have identified, and which would persist during the appellant's occupation of the site.
18. I also acknowledge the appellant's offer to amend the design of the building so that it is more akin to a stable block. The design of the building however is not contested, and its further alteration would still not overcome the harm caused by the introduction of built form in this prominent position within the open countryside.
19. Finally, I also accept that the proposal would provide a service to local residents and dog owners, as well as there being economic benefits for both the landowner and the appellant. However, I find that these benefits would be less than substantial and do not outweigh the harm that would be caused by the development.

Conclusion

20. The proposal would conflict with the development plan and there are no material considerations which would outweigh this finding. For the reasons given above the appeal is dismissed.

David Jones

INSPECTOR