



Appeal Decision

Site visit made on 28 April 2022

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2022

Appeal Ref: APP/N3020/W/21/3286428

Burntstump Farm, Arnold, NG5 8PG

- 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 Mrs Andrea Ogden against the decision of Gedling Borough Council.
 - The application Ref 2021/0471, dated 19 April 2021, was refused by notice dated 13 August 2021.
 - The development proposed is "Change of Use from C3 (residential) to mixed use C3 (residential) and Sui Generis (breeding grooming and micro-chipping) and erection of fencing (part retrospective)".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording, matching that used on the Decision Notice has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. However, as both parties have used this description in their submissions, and it is a much clearer description of the development proposed, I have used it in my heading above.

Main Issues

3. The main issues are;
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on the living conditions of occupiers of nearby properties with regard to the activities on the site.
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The appeal site, which lies within the Nottingham and Derby Green Belt, contains a residential dwelling with two existing kennel blocks, and various other domestic structures, screened from an adjacent public right of way by existing fencing, planting and a change in level. The interior of the site is not readily visible from the public domain. Another, separate residential property is adjacent to the appeal site, but the site is otherwise relatively isolated.
5. Policy 3 of the Greater Nottingham Broxtowe Borough, Gedling Borough, Nottingham City Aligned Core Strategies Part 1 Local Plan, adopted 2014 (the ACS) sets out the principle that the Green Belt will be retained, subject to minor reshaping for strategic matters. The policy points to the National Planning Policy Framework (the Framework) regarding the purposes of Green Belt and including land within it.
6. The Framework sets out that the construction of new buildings is inappropriate in the Green Belt, but for limited exceptions. The appellant suggests that the appeal proposal falls under the exception at paragraph 149g; being the limited infilling or the partial or complete redevelopment of previously developed land. That exception is itself subject to further conditions, the relevant one of which requires that the development not have a greater impact on the openness of the Green Belt than the existing development. The Council agrees with this position, as do I.

Effect on openness

7. Paragraph 149g of the Framework, requires consideration of the effect of the proposal on the openness of the Green Belt. The proposal would lead to the removal of an existing kennel building, and the proposed kennel building would replace an existing chicken coop. The kennel building to be removed is relatively small and closely related to the house. The chicken coop is similarly relatively small and being largely framed-wire, visually lightweight.
8. By comparison, the proposed kennel is a far more substantial structure in terms of its height, depth and width, much more akin to the kennel being retained rather than the one being removed. In addition, it is proposed to be located away from the existing house, closer to the boundary, increasing the spread of built-form within the site and by extension, across the Green Belt.
9. For the same reasons, I do not consider that the proposal represents the limited infilling allowed for in Policy LPD15 of the Gedling Borough Local Planning Document Part 2 Local Plan, adopted 2018 (the Part 2 Local Plan). I do not find that the location of the kennel within the existing boundaries of the site limits this effect on the openness of the Green Belt.
10. As a result, I consider that the proposal would have a greater impact on the openness of the Green Belt than the existing development. The proposal would therefore be inappropriate development in the Green Belt.

Living conditions

11. Turning to the effect of the proposal on the living conditions of the occupiers of nearby properties, the concerns of the Council and of third parties relate largely to both dog vocalisation (barking) and noise and disturbance associated with the use of the premises over and above normal domestic use.
12. With regard to barking, I note the evidence around noise at the site not amounting to a statutory nuisance, despite complaints. I am also mindful of the particular relationship of the parts of the site used in connection with the dog breeding, grooming and micro chipping business, to neighbouring properties, intervening distance, structures and screening and the main road.
13. Whilst barking does appear to be limited by the particular design and layout of the existing kennels, use of the adjacent public right of way, and indeed, accessing the site does provoke barking. Although this appears to be quickly controllable, and I do not doubt that it is also in the appellants interest to do so, it does occur and is easily provoked. The proposed kennel would be closer to the public right of way and site boundary than the existing, and I am not therefore convinced that the proposed mitigation measures would entirely reduce or prevent excessive dog barking.
14. I note the evidence around the amount of barking from the particular dog breeds owned and bred by the appellant, but cannot give this much weight in my assessment, as there is no practical or reasonable way to control this in future.
15. Although the level of noise associated with the site was not so great as to constitute a statutory nuisance, I do not consider that my assessment of the effects of the proposal on living conditions with specific regard to barking is bound to reach the same conclusion. On the evidence before me from the appellant, the Council and third parties, and from my observations on my site visit, I conclude that the proposal would have an unacceptable effect on the living conditions of occupiers of nearby properties with specific regard to dog vocalisation (barking).
16. With regard to the more general concerns over noise and disturbance associated with the proposal, including vehicle movements, I acknowledge the measures the appellant has proposed to control and limit vehicle movements, as well as their quantification of them for the purpose of the appeal. There would however be significantly more vehicle movements into and out of the site in connection with the proposal, and indeed, in connection with the college association, than would be expected from normal residential use. As this road only serves the appeal site and its neighbour, this increased level of activity and number of vehicle movements would be readily apparent, and would, in my view be so much greater than might otherwise reasonably be expected that it would be harmful.
17. I therefore find that the proposal would also cause unacceptable harm to the living conditions of the occupiers of nearby properties with regard to noise and disturbance arising from the vehicle movements associated with the proposal.

18. In these regards the proposal would conflict with Policy 10 of the ACS and Policy LPD32 of the Part 2 Local Plan. these policies seek, amongst other things, to ensure that development proposals have to significant impact on amenity.

Whether very special circumstances exist

19. I accept that the proposal would have economic benefits and that there are wider social benefits associated with the connection of the business to the local college. I also note the suggestion from the appellant that the proposal would be environmentally neutral. However, these benefits are limited, and I have found that the development is inappropriate in the Green Belt, which is, by definition, harmful to the Green Belt.
20. The Framework is clear that substantial weight should be given to any harm to the Green Belt, and I have also found harm with regard to living conditions. I do not therefore find that the other considerations in this appeal clearly outweigh the totality of the harm I have found, and as a result, very special circumstances do not exist sufficient to justify the development.

Conclusion

21. For the reasons given above I conclude that the proposal would be inappropriate development in the Green Belt and would therefore conflict with guidance in the Framework and the development plan. I have also found that there are no material considerations which indicate that a decision be taken other than in accordance with the development plan.
22. The appeal should therefore be dismissed.

S Dean

INSPECTOR