



Appeal Decision

Site visit made on 16 November 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2022

Appeal Ref: APP/L2250/W/22/3290887

Maple Cottage Westfield Lane, Etchinghill, CT18 8BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Ms S Parkin against the decision of Folkestone and Hythe District Council.
 - The application Ref 21/0910/FH, dated 19 April 2021, was granted planning permission on 4 November 2021 subject to conditions.
 - The development permitted is change of use of an agricultural field to off-leash dog agility and dog walking field and erection of 1.8 metre stock fencing.
 - The conditions in dispute are Nos 6 and 10 which state that:
 - (6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no walls, fences or other means of enclosure other than the fencing shown on the approved plans, shall be erected on the land subject the planning permission hereby granted.
 - (10) Other than the fencing and means of enclosure hereby approved, no fences, gates walls or other means of enclosure shall be erected within the application site, including any permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The reasons given for the conditions are:
 - (6) In the interests of the visual amenities of the site and in order to protect the countryside location and the AONB, in accordance with the Development Plan.
 - (10) In the interests of visual amenity and to conserve or enhance the scenic beauty of the AONB.
-

Decision

1. The appeal is allowed and planning permission Ref 21/0910/FH for change of use of an agricultural field to off-leash dog agility and dog walking field and erection of 1.8 metre stock fencing at Maple Cottage, Westfield Lane, Etchinghill, CT18 8BZ, granted on 4 November 2021 by Folkestone and Hythe District Council, is varied by deleting conditions (6) and (10) and substituting for them the following conditions:
 - 1) Notwithstanding the provisions of Class A in Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no permanent fences, gates, walls or other permanent means of enclosure or sub-division of the land shall be erected.
 - 2) Within two months of the date of this decision, details of the height and design of any temporary fencing for the purpose of sub-dividing the land for dog training lessons or groups shall be submitted to the local planning

authority for its approval. Any temporary fencing shall only be erected in accordance with the approved details of height and design.

Main Issue

2. The main issue is whether the conditions in dispute are reasonable and necessary having regard to the location of the site within the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

3. The AONB has the highest status of protection in relation to landscape and scenic beauty and great weight should be given to conserving and enhancing it. The appeal site mainly comprises a rectangular parcel of land set within a broad swathe of rolling countryside. It lies beyond the belt of trees at the back of a scattering of houses along a private track. The surrounding open fields are used as horse paddocks, for sheep grazing and arable cultivation.
4. Fencing around the perimeter has been accepted. Indeed, it is common for rural land to be enclosed either to control stock or to denote separate ownerships. The appellant has provided examples of this. However, the formal sub-division of the land could disrupt the prevalent field pattern and so be at odds with the open qualities of the AONB. Controlling permanent fencing by means of the removal of permitted development rights is therefore justified. This would not be discriminatory but a suitable response to the potential for internal fencing to be required in future.
5. The Council nevertheless accepts that Conditions 6 and 10 are repetitious and imprecise as to the provisions of the Order that they relate to. This can be remedied so that the tests in paragraph 56 of the National Planning Policy Framework are met.
6. However, the appellant also wishes to have low level temporary fencing. In particular, to divide the field for dog training lessons and groups. For example, it might be required to create different scent experiences within four separate areas, to create a maze for dogs to follow a scent trail or to form a zig-zag pattern. The layout of these is not fixed and the times that such fencing is required is not possible to predict. The fencing is said to be moveable and would be stored at the ends of the field when not in use. It is evident that the temporary fencing is necessary to properly undertake the permitted use.
7. There is a public footpath to the west which is about 200m away and from where the site is visible. It can also be seen from the higher land to the south-west. However, these viewpoints are distant and any temporary fencing would be seen as part of a wider panorama. Furthermore, the Council has already accepted associated dog walking paraphernalia including a field shelter, toys, agility equipment and a seating area. Similarly, modest panels would also be likely to have a negligible impact on the wider countryside. Once the boundary landscaping has matured any visual effects would be further mitigated.
8. Details of the height and design of the temporary fencing should nevertheless be confirmed. As the appellant requires flexibility about where it would be put, requiring its location to be specified would not be reasonable. The Council suggests that any temporary enclosure should not remain in situ for more than 7 days in any month but this would be unduly restrictive. The implications for the appearance of the area would be short-term and therefore limited. Any

internal enclosures would be unlikely to stay in place at all times for operational reasons. It is therefore sufficient to rely on the word "temporary" as part of a new condition rather than to pin down how long such fencing can remain.

9. Therefore, the permitted development right for permanent fencing should be removed but an allowance made for short-term fencing required as part of the approved dog walking and training facility. The landscape and scenic beauty of the AONB would be preserved.

Conclusion

10. For the reasons given above, I conclude that the appeal should succeed. The planning permission will be varied by deleting the disputed conditions and substituting two others. The other conditions attached to the permission remain in force.

David Smith

INSPECTOR