



Appeal Decision

Site visit made on 29 November 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04/01/2023

Appeal Ref: APP/Y3615/W/22/3293836

Land East of Ripley Lane, West Horsley, Leatherhead KT24 6JT

- 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 Karen McCarthy (Its the Dogs Ltd) against the decision of Guildford Borough Council.
 - The application Ref 20/P/01359, dated 13 August 2020, was refused by notice dated 6 October 2021.
 - The development is the change of use of land from agriculture to a use for the walking, day care and training of dogs.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agriculture to a use for the walking, day care and training of dogs at Land East of Ripley Lane, West Horsley, Leatherhead KT24 6JT in accordance with the terms of the application, Ref 20/P/01359, dated 13 August 2020, and the plans submitted with it, and subject to the conditions contained in the schedule to this decision.

Preliminary Matters

2. The application was submitted retrospectively, and I saw during my site visit that the change of use had already commenced, with the application form stating that this was completed on 31 March 2015. I have therefore considered the appeal on a retrospective basis.
3. During the planning application, the description of the proposed development was amended to omit a storage container located on the appeal site. As such, the appellant seeks planning permission for the change of use of the appeal site only. I have therefore used the amended description above, to represent an accurate description of this.

Main Issues

4. The main issues are:
 - whether the development is inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies;
 - the impact of the development on the character and appearance of the surrounding area; and
 - the impact of the development on the living conditions of the occupiers of neighbouring dwellings with regards to noise.

Reasons

Whether it is inappropriate development

5. The appeal site, an open field which has been divided into two separate areas with access from Ripley Lane, is located in a rural area within the Green Belt. The development is for a change of use of the land from agricultural to the walking, day care and training of dogs. As part of this change of use fences have been erected to subdivide the site and the submitted plans show several allocated car parking spaces for those using the facilities. No other development has been included as part of this appeal.
6. Paragraph 149 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. Paragraph 150 of the Framework also indicates that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. In paragraph 150 (e) this includes material changes of use of land, which, as a change of use, the appeal development would fall under.
7. Policy P2 of the Guildford borough Local Plan: strategy and sites 2015-2014 (the LP) 2019 similarly states that certain other forms of development are also considered not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Therefore, this policy is consistent with the Framework.
8. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
9. The appeal site is open and rural in appearance with no buildings and does not appear significantly different to its previous agricultural use. The fencing erected to subdivide the site is similar to what could be expected from an agricultural use, to contain livestock. Any equipment on the appeal site associated with the use, such as containers for drinking water, would also not be wholly out of keeping with the existing use.
10. It is noted that the change of use may have resulted in an intensification in the use of the site, with more comings and goings by vehicles and more people visiting the site during the hours of operation. However, the vehicle parking on the appeal site is limited and the appellant and Council have stated that a maximum of 22 vehicles would be on the site over the course of the day. Due to its location, it is unlikely that the site is accessed in any other way. Therefore, the amount of people/dogs and vehicles on the site at any given time is minimal and could be considered similar to the existing agricultural use, which would have been typically occupied by much larger agricultural machinery.
11. The appeal site is visible from Ripley Lane and a byway to the east of the site. However, views from these vantage points are partially blocked by existing trees along the boundaries. Nevertheless, as the change in the appearance of the appeal site is limited, the change of use does not have a visual impact on the openness of the Green Belt. Similarly, as there is no additional built form

on the appeal site, above what would be expected from its current use, the change of use would also not have a spatial impact on the openness of the Green Belt.

12. The Council do not contend that the change of use would conflict with the purposes of including land within the Green Belt. From the list stipulated within Paragraph 138 of the Framework, outlining the purposes of the Green Belt, I agree with this finding.
13. Therefore, the change of use would not be inappropriate development in the Green Belt as it would fall under the exception listed in paragraph 150 (e) of the Framework. It would also accord with Policy P2 of the LP which seeks to protect the Green Belt.

Character and Appearance

14. The West Horsley Neighbourhood Plan 2016-2033 (the NP) 2018 identifies 'Character Area 6 – Long Reach – West Side' as the farm-land to the west of Long Reach that lies wholly within the Green Belt and largely comprises open farm-land. The appeal site would fall within this character area and I consider that the open and rural nature of the original use of the appeal site would have been in keeping with and contributed positively to this character area.
15. As outlined previously, the nominal physical changes to the appeal site ensure that it retains its open and rural appearance, which would not be significantly impeded by the presence of additional fencing. Particularly as the fencing is similar in scale and appearance to that used in a typical agricultural setting. Any dog-related paraphernalia or vehicle parking on the appeal site, associated with the use, is temporary in nature and minimal in scale. As such, this would not significantly alter the character and appearance of the appeal site or the surrounding area from its previous agricultural use.
16. The appeal site is bounded by trees to the south and east and, although localised views are possible from the adjacent road and byway, any wider views of the site are largely blocked by these natural boundaries. The NP states that Character Area 6 incorporates sweeping views to the north towards the North Downs Area of Outstanding Natural Beauty (AONB). I am not persuaded that the minimal changes to the appearance of the appeal site and its self-contained nature would detrimentally affect the views of or the setting of this AONB. The change of use also has a limited impact on the views east from Ripley Lane, as identified within Policy WH3 (iii) of the NP, which is largely blocked by trees and hedging adjacent to Ripley Lane.
17. It is noted that a laurel hedge has been planted at the front of the appeal site as part of the development which, as a non-native species, appears out of keeping in this rural environment. However, due to its location, the hedge has limited visibility from the public realm and therefore it would not have a significant impact on the character and appearance of the area. Furthermore, this could be planted on the appeal site regardless of the change of use. Any references made to a storage container or hardcore, and its impact upon the rural nature of the appeal site, do not form part of the development which is the subject of this appeal. Therefore, I have not taken these factors into consideration.

18. Consequently, the change of use does not harm the character and appearance of the area and does not conflict with Policy D1(4) of the LP or Policy WH3(i) of the NP. These policies seek to ensure that all new development is designed to reflect the distinct local character of the area and preserves the essential open field and woodland character. The change of use would also accord with the general design objectives of the Framework.

Living Conditions

19. The appeal site is surrounded by open fields to the north, trees and a byway to the east, a small, wooded area to the south and Ripley Lane to the west. The nearest residential properties are located on Ripley Lane and Silkmore Lane to the south of the appeal site. The Council have stated that the nearest dwelling, Hambledon Cottage, is approximately 285 metres from the appeal site. There are also dwellings located on Silkmore Lane and Long Reach, however these are further in distance from the appeal site. I noted on my site visit that due to the rural surrounds, the area is relatively quiet with low levels of ambient noise. However, some intermittent noise is generated from cars passing by on Ripley Lane, which is relatively busy with fast moving traffic. It is also noted there is a train line to the south of the appeal site which would also generate some noise from passing trains.
20. A noise impact assessment was undertaken by the appellant, surveying noise levels in four locations around the appeal site. As the site is currently being used for dog walking and day care, the surveys were able to capture the noise from the site in its current use, for which planning permission is sought. The assessment, in accordance with BS 4142, found that the resultant rating level would be below the adopted background sound level. It also states that the sound of barking was found to be barely, and only occasionally, audible in the vicinity of the nearest residential properties.
21. The current use would clearly generate noise, from barking dogs and vehicle movements, on more regular occasions than this existing use as agricultural land. However, the closest neighbouring properties are located some distance from the appeal site and already experience some noise activity from passing cars and trains. Furthermore, the well-established woodland to the south of the site, although not substantial in size, would assist in acting as a natural sound barrier between the appeal site and nearby dwellings. It is noted that the Parish Council have received noise complaints in relation to the development and that the noise generated from this use may, on occasion, be audible to the occupiers of nearby dwellings. However, from the evidence provided within the noise impact assessment and my observations during my site visit, I do not consider that this noise would be overly loud or constant from the nearby properties identified.
22. The use of the site as a dog walking/day care facility would operate between 08:00 and 19:00. This could be secured by condition to ensure the appeal site is not used outside of these hours where the noise may be more perceptible to the occupiers of neighbouring dwellings. It has been highlighted that other facilities in the surrounding area have shorter opening hours. However, given the limited impact upon the occupiers of neighbouring dwellings, I do not consider that these operating hours are excessive.
23. Information and photographs have been provided by the Parish Council in relation to a large number of dogs and people present at the appeal site on 27

February 2022. However, to prevent this from occurring, a condition could be implemented to restrict the number of dogs on the appeal site at any one time during operational hours. This would minimise the impact upon the occupiers of nearby dwellings from the increased noise levels which result from large groups using the appeal site.

24. Although it is unlikely that the behaviour of dogs and the noise they make could be fully controlled when using the site, a noise management plan has been submitted by the appellant highlighting the actions that could be taken to manage noise on the appeal site. This includes ensuring that dogs are supervised at all times and ensuring external visitors are greeted on arrival. Whilst these measures would not prevent the noise generated from barking dogs, they would ensure that the appellant is mindful of the noise which the site is generating and help them to reduce it where possible. Therefore, a condition has been included to ensure compliance with this noise management plan.
25. In conclusion, I find that the change of use does not harm the living conditions of the occupiers of nearby dwellings and does not conflict with Policy G1(3) of the Guildford Borough Local Plan 2003. This policy states that the amenities enjoyed by occupants of buildings are protected from unneighbourly development in terms of noise.

Other Matters

26. The development has resulted in the loss of farming land which would have provided economic benefits to the local area. However, due to the scale of the appeal site, it is not considered that this benefit would have been significant and it is noted that the adjoining land is still in use for agricultural purposes. Therefore, this would not be sufficient to make the overall development unacceptable.
27. Third party representations have referred to the impact upon highway safety from cars turning into the appeal site. However, the access into the appeal site from Ripley Lane is existing and is not used significantly more than the previous agricultural use. A plan showing visibility splays has been submitted by the appellant to which the County Highways Authority have no objections and a condition can be included to ensure that these visibility areas are retained. Therefore, the development would not result in harm to highway safety.
28. Reference is made by the Council to external lighting on the appeal site and the possible impact upon a dark skies policy, although this policy has not been provided and this matter has not been included as a reason for refusal. Nevertheless, no external lighting is present on the appeal site or proposed as part of this development and therefore it is not a determinative factor in this appeal.
29. Third party representations have also made reference to enforcement notices, future uses of the appeal site and animal welfare. However, these factors are not planning matters that would affect my overall consideration of the appeal.

Conditions

30. I have attached a condition requiring the development to be maintained in accordance with the approved plans, as this provides certainty and precision.

Conditions, as suggested by the Council, have also been included restricting the operational hours of the approved use and the number of dogs which it can accommodate at any given time. These conditions ensure the living conditions of the occupiers of nearby dwellings are not detrimentally affected by the change of use.

31. A condition relating to a noise management plan has also been included, ensuring compliance with the noise management plan submitted as part of this appeal. This will ensure that any noise from the use as a dog walking, day care and training facility will be managed at all times, to protect the living conditions of the occupiers of nearby dwellings.
32. The County Highways Authority have recommended a condition relating to the provision and retention of the visibility splays shown on the submitted plan. This has been included to ensure safe passage for vehicles exiting the site onto Ripley Lane, which is a well-used road with relatively fast moving traffic. A condition suggested relating to the retention of car parking spaces on the appeal site has not been included, as there is ample space for off-road vehicle parking and turning. Therefore, this condition is not necessary to ensure highway safety.
33. A condition suggested by the Council relating to the removal of a storage container on the appeal site has not been included as it does not relate to the proposal before me and would be a separate enforcement matter. The Parish Council has also requested a condition relating to the removal of equipment outside of hours of operations. This has not been included as the control of such temporary equipment does not fall under planning jurisdiction. Another condition relating to the supervision of the appeal site by staff during the hours of operation, requested by the Parish Council has also been omitted. This is not considered necessary as the noise management plan already stipulates that dogs will be supervised at all times and that someone will be available to greet any expected visitors.

Conclusion

34. It has been found that the change of use is not inappropriate development in the Green Belt, falling under the exception in paragraph 150 (e) of the Framework. It also preserves the visual and spatial openness of the Green Belt. Furthermore, the change of use does not harm the character and appearance of the surrounding area or the living conditions of the occupiers of nearby properties in relation to noise.
35. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

E Grierson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be maintained in accordance with the following approved plans: P50 Rev C and 20066.01.

- 2) The use hereby permitted shall not operate other than between the hours of 08:00 to 19:00 Mondays to Sundays (inclusive) with the gates of the premises being closed and locked between the hours of 19:30 and 07:30.
- 3) There shall be no more than 24 dogs on the site at any one time during operating hours.
- 4) The development shall be maintained at all times in accordance with the Noise Management Plan submitted with an attached to the Noise Impact Assessment dated 10 December 2021 by Anderson Acoustics.
- 5) The vehicular access to Ripley Lane, hereby approved shall be provided with visibility zones in accordance with the approved plan 20066-01, and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1 metre high.

End of Schedule