



Appeal Decisions

Site visit made on 4 October 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal A Ref: APP/X2410/C/22/3299238

Land at Croxton Road Stables, South Croxton Road, Queniborough, Leicestershire LE7 3RU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Nancy Matlock against an enforcement notice issued by Charnwood Borough Council.
 - The notice, numbered E/20/0520, was issued on 11 April 2022.
 - The breach of planning control as alleged in the notice is Material change of use of the Land and buildings thereon from agriculture and equestrian to a mixed use of agriculture, equestrian and dog grooming business.
 - The requirements of the notice are to:
 1. Cease the use of the Land for dog grooming business activities.
 2. Remove from the Land all paraphernalia used in association with the dog grooming business.
 - The period for compliance with the requirements is: two months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/X2410/W/22/3299241

Croxton Road Stables, South Croxton Road, Queniborough, Leicestershire LE7 3RU

- 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 Richard Matlock against the decision of Charnwood Borough Council.
 - The application Ref P/21/1134/2, dated 7 May 2021, was refused by notice dated 15 February 2022.
 - The development proposed was originally described as existing stable enlarged + refurbished to form mixed use facility with primary use of dog day care and secondary use as dog groomers including change of use of land to provide dog walking/training facility.
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Decision

Appeal A

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the Material change of use of the Land and buildings thereon from agriculture and equestrian to a mixed use of agriculture, equestrian and dog grooming business at Land at Croxton Road Stables, South

Croxtan Road, Queniborough, Leicestershire LE7 3RU as shown on the plan attached to the notice and subject to the following condition:

- 1) The dog grooming use hereby permitted shall only take place between the following hours:

0800-1700 Mondays to Fridays

0900-1500 Saturdays

The dog grooming use shall not take place on Sundays or on Bank or Public Holidays.

Appeal B

2. The appeal is allowed and planning permission is granted for extensions and alterations to stable block for use as canine day care facilities and dog grooming and change of use of land to provide dog walking/training field at Croxtan Road Stables, South Croxtan Road, Queniborough, LE7 3RU in accordance with the terms of the application, Ref P/21/1134/2, dated 7 May 2021, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Location Plan, Block plan, Floor Plan and Elevations drawing (as amended to extend red line area).
- 3) The development hereby approved shall be carried out in accordance with the materials detailed on the application form dated 7 May 2021.
- 4) The uses hereby permitted shall only take place between the following hours:

0800-1700 Mondays to Fridays

0900-1500 Saturdays

The uses shall not take place on Sundays or on Bank or Public Holidays.

- 5) The number of dogs on the site in connection with the dog day care use hereby permitted shall be limited to a maximum of 8 dogs at any one time.

Preliminary Matters

3. The Council has drawn attention to the fact that the description of development for Appeal B was initially taken from the planning application form. The appeal form confirms that this was then amended to the form it appears on the decision notice. I have therefore used that amended description in my formal decision.
4. The description does not however include reference to the agricultural or equestrian uses that currently take place on the site. Having considered all the information before me, including correspondence between the Council and the appellant and the submitted Design and Access Statement, I conclude that the proposal is properly described as shown on the Council's decision notice, which is the basis on which the Council consulted on and determined the application on. My assessment of Appeal B is made on the same basis.

5. The breach of planning control alleged in the enforcement notice relating to Appeal A does refer to a mixed use including agriculture and equestrian uses. However, within this there is reference only to a dog grooming business and not to the other dog related elements that are set out in the planning application description. Appeal B further contains proposed operational development in the form of an extension to the existing building. Therefore, whilst there are some clear similarities between the developments comprising the two appeals, there are a number of differences. I shall consider the appeals separately.
6. Whilst the Council has drawn attention to the emerging Charnwood Local Plan 2021-37, the plan is currently undergoing examination. Consequently, I attach limited weight to it and it does not alter my decision on either appeal.

Appeal A

Main Issue

7. The main issue is whether the development is in an appropriate location having regard to local and national planning policies which promote sustainable development and seek to protect the rural character and appearance of the countryside.

Reasons

8. Policy CS1 of the Core Strategy 2015 (CS) outlines a settlement hierarchy but does not refer to development in countryside areas. Whilst the accompanying text to Policy CS1 sets out that the strategy is one of urban concentration and regeneration which reduces the need for people to travel and provides a genuine choice to walk, cycle or use public transport, this does not preclude development outside of such areas. Indeed, Policy CS10 of the CS seeks to support the sustainable growth and expansion of businesses in rural areas, both through the conversion of existing buildings and well-designed new buildings, which reflects the wording set out in paragraph 84a) of the National Planning Policy Framework (the Framework).
9. Saved Policy CT/1 of the Borough of Charnwood Local Plan 2004 (BCLP) seeks to facilitate the diversification of the rural economy, but also requires a demonstration that the development could not reasonably be located within or adjacent to an existing settlement. In that regard, it is stated that an extensive review of the rental market has been carried out to identify alternative sites in the Queniborough, Syston and East Goscote areas, but no substantive details of this review or why the other premises were not operationally suitable or viable have been provided. The information before me does not therefore demonstrate an accordance with Saved Policy CT/1 of the BCLP in terms of there being potential other locations from which dog grooming could take place.
10. Policy Q18 of the Queniborough Neighbourhood Plan 2021 (NP) supports the re-use, adaptation or extension of rural buildings for business use providing a number of criteria are met. In that respect, there would be no enlargement of the building, impact on historic buildings or alteration to the appearance of the building. Whilst a survey for protected species has not been provided, it is not suggested that there would be any harm in that respect from the dog grooming use. Due to the limited scale of the development, there would not be a

generation of traffic of a type or amount harmful to rural roads and the Council does not raise concern with respect to any highway matters. As an existing building would be used and again due to the size of the operation, there would not be material harm caused to the character of the surrounding rural area. Therefore, the development accords with what is the most recent policy of the development plan of those to which my attention has been drawn.

11. Policy CS11 of the CS supports rural economic development which has a strong relationship to agriculture, horticulture, forestry and other land based industries. Whilst the appellant has provided a prospectus for a Level 1 Diploma in Land-based Studies (Animal Care), which states that the course can lead to employment in dog grooming, this cannot be taken as a definitive interpretation of the meaning of the phrase 'land based industries' in terms of Policy CS11 of the CS. In particular, dog grooming does not have an apparent requirement for any land area in order to take place, other than a suitably sized building. Policy CS11 of the CS does not therefore provide support to the appeal development. Policy Q6 of the NP refers directly back to Policy CS11
12. Paragraph 30 of the Framework sets out that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently. I have no indication of any relevant more recently adopted policies in this case.
13. Accordingly, Policy Q18 of the NP takes precedence over Saved Policy CT/1 of the BCLP. Whilst I acknowledge that the Council has concerns that there would be a reliance on the use of private motor vehicles to reach the appeal site, Policy Q18 does not contain a criterion that requires rural development to be accessible by different modes of transport. Furthermore, in practice the possibilities for transporting dogs for grooming would be likely to be skewed towards the use of private motor vehicles, and the appeal site is reasonably close to urban areas which means that long journeys would not be required.
14. In conclusion, Policy Q18 of the NP is supportive of the development, and it takes precedence over Saved Policy CT/1 of the BCLP. Whilst Policy S1 of the CS aims to direct new development towards settlements, this does not mean that all development outside of such areas is not acceptable and there is support for the conversion of existing buildings in Policy CS10 of the CS. The development therefore accords with the development plan taken as a whole, and does not cause harm to the aims of promoting sustainable development or to the rural character and appearance of the countryside.

Conditions

15. The conditions suggested by the Council relate more specifically to Appeal B. Nonetheless, despite the rural location the appeal site is adjacent to an existing dwelling and therefore it is necessary and reasonable to restrict the hours of use to those which are applied for, to ensure that the use does not take place at times that may cause harm to the living conditions of the occupiers of that property.

Conclusion

16. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the material change of use of the land and buildings thereon from agriculture and equestrian to a mixed use of agriculture, equestrian and dog grooming business as described in the notice.

Appeal B

Main Issue

17. The main issue is whether the proposed development would be in an appropriate location having regard to local and national planning policies which promote sustainable development and seek to protect the rural character and appearance of the countryside.

Reasons

18. The same local and national policy framework is applicable to the proposed development under Appeal B. However, as the operation includes dog day care and the change of use of land to provide a dog walking/training facility in addition to dog grooming, the operation proposed in Appeal B must be assessed on its own merits against the relevant policies.
19. There remains a failure to demonstrate that there are no alternative sites within or adjacent to an existing settlement, for the purposes of Saved Policy CT/1 of the BCLP. That said, dog walking and training requires a large external land area that is unlikely to be found within the confines of a settlement. Nonetheless, there could be potential for an edge of settlement location to be found and the information provided by the appellant on this is limited and does not demonstrate compliance with Saved Policy CT/1.
20. Policy Q18 of the NP is supportive of the elements relating to dog day care and dog grooming that would take place within the building. Whilst the building is proposed to be extended, its enlargement would be proportionate to the size, scale, mass and footprint of the original building. It would still only be a building of modest size once extended and would be sited at a lower level than South Croxton Road and well screened by existing vegetation. It would as a result not cause harm to the character and appearance of the area or the wider countryside. Again, there is nothing before me to suggest that its proposed use or extension would cause harm to protected species.
21. The change of use of the external land area to accommodate dog training does not find support in Policy Q18 of the NP or Policy CS10 of the CS, which both refer only to buildings. However, dog training and walking does require land on which to take place, and in that respect can be considered to be a land-based industry for the purposes of Policy CS11 of the CS.
22. I acknowledge that the Council has concerns that the location means that there would be a reliance on the use of motor vehicles, albeit there would not be a highway safety concern related to this. However, I have found that Policy Q18 of the NP is supportive of the change of use and appropriate extension of rural buildings to facilitate business use without requiring that they be located in or on the edge of settlements. By virtue of paragraph 30 of the Framework, Policy Q18 takes precedence over Saved Policy CT/1 of the BCLP.

23. Whilst the dog training and walking element could potentially be disaggregated from the use of the building, I have found that it is not likely that it could take place within a settlement. The appeal site is not far from Queniborough and other settlements, which would help reduce the distances needed to be travelled. There is also the potential for linked trips associated with the other dog related uses on the site. Furthermore, the Framework states at paragraph 85 that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
24. In that respect, there is evidence in the submissions of the appellant that the development meets local business and community needs, with a number of letters of support attesting to this. It is further suggested by the appellant that facilities of this kind are sparse in the local area, and that is not a point that is disputed by the Council. The proposal would also provide employment for one person and a secure environment in which dogs could be walked and cared for during the day.
25. Reason for refusal two raises concern that the approval of the planning application subject to Appeal B might lead to pressure for other buildings to accommodate equestrian and agricultural uses. However, as has been pointed out by the Council itself, the proposal under Appeal B as submitted does not seek to retain either equestrian or agricultural use. Whilst the recommencement of agriculture would not amount to development, any buildings necessary for it would fall to be considered at the relevant time, if planning permission were to be required.
26. In conclusion, the proposed development under Appeal B would not cause harm to the character and appearance of the area or the countryside in general. Consequently, there would not be a conflict with Policies CS2, CS10 and CS11 of the CS, Saved Policies CT/1 and EV/1 of the BCLP, and Policies Q6, Q14 and Q18 of the NP, insofar as they seek to protect character and appearance. There would also not be a conflict with the aims of the Design Supplementary Planning Document, and the policies of the Framework where they seek to achieve well-designed places.
27. Policy Q18 of the NP is supportive of the change of use of the building and its extension, and it takes precedence over Saved Policy CT/1 of the BCLP. Whilst Policy S1 of the CS aims to direct new development towards settlements, this does not mean that all development outside of such areas is not acceptable. The dog training and walking element finds support in Policy CS11 of the CS as a land-based industry. There would also be benefits to the rural economy resulting from the proposal. Therefore, I conclude that the proposed development accords with the development plan taken as a whole, and there would not be harm to the aims of promoting sustainable development or to the rural character and appearance of the countryside.

Conditions

28. Conditions relating to the time period to commence development, the approved plan and details of the external finish of the building as extended are necessary to provide certainty. It is also reasonable and necessary to restrict the hours of use and number of dogs on site in connection with the dog day care use to what has been applied for, given the proximity of the adjacent dwelling.

Conclusion

29. For the reasons given above, I conclude that the appeal should be allowed.

Graham Wright

INSPECTOR