



Appeal Decision

Site visit made on 28 March 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal Ref: APP/Y3425/W/22/3313040

Land to north of Bower Lane, Rugeley, Staffordshire WS15 2RD

- 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 Peter Pratt against the decision of Stafford Borough Council.
 - The application Ref 21/33668/COU, dated 8 January 2021, was refused by notice dated 9 November 2022.
 - The development proposed is change of use of land for a dog exercise area, with associated access track and parking area.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land for a dog exercise area, with associated access track and parking area at land to north of Bower Lane, Rugeley, Staffordshire WS15 2RD in accordance with the terms of the application, Ref 21/33668/COU, dated 8 January 2021, subject to the conditions identified in the attached Schedule.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - The effect of the development on the character and appearance of the area, including the Cannock Chase Area of Outstanding Natural Beauty (AONB) and trees.

Reasons

Inappropriate development

3. The appeal site is located within the Green Belt. Paragraph 147 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework provides guidance as to the types of development which constitute inappropriate development and any exceptions.
4. As the appeal does not relate to the construction of new buildings the exceptions listed in paragraph 149 of the Framework are not relevant. However, paragraph 150 states 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. These include b) engineering operations and e) material changes in the use of land (such as

changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

5. I acknowledge that use as a dog exercise area is not specifically highlighted within paragraph 150 e) of the Framework, however it is reasonable to consider that it relates to outdoor recreation. Even if I were to conclude that it was not an outdoor recreational activity, for example due to the commercial nature of the use, the words 'such as' indicates the cited list at paragraph 150 e) is not inclusive. Therefore, other changes of use may be treated as not being inappropriate if they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
6. The Framework, at paragraph 137, sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both spatial and visual aspects as identified in the cases referred to by the Council¹.
7. The proposed dog exercise paddock would remain open, enclosed by a perimeter fence of a design that allows views through it and which would be sited next to an existing and proposed hedge. Although no details have been provided it is reasonable to anticipate that bins and exercise equipment associated with the use would be small scale and, in respect of the equipment, would not always be on the site. Although the site is not adjoining an existing farm compound it is located in close proximity to Bower Farm house and associated buildings and to dwellings on Bower Lane and would not, therefore, appear isolated.
8. The proposed access track would follow the route of an existing one, along the field boundary adjoining the highway, to a small parking area. Due to their position close to the road and enclosed by a hedge the track and parking area would not be conspicuous from Bower Lane or from the footpath that crosses the track. Furthermore, vehicles would only be on site during operating hours and, therefore, they would not be a permanent feature.
9. The proposed use and the limited extent of the parking area would generate minimal vehicle movements. Such movements would not be dissimilar to that which arise from the existing use of the field and the use of the nearby public footpath.
10. Overall, the proposal would result in a limited change in the appearance of the site which would retain its open and rural character. For these reasons I am satisfied that the scheme would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
11. With the above in mind, the appeal scheme would fall within the exceptions set out in paragraph 150 of the Framework and would not, therefore, be inappropriate development in the Green Belt. As such it would not conflict with Policies SP1, SP7 and SB1 of The Plan for Stafford Borough (The Plan).

¹ *R (oao Amanda Boot) v Elmbridge Borough Council [2017] WEHC 12 (Admin)* and *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire CC (Appellant) (2020) UKSC*

Character and appearance

12. The appeal site lies on the edge of a built-up area. It forms part of a gently undulating open field and is partially enclosed by a hedge.
13. The access track in part lies within the defined boundary of the AONB with the proposed dog exercise and parking areas sited close to its boundary. The AONB Landscape Character Framework (LCF) identifies that the site is located within the Sandstones Hills and Heaths landscape typology. The LCF indicates that this character area, overall, is a well wooded landscape and today is a landscape of large estate farms, set within a planned enclosure pattern of medium sized and larger hedged fields.
14. The LCF sets out a vision statement to conserve and enhance the visual integrity of this well wooded estate landscape. The identified landscape guidelines include conserving, strengthening and managing roadside hedgerows and verges as valuable buffers alongside busy roads and to maximise landscape and wildlife benefits.
15. As outlined above, the limited physical changes to the appeal site would ensure that it retains its open and rural character, which would not be significantly impeded by the presence of additional fencing and hedges. The related paraphernalia and vehicle parking on the appeal site would be temporary in nature and minimal in scale. Furthermore, the widening of the access point and formalisation of the existing track, including the proposed surfacing, widening and the formation of passing places, would have a limited visual impact as it would mostly be enclosed by a hedge on both sides. It would not, therefore, introduce urbanising elements that would be detrimental to the natural beauty of the area.
16. The site is visible from short distance views from the road and from the public footpath that crosses the proposed access track, and which follows a route upwards from the road. However, as indicated above, the use would not be conspicuous in such views. The use would not be prominent in medium to longer distance views from that footpath, as I observed on my visit, due to the undulating nature of the topography. Furthermore, it would not be visible from the panoramic viewpoint at the top of Etching Hill due to its wooded slopes blocking such views.
17. Concern has been expressed about the provision of the proposed visibility splays and the potential impact this would have on trees that have a significant amenity value along Bower Lane. I note that the position of the trees is not identified on the visibility splay plans. However, from my observations on site of the distance of the trees from the access point and their position relative to the road, it is apparent that the trees would not lie within the splays. I have no reason, therefore, to consider that any trees would need to be removed to achieve the required visibility splays.
18. I note the recommendations of the Cannock Chase AONB Partnership that a no-dig solution and ground protection is required for the proposed surfacing of the track within the root protection area of the trees. No detailed information has been provided in this regard. Nonetheless, there is nothing before me that suggests any long-term adverse impact on the health of existing mature trees would arise if appropriate construction and protection methods were utilised. Such methods could be secured by condition.

19. Overall, the use would not significantly alter the character and appearance of the appeal site when compared to its existing agricultural use, would not adversely affect any wooded areas and would retain roadside hedgerows. Furthermore, the landscape of the wider area including the scenic beauty of the AONB would be unharmed.
20. I conclude, therefore, that the proposal would not harm the character and appearance of the area including the AONB. It would therefore accord with Policies N1, N4, N7 and N8 of The Plan which seek to promote design and landscape quality, protect and enhance the natural environment, and ensure the conservation and enhancement of the landscape and scenic beauty of the AONB. It also accords with paragraphs 174, 176, 179 and 180 of the Framework for the same reasons.

Other Matters

21. There is no technical or other substantive evidence to demonstrate that noise arising from the use, in an area where it is reasonable to consider that dog walking is a regular activity and by a busy road, would be unacceptable. Accordingly, the impact of the proposed use on living conditions of nearby residents does not provide reason to withhold planning permission.
22. I note the concern that has been expressed regarding the implications of the proposal on highway safety. However, no objections have been received from the Local Highways Authority. In the absence of any firm evidence to the contrary I have no reason to conclude that the proposal would cause harm to highway safety.
23. A representation has been received suggesting that an alternative site exists that would better suit the appeal proposal. However, the role of the Inspector does not require that consideration is given to whether the proposed development would be more appropriately located at an alternative site. It is to consider the planning merits of the appeal proposal which, for the reasons set out above, I find to be acceptable. As such the existence, or otherwise, of a suitable alternative site does not weigh against the proposal.

Conditions

24. The Council has suggested a number of conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I have made some amendments to the wording for clarity and consistency.
25. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
26. To ensure the satisfactory appearance of the development and to protect the valued landscape character of the AONB, I have included conditions requiring the provision of the perimeter fence, dog waste receptacles, external lighting, and hedgerow planting.
27. As indicated above, to minimise the impact of the development upon roadside trees I have imposed a condition which requires the approval and implementation of a no-dig method of construction of the access track where it falls within the root protection area of such trees. I consider that this should be

a pre-commencement condition to provide protection before construction commences and over the full course of construction.

28. The removal of permitted development rights should only be used in exceptional circumstances. In this instance the justification to prevent further subdivision of the field, and therefore protect the scenic beauty of the AONB, comprises an exceptional circumstance which supports the removal of permitted development rights regarding fences, gates or walls.
29. In the interests of protecting living conditions of nearby residents it is necessary to include a condition which imposes restrictions on the operation of the use.
30. I have also included conditions relating to the provision of the access, passing bays, parking area and access visibility splays to ensure that the development does not adversely impact on highway safety.
31. The Council has set out, within the list of recommended conditions, an informative from the Staffordshire County Council's Rights of Way Officer. Such an informative would have no legal effect, and I have not therefore included it in the decision. However, the appellant has had sight of the conditions recommended by the Council and should, therefore, be aware of the contents of the informative.

Conclusion

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

Elaine Moulton

INSPECTOR

Schedule of 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 not be carried out except in complete accordance with the details shown on the following plans: 100_01 Rev D; 100_02 Rev F; and 200_03.
- 3) No development shall take place until full details of 'no-dig' construction methods within the root protection area of any trees adjoining the access track and passing places have been submitted to and agreed in writing by the local planning authority. The access track and passing places shall be constructed in accordance with the approved 'no-dig' methods.
- 4) Before the development hereby permitted is brought into use, the perimeter fencing shall be provided in accordance with the approved plans and shall thereafter be retained for the life of the development.
- 5) Before the development hereby permitted is brought into use, receptacles for the disposal of dog waste shall be provided within the exercise paddock and the car parking area in accordance with details that shall have been submitted to and agreed by the local planning authority in writing beforehand and which shall thereafter be provided and retained for the life of the development.
- 6) No external lighting shall be installed at the site without the prior written approval of the local planning authority.
- 7) 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 fences, gates or walls shall be erected within the site.
- 8) The site shall only be used for the approved purpose of supervised dog exercising on Monday to Friday between 8am and 8pm during the months of March to August and 8am to 4pm during the months of September to February; and all year between the hours of 8am to 5pm on Saturdays and 10am to 4pm on Sundays. At all times, use of the facility shall be by appointment only and limited to a maximum of 3 canines accompanied by no more than 6 people in 3 private vehicles.
- 9) The development hereby permitted shall not be brought into use unless and until the landscaping planting along the boundary fence, which should consist of native hedgerow species, has been carried out in accordance with approved drawing 2200_02 Rev F. If within a period of 5 years from the commencement of use any of the trees, plants or shrubs that are to be retained or planted in accordance with the approved scheme die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species at the same location.
- 10) The development hereby permitted shall not be brought into use until the visibility splays shown on plan 200_03 have been provided. The visibility splays

shall thereafter be kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.

- 11) The development hereby permitted shall not be brought into use until the access, which shall be surfaced in a bound and porous material for a minimum distance of 5m back from the site boundary and shall be ungated; passing bays; and parking area have been provided in accordance with the approved plans and which shall thereafter be retained for the life of the development.