



Appeal Decision

Site visit made on 30 August 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/B2355/W/23/3317110

Cobb Clough Farm, OakencloUGH Road, Bacup OL13 9UZ

- 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 Lorraine Thomas, Pups and Pooches, against the decision of Rossendale Borough Council.
 - The application Ref 2022/0457, dated 2 September 2022, was refused by notice dated 7 December 2022.
 - The development proposed is change of use of part of agricultural building for dog training.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of part of agricultural building for dog training at Cobclough Farm, OakencloUGH Road, Bacup OL13 9UZ in accordance with the terms of the application, Ref 2022/0457, dated 2 September 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref: LT.020922.B; Existing and Proposed Block Plan Ref: LT.031122.A.
 - 2) The number of dog training sessions each day shall not exceed 2 and there shall be a minimum gap of 30 minutes between each session.
 - 3) The number of dogs per session shall not exceed 8.

Preliminary Matters

2. The address on the Council's decision notice more accurately reflects the location of the appeal site than that on the application form. I have therefore used it in the banner heading above.
3. The change of use has already occurred, although the site was not in use for dog training at the time of my site visit. The appellant's statement says that the use has operated from the site over 12 months. I am therefore considering this appeal retrospectively.
4. I observed at my site visit that an area of land adjacent to the appellant's caravan had been laid out for dog agility purposes. For clarity, this parcel of land is not within the red edge of the appeal site and therefore lies outside the scope of this appeal. I have therefore not had regard to it in my decision.

Main Issue

5. The main issue is the effect of the development on highway and pedestrian safety.

Reasons

6. The appeal site relates to part of an agricultural building which sits within a larger group of agricultural buildings in a relatively isolated and elevated moorland position. The building contains an indoor area for dog training, a small office/shop and toilets. An area of hardstanding on the opposite side the building and access track is used for vehicle parking. Several public rights of way interlink with the site and wider open countryside.
7. The site is accessed from Oakenclough Road which, at the point where it meets Warcock Lane, is a long single track unadopted road with no street lighting or footways (the track). It is also a public right of way (FP428). From my observations on site, the surface of this part of Oakenclough Road is, for the most part, narrow and uneven, comprising of broken stone slabs, gravel, cement and rubble with few opportunities for vehicles to pass. It is also steep and winding in places.
8. I note that, beyond the cluster of dwellings at the junction of Oakenclough Road and Warcock Lane, the track leads to one occupied dwelling, Lower Reaps Farm, beyond which are open fields. The evidence indicates that a caravan adjacent to the appeal site and occupied by the appellant has planning permission for a replacement dwelling¹. I also note that planning permission has been granted for a dwelling at the lower section of the track which was under construction at the time of my site visit². The unmade track therefore has potential to be used by 3 dwellings. It is unclear whether agricultural vehicles use the track, although I saw agricultural buildings at Cobclough Farm.
9. A commercial dog training business operates from the appeal site. The application form states that there is 1 full time and 1 part employee, although it is not clear whether they are on site at the same time. Other information submitted by the appellant indicates that the dog training classes operate for up to 6 people and their dogs, twice a day, for 1 hour.
10. The Councils principal concern, as set out in the reason for refusal, is highway and pedestrian safety. Neither party has submitted any technical evidence with regard to highways. However, the appellant carried out a survey of attendees to the classes over a four and half week period in January and February 2023 which shows that training classes operated for 13 days during this period. From the information obtained on the survey, each class was 1 hour, one day there were more than 6 people in a class, although on most days there were 3. There was only 1 class per day during the survey period.
11. It is clear from the survey that fewer people who attended the classes drove all the way to the appeal site than those that either walked or left their vehicles on the adopted section of Oakenclough Road, at the bottom of the track. This significantly reduced the number of vehicles that directly accessed the appeal site along the track over the period of the survey. No information has been presented to me to indicate that the way in which attendees access the site has

¹ LPA Ref: 2020/0141

² LPA Ref: 2020/0406

changed significantly since the survey was undertaken or that the frequency of classes or number of attendees has significantly changed.

12. Nevertheless, even if classes were limited to no more than 6 people or dogs, each class could generate up to 6 vehicle trips each way, leading to 12 trips. Two classes a day would lead to 24 trips. This could lead to vehicles arriving and leaving meeting each other along the track, particularly if classes ran concurrently. Consequently, vehicles would have to reverse a substantial distance due to the lack of passing places. Because of the lengthy, steep and narrow width of the track, this would be a hazardous manoeuvre for both drivers and pedestrians. During hours of darkness or inclement weather, visibility would be less and the risk to highway safety would be greater.
13. It has been drawn to my attention by the appellant that passing places could be provided along the track. However, it is unclear to me who owns the track or land on either side. In any event, that is not the proposal before me.
14. Notwithstanding the above, on the basis of the evidence presented and observations at my site visit, even though the track is a significant length, it is unlikely that all attendees would drive along it to access the dog training facility due to the poor condition of its surface. While the surface could change in the future to be more suitable for all types of vehicles, it would remain steep and narrow, which would be likely to deter some attendees, even during hours of darkness.
15. The appellant indicates that the business has been operating from the appeal site for over 12 months with no recorded highway safety issues as indicated on the Highway Authority's accident recording system. The dog training activity would be limited to a small number of hours per week with small numbers of participants at each class. Even if there were two classes a day, provided they did not run concurrently and were limited in attendees, the traffic generated by the development would not be significant. This could be controlled through the use of planning conditions.
16. Furthermore, due to the unmade surface and the narrow width of the track, vehicle speeds would be low. I saw at my site visit that, with the exception of the very end of the track close to the cluster of dwellings at the junction of Oakenclough Road and Warcock Lane, pedestrians would be able to step onto the grass at the side of the track to let vehicles pass. In the above context, while the development results in more vehicle movements, given the relatively small number of participants at each training session and therefore small number of traffic movements, I am satisfied that there would be no conflict with users of the public right of way.
17. Attendees of the dog training facility could, as evidenced by the appellant's survey, park on the adopted section of Oakenclough Road. This is a residential road with a 20mph speed limit that includes streetlights and footways on either side with no on-street parking restrictions. At the time of my site visit there was little on-street parking on the track or elsewhere on Oakenclough Road in the vicinity of the junction with Warcock Lane. Nonetheless, I recognise that this may have been a snapshot in time, and I am mindful of the representation from the Highway Authority which suggests that vehicles associated with the development are likely to be parked partly on the footway and cause an obstruction to access drives.

18. Nevertheless, I saw nothing to suggest that the current situation was problematic or that Oakenclough Road does not have the capacity to reasonably accommodate the limited short term demand for parking from the development. Neither have the Council provided any substantive evidence of to support their assertion that on-street parking is detrimental to pedestrian or highway safety.
19. On the basis of the evidence before me, I conclude that the development does not have a harmful effect on highway or pedestrian safety. Accordingly, it would not conflict with the relevant requirements of Policy LT6 of the Rossendale Local Plan 2021 which requires, amongst other things, that the volume and type of traffic that would be generated by a development for farm diversification is appropriate to the accessibility of the site and the standard of the local highway network. There would also be no conflict with the National Planning Policy Framework (the Framework) which, seeks that a safe and suitable access to the site can be achieved for all users.

Conditions

20. I was supplied with no suggested conditions in respect of the development by the Council. The appellant provided 2 suggested conditions, one of which was for a temporary permission. The Planning Practice Guidance (PPG) advises that this may be appropriate where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. The use has been operating at the site for a considerable period of time and as I have found the development to be acceptable on the main issue, there is no requirement for a temporary permission.
21. Given the nature of the access track, in order to ensure the use of it by vehicles is not significantly increased, I have considered it necessary and reasonable to attach conditions to restrict the number of classes and number of dogs at each class.
22. I sought comments from both main parties on suggested conditions. I have also had regard to Paragraph 56 of the Framework and the PPG in terms of the use of planning conditions.
23. As the change of use has already occurred a time limit condition is not necessary. I have imposed a condition specifying the relevant drawings as this provides certainty. In the interests of highway and pedestrian safety I have limited the number of classes and dogs per class. To allow some flexibility should one or two attendees have two dogs, I have limited the number of dogs to 8.

Conclusion

24. The proposal accords with the development plan, and there are no other material considerations that indicate that a contrary decision should be taken. Therefore, for the reasons given, the appeal should be allowed.

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INSPECTOR