



Appeal Decision

Site visit made on 12 September 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Appeal Ref: APP/U1430/W/22/3312345

Land lying to East of Church Hill, Church Lane, Etchingham, East Sussex TN19 7AS

- 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 Miss Katie Cruttenden against the decision of Rother District Council.
 - The application Ref RR/2021/2615/P, dated 22 October 2021, was refused by notice dated 7 July 2022.
 - The development proposed is described as “change of use from agricultural to dog exercise/dog walking field would like to have a free standing tyre wall for dogs to use for agility and also have some free standing jumps and weave poles. 2 benches for seating and a 3 sided self supporting shelter no bigger than 3 ft width 8ft long and solar panel lights attached to the fence that are no brighter than 2 watts and are motion detected/or on very dull till motion detected”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council states the application description changed after the planning application was submitted to remove reference to agility equipment and structures. However, neither of the main parties has provided written confirmation that a revised description of development has been agreed. I have therefore taken the description above from the planning application form.
3. In her appeal statement the appellant indicates she would be willing not to include a shelter and to change the access to the site. These changes would have a material effect on the design of the proposed development. The ‘Procedural Guide: Planning appeals – England’ states the appeal process should not be used to evolve a scheme. Consequently, I have based my decision on the proposal as set out in the application that was before the Council and upon which notification took place.
4. Some comments from interested parties refer to lighting and equipment already on the site. When I visited, I saw no elements of the proposal present. I have therefore considered the appeal on the basis that the development has not commenced, as did the Council.
5. I note the comments about the existing fence. The erection of a fence is not included in the development proposal before me. It is open to the appellant to apply to have the lawfulness of the fence determined under Section 191 of the Act. Any such application would be unaffected by my determination of this appeal.

Main Issues

6. The main issues are:

- i. The effect of the proposal on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (HW AONB).
- ii. The effect of the proposal on highway safety, with particular regard to visibility and access.
- iii. Whether the proposal would be in a suitable location with respect to adjacent settlements.

Reasons

Landscape and scenic beauty of the AONB

7. Paragraph 176 of the National Planning Policy Framework (the Framework) says great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. This principle is reflected in Policy EN1 of the Rother Local Plan Core Strategy 2014 (RLPCS) and Policy DEN2 of the Rother Development and Site Allocations Local Plan 2019 (DASA), with specific reference to the HW AONB.
8. The HW AONB comprises a mosaic of small fields interspersed with farmsteads and villages, surrounded by hedges and woods and arranged around a network of historic routeways. Its outstanding beauty derives from its essentially rural and human scale character, high proportion of natural surfaces, tranquillity and dark skies, and the relationship between the landscape and its past.
9. The appeal site comprises a small field situated between the River Rother and Church Hill. Beyond are an extensive area of fields and woods separating the site from nearby settlements. The site contributes to the landscape and scenic beauty of the HW AONB through its rural character and natural surface; its relationship with the surrounding fields, river and woods; and its relative tranquillity and dark skies. Although partly concealed by trees and hedgerows, the site is visible from the road and in the surrounding countryside.
10. The site would be used for dog exercise, managed through an on-line booking system and coded entry through a gate. The appellant states only one customer would use the site at a time. At this modest level of activity, managed dog exercising would not in itself have a significantly harmful effect on the character and beauty of the site and surrounding landscape. This is because it would be little different in appearance or intensity from some types of agricultural or land management activity seen elsewhere in the area. The development would also have little effect on boundary water courses and hedges. I note the appellant has taken measures to maintain the site.
11. However, there is little information before me about the type or appearance of surface to be used for the hardstanding, or the proposed siting and appearance of the shelter. In addition, I cannot be sure on the limited evidence before me what effect the proposed lighting would have on dark skies in the area. Consequently, in the absence of further information about all elements of the proposed development, I cannot be certain of its effect on the landscape and scenic beauty of the HW AONB. On balance, on the evidence before me, I consider it would have a harmful effect.

12. For the above reasons, I conclude the proposal would harm the landscape and scenic beauty of the HW AONB. This is contrary to Policies EN1 of the RLPCS and DEN2 of the DASA and to paragraph 176 of the Framework. It is also contrary to Policies OSS3 (vi), OSS4 (iii) and RA3 (v) of the RLPCS and Policy DEN1 of the DASA, which require development to respect and not detract from the character and appearance of the locality, and to maintain and reinforce landscape character, including the sense of tranquillity of more remote areas.
13. The Council refers to Policy DCO2 of the DASA and paragraphs 170 and 172 of the Framework. These relate to equestrian development and coastal change respectively. Consequently, they are not relevant to this appeal.

Highway safety

14. Church Hill is a single carriageway road subject to a 60 miles per hour (mph) national speed limit. The Highway Authority states that visibility from the proposed access to the site would fall well below the standard required for visibility at this speed. I concur. The current access would also be too narrow for two vehicles at once, even if there would be enough space for one van. In addition, there would be poor forward visibility around the nearby bend in the road. Together, these factors would contribute to a high risk of traffic accidents associated with vehicles entering and/or leaving the site.
15. It has been suggested that actual speeds on Church Hill may be lower than 60mph, but there is insufficient evidence to support this. I note an application to reduce the speed limit on Church Hill has been made by the Parish Council, but I am not aware of the outcome of this application. I acknowledge the discussions between the appellant and the Highway Authority about possible remedies. However, I have determined this appeal based on the proposal and evidence before me.
16. For the above reasons, I conclude the proposal would have a harmful effect on highway safety, with particular regard to visibility and access. This is contrary to Policies CO6, TR3 and TR4 of the RLPCS, which seek to ensure development avoids prejudice to road safety and includes adequate, safe access arrangements. It is also contrary to paragraph 111 of the Framework, which states development should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Suitable location

17. The appeal site is not within a settlement boundary so is in a countryside location. Policy RA3 of the RLPCS sets out criteria for determining development proposals in the countryside, which include (ii) supporting suitable employment opportunities. Policy OSS3 (x) of the RLPCS also requires consideration of the need for and access to employment opportunities when assessing the suitability of a particular location for development. These policies reflect the Framework where it recognises that sites to meet local business and community needs in rural areas may have to be found beyond existing settlements, so long as the development is sensitive to its surroundings. Policy TR3 of RLPCS requires new development to minimise the need to travel and support good access to employment, services and community facilities.
18. By helping to provide a living for a small number of people, the proposed dog exercise facility would make a modest contribution to local employment and

the rural economy. It would also provide a service to local dog owners, including those needing to exercise their dogs off-lead away from livestock, and those with mental health needs. Therefore, the proposal would help support access to employment and services in the countryside. The impact of the business on other similar businesses in the area is not material to the planning merits of the proposal.

19. Even if some customers could walk to the site, given it is outside a settlement I consider it likely some journeys would be made by private car. Nevertheless, if used by one customer at a time, the resulting increase in car use would be relatively modest. The level of usage could be controlled by condition were the appeal to be allowed. On balance, I consider the modest increase in car travel would be outweighed by the benefit to the local economy.
20. For the above reasons, I conclude the proposal would be in a suitable location with respect to adjacent settlements. Accordingly, I find no conflict with Policies RA3 (ii), OSS3 (x) or TR3 of the RLPCS.

Other Matters

21. The appeal site is in Flood Zone 3. Paragraph 167 and footnote 55 of the Framework require a site-specific flood risk assessment (FRA) to be provided for all development in Flood Zone 3. This is to enable consideration of the effect of the proposal on flood risk within the site and elsewhere. No FRA has been submitted. In the absence of an FRA, I cannot be certain whether the development would be water-compatible or of the risk to other sites given the proposed built elements.
22. The Council states the site has potential to contain protected species, but no ecological surveys have been submitted. As I am dismissing the appeal on other grounds it has not been necessary for me to address this matter any further. Nevertheless, in the event of another planning application being submitted, there is a potential need for further investigation of this issue.
23. The fact that the appellant already exercises her dogs in the field, and the suitability or otherwise of the site for livestock are of little consequence. The Council has raised no concern with the effect of the proposal on the living conditions of neighbouring occupiers, and I see no reason to disagree. However, an absence of harm in this regard is a neutral factor.

Conclusion

24. Whilst I have found the proposed development would be in a suitable location with respect to adjacent settlements, I have also found it would have a harmful effect on the landscape and scenic beauty of the HW AONB and on highway safety. These harms are determinative.
25. Consequently, the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

C Carpenter

INSPECTOR