



Appeal Decision

Site visit made on 12 December 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/G2245/W/23/3314956

Meadow, Underriver House Road, Tonbridge, Kent TN15 0RY

- 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 Teresa Regan against the decision of Sevenoaks District Council.
 - The application Ref 22/02337/FUL, dated 23 August 2022, was refused by notice dated 8 December 2022.
 - The development proposed is change of use from agricultural field to a private dog walking leisure and recreational facility.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal property is in the Kent Downs Area of Outstanding Natural Beauty (AONB). On the 22 November 2023, all designated AONBs in England and Wales became National Landscapes. Accordingly, this former AONB is referred to as a National Landscape in this appeal decision. Local and national policies relevant to AONBs, now known as National Landscapes, has not changed since the Council's original decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of occupants of neighbouring properties, with regards noise; and
 - The effect of the proposal on highway safety in the area.

Reasons

4. Paragraph 137 of the Framework establishes 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. The Framework requires, when considering any planning application, that substantial weight is given to any harm to the Green Belt.

Policy LO8 of the Sevenoaks District Council Core Strategy (Core Strategy), supports the maintenance and diversification of the rural economy, including small scale business development, and the vitality of local communities will be supported provided it is compatible with policies for protecting the Green Belt. In this regard the Policy is generally consistent with provisions of the Framework.

Whether Inappropriate Development

5. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, paragraph 150 of the Framework identifies certain forms of development that are not inappropriate in the Green Belt, provided they preserve its openness. This includes, at Paragraph 150 e) material changes in the use of land (such as changes of use for outdoor sport or recreation).
6. The proposal is for a change of use from agricultural land to an area of land which would be used for dog walking. The change of the use of this land would therefore be for outdoor recreation.

Openness

7. The appeal site is a relatively small field bounded by hedges and fences. It is located at the edge of the small rural settlement of Underriver and set in countryside that is dominated by agricultural fields and pastureland. With only intermittent woodland and sparse development in the wider area, the site and its immediate surroundings has an open character.
8. The proposal would not include new buildings and the appellant states that the existing boundary treatment would be unaltered. While there would be seating, this has the appearance of wooden sleepers, and with a low profile they would lead to an insignificant loss of space at the site. Moreover, it is proposed that the grassland would be retained. With these features, the spatial change at the site would be negligible, such that the proposal would not harmfully diminish the existing open texture in this area.
9. Also, the proposed parking area would be formed from 'grasscrete', and this would allow grass to grow. In this regard the proposal would not result in a visual change which could harm the openness at the site access.
10. The Council asserts that the use would give rise to temporary paraphernalia. However, other than waste bins, items that may erode openness have not been identified. Moreover, the style and location of bins is a matter which could be conditioned to prevent these objects resulting in an unacceptable visual and spatial loss of openness at the site.
11. In light of the above, I therefore find that this proposal would preserve the openness of this part of the Green Belt.

Conclusions on Inappropriate Development

12. In summary, this proposal for an outdoor recreational use would not have a harmful effect on the openness of the Green Belt. The proposal would therefore satisfy the requirement of Paragraph 150 e) and the proposal would not be inappropriate development in the Green Belt. Regarding Green Belt, the proposal would accord with Policy LO8 of the Core Strategy. The proposal

would also accord with the provisions of the Framework which seek to preserve the openness of the Green Belt.

13. In respect of this matter the proposal would also largely accord with guidance stated in the Supplementary Planning Document: Development in the Green Belt.

Character and Appearance

14. The Framework states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty [National Landscapes].
15. The appeal site is a field which is accessed by a largely single width rural road. Bounded by fences and hedges, and surrounded by woodland and other fields, although the site is close to Underriver, it has a distinct agricultural character and undeveloped quality.
16. The site is in a transitional area, where the low-lying, undulating agricultural landscape, with an irregular field pattern, rises to a wooded ridge that provides expansive views of the vale.
17. With scattered hamlets, farmsteads and large houses interspersed throughout the arable and pasture fields, the wider area has a strong rural character. Even though the area is close to the Sevenoaks bypass and the traffic from that road is audible, the sparseness of development ensures the area is relatively tranquil.
18. As already outlined, the proposal would not result in new buildings at the site. Nor would there be areas of hardstanding. However, the proposal is for a commercial business that would result in potentially two customers with dogs arriving and exiting the site at regular intervals during the day. The nature of vehicle use at this site would be distinctly different from the intermittent or seasonal traffic associated with farm vehicles. The regularity of this activity and the presence of the parked cars at the access would significantly alter the existing undeveloped, agricultural character of this site.
19. There is a network of footpaths in this area, and there is also parking places provided for recreational activity. As such dog walking is popular in this area. However, this is on an informal basis, largely focused on the existing footpaths, and is therefore a dispersed and intermittent activity in this rural area.
20. I note that the number of dogs would be controlled and only one dog owner would use the field at one time. However, there would likely be periods of overlap where one owner would wait in the parking area, while the other owner uses the field. As such the use could result in two owners, with cars and dogs, at the site, regularly and throughout the day. The relatively intense nature of this activity, concentrated in this modest sized field, would be distinctly different from the existing informal dog walking that currently takes place in the wider area. This concentrated use would appear at odds with this distinctly agricultural setting.
21. Additional paraphernalia associated with the proposed use would be minimal and waste bins, seating and signage could be controlled by condition. The appellant also states that the boundary treatment would be unaltered, and the Council appears content with this.

22. Be this as it may, it is stated that the facility would be suitable for puppies, nervous dogs and for dogs off leads. While it is suggested that checks would be carried out on the dogs, animals are unpredictable and there is no certainty that all the dogs would be well-behaved. The existing hedge is a good height and likely to contain dogs that may not be responding to training. However, this hedge does not cover the full extent of the field, and the rest of the boundary fences may not be high enough to contain frightened or poorly behaved dogs.
23. Boundary fences can be secured by condition, but given the above circumstances, it is likely overtime that there would be a requirement for significantly higher fences than those already existing to safeguard the dogs. High fences would be out of keeping in this area where boundary treatments are largely limited to hedges or low fences, but such a requirement would be difficult to resist if proven to be essential for the safe functioning of this use at the site. A condition addressing this matter may not be satisfactory for this reason.
24. The appeal site is described as previously being '*unkempt*', and it is stated that it has been improved by the meadow planting. However, the evidence does not show any dereliction at the site, but an area of rough grazing land which is generally in keeping with this agricultural setting. Any improvement is therefore limited, and this matter does not weigh significantly in favour of the proposal for this reason.
25. The appellant highlights that harm has not arisen over the temporary period that this use has operated at the site. However, this was over a short period of time, and this proposal would result in the continuous and sustained commercial use of the site, which I find would significantly alter the site's existing character.
26. This harmful visual effect on the character of the area would be localised, with views mainly limited to the site access and from nearby properties. Be this as it may, the special qualities of the site would be significantly eroded and the landscape and scenic beauty of this part of the National Landscape would therefore not be conserved. I attach great weight to this matter in this case.
27. Attention is drawn to a similar development at Westerham in the Kent Downs National Landscape. However, that site is close to the M25, and a significant distance from the appeal site. The character of that site is different than the appeal site and development in that location is not directly comparable with this proposal.
28. The impact on the character of National Landscapes was not at issue in the appeal decision for land at Tithe Barn Lane. The development in Rugeley, subject of another appeal decision, was in a National Landscape, and at a site with a rural character. However, that site was at the edge of a built-up area. This would not be the case with this proposal. The circumstances in those appeal decisions were distinctly different from this appeal and have not altered my findings.
29. I therefore conclude on this matter that the proposal would have a harmful effect on the character and appearance of the area. In this regard the proposal would conflict with Policies LO8 and SP1 of the Core Strategy and Policies EN1 and EN5 of the Allocations and Development Management Policies Plan. These

Policies collectively seek, amongst other matters, high quality design and to conserve the landscape character. These Policies also state development that supports the maintenance and diversification of the rural economy, including small scale business development, and the vitality of local communities will be supported provided it is compatible with policies for protecting the Kent Downs Area of Outstanding Natural Beauty.

30. The proposal would also be contrary to guidance set out in the Kent Downs Area of Outstanding Natural Beauty Management Plan and provisions of the Framework which seek to conserve the natural environment and well-designed places.

Living Conditions

31. The Council has highlighted that the proposal is not supported by a noise assessment. However, there appears no requirement for this in policy or guidance. This aside, there would be noises associated with this use, and these are likely to include dogs barking and owners calling dogs.
32. There are dwellings near the site, but a strip of land between the site and dwellings would provide a reasonable degree of separation between the dog walking field and the nearest property. While this rural area is relatively tranquil, these dwellings are at the edge of a rural hamlet and are bounded by roads. As such, the occupants of the dwellings experience some day-to-day noise from the roads, neighbouring properties and individuals walking in the area, and this may include dog walkers.
33. Given these factors, barking and shouts arising from the site would be experienced within the context of some existing background noise, and the noise from the site would not be at the immediate boundary of the dwellings. Moreover, a condition is proposed for the control of opening hours which would ensure that noises would not arise at late hours, and occupants of neighbouring properties would continue to enjoy relative peace during the evening and night-time period.
34. The Council has drawn attention to the appeal decision at Knockholt, where the Inspector found that noise would harm neighbours' living conditions. However, that use involved twenty-five dogs and there was a house at the boundary of the site. The development was considerably different from this proposal in these regards. My findings on this matter are not altered by that decision.
35. In light of the above, I find that the proposal would not have a harmful effect on the living conditions of occupants of neighbouring properties, with regards noise. In respect of this matter, the proposal would accord with Policies EN2 and EN7 of the Allocations and Development Management Policies Plan. These Policies collectively require, amongst other matters, development would not have an unacceptable impact when considered against the indoor and outdoor acoustic environment including existing occupiers of the development and the amenities of existing occupants of nearby properties.
36. The proposal would also accord with provisions of the Framework which require a high standard of amenity for existing and future users.

Highways

37. The Framework, at paragraph 111, states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
38. The appeal site is accessed via a country lane which narrows to a single track near the site access. As such, care is required to avoid conflict with other road users, which could include horse riders and pedestrians.
39. However, the number of people and dogs using the site at any one time would be low and controlled by condition. The additional vehicles generated by this use would therefore be limited. Moreover, the lane is relatively straight when approaching the site from Underriver, and even with high hedges flanking the road, this provides reasonable visibility in this direction.
40. The carriageway bends to the east of the site access. However, this bend is a short distance beyond the access, and the carriageway widens, to what appears to be a passing area, before this bend. As such vehicles travelling towards the village have sight of vehicles travelling in the opposite direction and accessing or exiting the appeal site.
41. Also, while the lane is not subject to a low-speed limit, the road conditions naturally limits speed such that vehicles approaching the site from either direction should be travelling at slow speeds. The gate at the site is set back from the road and there is a space off the highway where two cars could comfortably be parked with additional space to manoeuvre safely when arriving or exiting the site. As such, if drivers exercise due care on this rural lane, the limited amount of traffic generated from this use would not materially harm highway safety in this area.
42. In light of the above, I find that the proposal would not have a harmful effect on highway safety in the area. In this regard the proposal would not be contrary to policy EN1 of the Allocations and Development Management Policies Plan. This Policy requires, amongst other matters, proposals should ensure satisfactory means of access for vehicles. The proposal would also accord with provisions of the Framework relevant to transport.

Other Considerations

43. The appellant contends that it has not been possible to discuss common ground with the Council. However, this is a matter between the main parties in this case.
44. I have not found harm in respect of highway safety or living conditions. However, this should be an expectation of development, and these are therefore neutral factors.
45. There is national and local policy support for development that supports the vibrancy of rural communities and for rural enterprise. However, even if I accept that this use would support other businesses in the area, this economic and social benefit would be small, given the size of the proposed enterprise.
46. It is asserted that there is a need for this facility, and that the facility would help dog training, and in turn this would avoid conflict with livestock. However, limited information has been submitted to consider these matters in detail. In

any event, I find no compelling evidence that this visually sensitive site is the only site where this facility could be located.

47. Also, although this would provide open space, which the Framework highlights can be important for health and well-being, this benefit would be limited to the customers of this facility. I attach limited weight to this matter for this reason.
48. It is suggested that the land is under-used and that this proposal could ensure future hay production and would result in biodiversity net gain at the site. However, I find no substantive evidence that this harmful development would be the only means of securing these benefits. In any event, enhancements through land management and additional planting would be significantly countered by this incongruous use that would harm the character of the site.
49. In summary, there would be some social, economic and environmental benefits from this proposal. However, these are limited by the scale of the development, and even when considered together, they would not outweigh the harm to the character of the area.
50. Paragraph 11 of the Framework applies a presumption in favour of sustainable development. In decision making this means, where there are no relevant development plan policies or the policies most important for determining the application are out of date, granting permission unless, amongst other matters, the application of policies in the Framework that protect areas of particular importance, including AONBs [National Landscapes], provides a clear reason for refusing the development proposed. Harm to the National Landscape has been identified and there is clear reason to refuse permission. The presumption in favour of sustainable development does not apply in this case.
51. Policies and guidance which are not in dispute have been highlighted. However, I have found harm in respect of impact on the character of the area, and conflict with the development plan when read as a whole.

Conclusion

52. I have found that this proposal would not be inappropriate development in the Green Belt. However, the proposal would not conserve the special qualities of this part of the Kent Downs National Landscape. This is a matter to which I attach great weight. This harm would not be outweighed by the limited benefits identified in this case.
53. Having regard to the development plan and other material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR