



Appeal Decision

Site visit made on 3 January 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2024

Appeal Ref: APP/R1845/W/23/3323726

Land at OS 381760 279630, Shatterford Lane, Wolverley, Worcestershire, DY11 5TG.

- 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 Catherine Timms against the decision of Wyre Forest District Council.
 - The application Ref 22/0958/FUL, dated 24 November 2022, was refused by notice dated 13 February 2023.
 - The development proposed is the change of use of agricultural land to create a secure dog walking facility with new vehicle and pedestrian access to the site, associated car parking and field shelter.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The government issued a revised version of the National Planning Policy Framework (the Framework) on the 19th December 2023. I have considered the changes in relation to one of the main issues in this appeal - Green Belt policy, but find that the changes are minor and not material to the decision. The parties were therefore not invited to make submissions on the application of the amended Framework.

Main Issues

3. The main issues are;
 - Whether the proposal constitutes inappropriate development in the Green Belt and the effect on its openness; and
 - The effect on biodiversity.

Reasons

Background

4. The appeal site comprises an open field of about 1.9ha in extent which lies in an area of countryside to the west of Wolverley which also forms part of the Green Belt. There is a farmstead to the west of the site and the edge of a housing area to the south-east. It is proposed to use the land for a dog walking facility which would include a new access off Lowe Lane and 6 car parking spaces and the erection of a small field shelter. The use would also require a 1.8m high

galvanised fence around the paddock set in from the boundaries of the site together with CCTV equipment.

5. The Statement submitted with the application indicates that the number of dogs within the paddock would be limited to four at any one time monitored through the booking system. Opening times would be 8am to 7pm in the summer months; less in the winter to reflect reduced daylight hours; and open 7 days a week.

Whether inappropriate development and the effect on openness

6. The Framework indicates in paragraph 154 (previously 149) that the construction of new buildings in a Green Belt is inappropriate unless a proposal falls within one of the stated exceptions including (a) provision of appropriate facilities for outdoor sport and recreation, provided the facility preserves openness. Certain other forms of development are also not inappropriate provided they preserve openness and do not conflict with the purposes of the designation of the Green Belt. The exceptions here include those set out in paragraph 155 (previously 150) and the relevant one for this case is (e) material changes in the use of land such as for outdoor sport and recreation.
7. Similar provisions apply in Policy DM.22 of the Council's Local Plan where the exceptions include (b) facilities for outdoor sport and recreation subject to the effect on openness.
8. In principle the proposed recreational use could fall within the scope of not being inappropriate development depending on the effect on openness. In considering this it is established that openness can have both spatial and visual dimensions.
9. In spatial terms the enclosing 1.8m fence, parking area and field shelter would occupy a relatively small amount of the overall field and its general openness would be retained. However, I have concerns about the impact of these elements in visual terms.
10. Because of the sloping nature of the site and the lack of hedgerow vegetation along the two road frontages the long stretches of fencing within the field in particular would be very exposed to public view. I have taken account of the fact that express planning permission is not normally required for the erection of a fence up to 2m high in such a location but it appears to me that in this case the use is dependent on the erection of the fence to prevent dogs being exercised from 'escaping'. Moreover, I am not convinced that additional planting, as suggested by the appellant, would significantly reduce this visual impact in the short to medium term.
11. The field shelter and the parking area for 6 cars are also relatively small in scale but taken together with the various fencing enclosures, these physical structures and ancillary features of the proposed use would have a substantial and harmful visual impact on the openness of the Green Belt. As such I find that the proposal constitutes inappropriate development in the Green Belt and would be contrary to the national and local policies mentioned above.

Effect on biodiversity

12. The planning application was accompanied by a Preliminary Ecological Appraisal (PEA). The PEA assesses the impacts on the habitats of the site and recommends mitigation where necessary. In most cases the PEA concludes that there would be

little or no direct impact and recommends such mitigation as a low impact lighting strategy, fencing off an area containing wax cap and employing a precautionary approach during the construction phase.

13. The Council raises concerns about the time at which the field survey was undertaken (1st November 2022) and says that the extent and magnitude of the impact is not clearly determined and a loss of biodiversity is possible.
14. There is clearly a difference of view between specialists on the appropriateness of the PEA and I did not see anything at my site visit which helped resolve the issue. Nevertheless, it appears to me that the survey date of 1st November is a limited survey period over a range of vegetation and habitats. This reduces the weight that I can place on the PEA.

Other Matters

15. Some local people also raise objection on the grounds of disturbance from barking dogs and over the access into the site on highway grounds. Some element of barking could be expected as the dogs play when they are being exercised and come into contact with other dogs. However, I note that the Council's Nuisance Assessment Team considers that the proposed noise management approach is acceptable and does not object to the proposal in terms of noise. Therefore, it has not been otherwise demonstrated that the use as a dog walking facility would give rise to material noise disturbance in this mainly rural area.
16. Similarly, the highway authority is satisfied with the proposed access to the site (subject to the deletion of a footpath). It also appeared to me at the visit that the proposed access would have good visibility into Lowe Lane and there are no clear grounds to dismiss the proposal on highway grounds.

Planning and Green Belt balance

17. On the main issues I have found that the fencing, field shelter and parking area for the proposed use would have a substantial and harmful effect on the openness of the Green Belt and as such the proposal would be inappropriate development. Great weight has to be given to this harm. It has also not been reasonably demonstrated that the proposal would not harm sensitive vegetation and habitats.
18. This has to be balanced with other considerations but none outweigh the harm to the Green Belt identified. Therefore, very special circumstances do not arise in this case. I note that the appellant says that the current scheme was put forward in order to overcome the reasons given on a previous rejection which did not include a concern about the effect on openness. Nevertheless, I have to decide the case on the evidence and representations submitted and its individual merits.
19. Overall I find that other considerations do not outweigh the conflict with the development plan and national policy and therefore the appeal should not be allowed.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR