



Appeal Decision

Site visit made on 4 January 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Appeal Ref: APP/G2435/W/23/3325316

The White House Kennels, Top Brand, Osgathorpe, Leicestershire LE12 9FU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr M Upton against the decision of North West Leicestershire District Council.
 - The application Ref 23/00350/OUT, dated 17 March 2023, was refused by notice dated 4 May 2023.
 - The development proposed is the demolition of buildings forming existing kennel business and erection of 2 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on this basis and I have taken the layout of development shown in the submitted 'Proposed Site / Block Plan (Option 1)' into account as indicative in relation to my consideration of the principle of the development of the appeal site.
3. On 19 December 2023 a revised National Planning Policy Framework ('the Framework') was issued. The parties were invited to comment on the Framework in relation to the proposed development so that their views would be taken into account in the determination of the appeal. No comments were received.

Main Issues

4. The main issues in this appeal are:
 - whether the location of the proposed development would comply with the spatial strategy of the development plan; and,
 - the accessibility of services and facilities from the appeal site by sustainable modes of transport.

Reasons

Location of development

5. The development plan for the area includes the North West Leicestershire Local Plan ('Local Plan') which was adopted in 2021.

6. The appeal site is occupied by a single dwelling, kennels and a cattery. It stands alone on Top Brand road within the open countryside and is surrounded by fields with only occasional, sporadic buildings in the vicinity.
7. On the basis of the Settlement Hierarchy set out in policy S2 of the Local Plan, and the restrictions on new development in the countryside contained within policy S3, it is clear that the spatial strategy of the development plan is to focus development on sustainable settlements and to only allow new dwellings in the countryside for worker's employed in agriculture or forestry. As the proposed dwellings would not be for such housing, the scheme would therefore be contrary to policy S3 of the Local Plan.
8. The proposal involves the re-use of previously developed land which policy S2 of the Local Plan supports for the provision of housing. However, this is only the case where a site is within or well related to a settlement type. As the site is located approximately 750m away from the edge of the limits to development of Worthington, which is the nearest sustainable settlement it is physically and visually separate from this Sustainable Village. In addition, for the reasons given in relation to the next main issue, its facilities and services are not accessible by sustainable modes of transport. Taking these matters into account, I therefore find that the appeal site is not well related to Worthington and so does not comply with policy S2 of the Local Plan.
9. For the above reasons the proposed development would therefore be contrary to policies S2 and S3 of the Local Plan and the spatial strategy of the development plan.
10. In relation to the appellant's suggestion that there is conflict between policy S2 of the Local Plan and the Framework in relation to the approach to the redevelopment of previously developed land, I find no tension. This is because if the government had wished that previously developed land in the countryside was treated in the same manner as in the Green Belt the Framework would have said so, and it does not. As a result, this matter does not alter the significant weight that I attach to the conflict between the proposal and policy S2.

Accessibility of services and facilities

11. The nearest settlement to the appeal site is Worthington. Owing to its limited range of services and facilities, Worthington is categorised by policy S2 of the Local Plan as a Sustainable Village lying in the fourth tier of the settlement hierarchy, two tiers from the bottom.
12. The edge of the built up area of Worthington where 'The Malt Shovel' public house is located is approximately 750m away by road from the appeal site. Bus stops are located slightly further away at approximately 800m. As a result, both are within a reasonable walking distance of the appeal site. The primary school and post office / small village store are slightly further away and are within a reasonable cycling distance. However, the road into the village is subject to the national speed limit, has limited forward visibility due to a bend in the road and has a steep gradient. In the absence of a footway and street lighting, it is therefore not a suitable route for walking and it would be unrealistic for all but the most able to cycle to and from the village on a regular basis.

13. Accordingly, I therefore conclude that, even allowing for the fact that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, Worthington and its limited services and facilities are not accessible by sustainable modes of transport from the appeal site. As a result, it would be contrary to policy IF4 of the Local Plan which, as the justified reasoning to the policy explains, complements policy S2 by requiring that account is taken of the impact of a development on the environment, including climate change, and that accessibility by sustainable modes of transport is maximised having regard to the nature and location of the site.
14. Changing behaviours, such as taking children to school on the way to work , online shopping and lessening demand for local shops, together with the increase in non-fossil fuelled powered vehicles, are cited in support of why less importance should be placed on the ease of access of services and facilities on foot from the appeal site. However, such behaviours and car technology are not new and would have been taken into account when the policies of the Local Plan, which was adopted in 2021, were devised, consulted upon and found to be consistent with the Framework at public examination. The submitted evidence is insufficient to demonstrate that these behaviours have changed to such an extent since then that they should outweigh the conflict with policy IF4 and the spatial strategy of the development plan.
15. The existing use of the site generates a significant number of vehicle journeys to the appeal site from settlements and it is stated that the kennels and cattery are not thermally efficient. Expansion of the kennels would further increase the number of such journeys and such development would be supported by development plan policy. However, nothing has been submitted in terms of the success of the business to indicate that this is a likely prospect. Moreover, even if this was not the case, the need for boarding kennels and a cattery to be located away from residential areas would outweigh the adverse effects in terms of sustainability of the increase in the number of journeys that would occur if this business was enlarged and the continued use of thermally inefficient buildings.
16. As no evidence has been presented to demonstrate that the appeal site would be an attractive location for a tourism business or similar, I also find that it has not been shown that it is likely that tourism related redevelopment of the site would take place.
17. For the reasons given in the two previous paragraphs, I therefore attach little weight to the fallback position put forward by the appellant in favour of the appeal.

Other Matters

18. Use would be made of the existing site access by the proposed development. The Council has no objection to its use subject to the provision of appropriate visibility splays. I saw no reason why such splays could not be provided and I have no reason to disagree with those conclusions.

Conclusion

19. For the reasons given above, the proposal would conflict with the development plan and harm its spatial strategy and there are no other considerations,

including those of the Framework, which outweigh this finding. The appeal therefore should be dismissed.

Ian Radcliffe

Inspector