



Appeal Decision

Site visit made on 6 February 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/T3725/W/23/3329995

Land at Squab Hall Farm, Harbury Lane, Bishops Tachbrook, Warwickshire CV33 9QB

- 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 T I Evans & Son against the decision of Warwick District Council.
 - The application Ref W/23/0768, dated 24 May 2023, was refused by notice dated 20 July 2023.
 - The development proposed is Change of use of agricultural land to secure dog walking field and parking area with associated boundary fencing and gates.
-

Decision

1. The appeal is allowed, and planning permission is granted for Change of use of agricultural land to secure dog walking field and parking area with associated boundary fencing and gates at Land at Squab Hall Farm, Bishops Tachbrook, Warwickshire CV33 9QB in accordance with the terms of the application Ref W/23/0768, dated 24 May 2023, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. However, any policies in the Framework that are material to this decision have not fundamentally changed. I am therefore satisfied that this has not prejudiced any party. I have had regard to the latest version in reaching my decision.

Main Issue

3. Following the receipt of a Preliminary Ecological Assessment¹ the County Council Ecologist has removed their objection subject to the imposition of conditions. The Council has therefore withdrawn its second reason for refusal.
4. Therefore, the main issue in this appeal is whether the appeal site and proposal would be in a suitable location, having regard to the requirements of local and national policy.

Reasons

5. The approximately 2.85 hectare appeal site is currently a flat agricultural field. Squab Hall Farm is a farming business with a number of other business tenants operating out of former agricultural buildings on the farm complex. The field is located between Harbury Lane and a range of farm/business buildings and

¹ Prepared by Betts Ecology and Estates dated August 2023

screened from view by the roadside hedge. Access is via the existing tarmacked estate road off Harbury Lane leading to the farm and complex of buildings, and the Highway Authority has no objection to its use as part of the proposal.

6. The proposal would involve a farm diversification project to use the field for dog walking, for use by dog walkers and private households. Mesh fencing, to a height of 1.9m, would be erected around the perimeter of the field. Across the field mid-way there would be 1.2m high stock fencing with pedestrian gates, so that the field could be divided up when ground conditions dictate or for different types of dog walking activities or experiences. A small car parking area for 2 cars would be created beside the dog walking field, just off the main access drive to the Squab Hall Farm complex. Fences and gates would then lead to the field itself, which the appellant intends to plant with native species and wildflowers to create different areas.
7. The appeal site is located beyond the settlement limits of both Leamington and the village Bishops Tachbrook and being surrounded by fields it is clearly in the countryside. However, housing on the edge of Leamington is about 350 metres away to the west. A short distance beyond this I saw a large traffic light controlled junction leading to more housing. Therefore, while the site is in the countryside it is relatively close to the suburbs of Leamington and hence is not in a remote or isolated location. Opposite part of the appeal site is the Harbury Lane Recreation Area and further to the east is Leamington Football Club.
8. The Council has refused against Policy DS5 of the Warwick District Local Plan (the Local Plan). This is a general policy promoting the presumption in favour of sustainable development that is consistent with the Framework. It goes on to say that planning applications that accord with the Local Plan will be approved without delay. Where there are no policies relevant to the application, or relevant policies are out of date, the Council will grant permission unless material considerations indicate otherwise. This would take account of whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits against the policies in the Framework as a whole.
9. In promoting sustainable patterns of development the Framework seeks to focus development on locations which are, or can be made, sustainable through limiting the need to travel and offering choices of transport modes. However, the Framework also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
10. There are no pavements, wide grass verges or streetlights along Harbury Road. Because of this and some vehicles I saw traveling at speed, it would not be conducive for pedestrians or cyclists to use with their dogs to get to the site. I saw no bus stops and I have not been advised of any public transport that passes the site. Consequently, users of the proposed dog walking facility would most likely be reliant on the private car to get to and from the site.
11. The provision of a large field to enable dogs to run safely off the lead requires a large open area. There would likely be limited availability of such land in an urban area. Hence to use a field on a farm would most likely have to involve a countryside location. It is not uncommon for dog walkers in urban areas to drive their dogs to more rural and countryside locations in order to walk them in more open areas in less restrictive locations.

12. The site is relatively close to the edge of Leamington Spa and there are a considerable number of dwellings in the general vicinity, and more being built, such that dog walkers would not be travelling significant distances to access the appeal site. Whilst Harbury Lane is not conducive for walking along, there is footpath access to Oakley Wood Road which has a pavement that links to the village of Bishops Tachbrook and to the new housing developments on the edge of Leamington by the traffic lights with Harbury Lane. Hence there will be a greater population within reasonable walking distance of the appeal site, even if there are no public transport links. In any event, using public transport with a dog(s) would not always be practical. Furthermore, professional dog walkers, who may have a number of dogs to walk at any one time, would most likely use their own vehicles for safety, rather than using the bus. There may also be some opportunities for linked trips if family/friends are visiting the various nearby recreational facilities described above.
13. Although the proposal is likely to be car dependant, it would nonetheless operate at a low intensity. Using an on-line booking system a maximum of 6 dogs would be allowed to be exercised in the field at any one time (per single booking). The field would be rentable for exclusive use for either 45 minutes or 1¼ hours booking sessions, with an access code for the gates given to dog walkers when they book a session, with only parking for 2 vehicles in line with the booking system. The field would be available for use between 6am–9pm, 7 days a week, including bank holidays. There would be no lighting so it would only operate in daylight hours, closing at dusk, such that operating hours would be less in the winter months.
14. The proposed facility would give dog walkers a safe and secure environment in which to walk and exercise their dogs off the lead, particularly for dogs with behavioural issues and with some members of the public being anxious of dogs being exercised in public spaces. The appellant's evidence shows there is a demand for such dog-walking facilities. The proposal would accord with one of the Framework's aims of promoting healthy lifestyles though the provision of safe and accessible green infrastructure as well as improve public access to the countryside.
15. Drawing all the above points together I am satisfied, given the nature of the proposed use, that the appeal site would be a suitable location for a secure dog walking field. Accordingly, the proposal would not conflict with Local Plan Policy DS5, whose aims are outlined above, nor with the Framework as a whole.

Conditions

16. I have considered the conditions put forward by the Council and the County Ecologist against the advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity and omitted others.
17. In addition to the standard condition which limits the lifespan of the planning permission, I have specified the approved plans that limit the boundaries of the site for the avoidance of doubt and in the interests of proper planning. The plans also indicate the location of the perimeter fencing, gates, and fencing across the site as well as the location of the car park.
18. In light of the outcome of the Preliminary Ecological Assessment I have imposed the County Ecologist's conditions requiring the submission of both a

Biodiversity Management Plan and Construction Environmental Management Plan, which the appellant endorses. I have not imposed the County Ecologist's condition requiring lighting details for bat protection, as the proposal would only operate in daylight hours and operating hours would be conditioned.

19. As the appellant's case is that no more than 6 dogs would be walked at any one booking session in the interest of the dogs, good land management and the limited capacity of the car park, I shall impose a condition limiting the number of dogs and restricting the operating hours to those stated in the appellant's case.

Conclusion

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

K Stephens

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out strictly in accordance with the details shown on the site 'Location Plan' and 'Proposed Site Plan'.
- 3) No development shall take place (including site clearance) until a Biodiversity Management Plan has been submitted to and approved in writing by the Local Planning Authority. It shall include a detailed schedule of habitats and protected species mitigation, and biodiversity enhancement measures including habitat management and long-term monitoring, to result in a biodiversity net gain (to include location of measures, installation timescale, timing of works and species lists for proposed planting).

Such measures should be shown on all applicable annotated site plans and elevations. Such approved mitigation and enhancement measures shall thereafter be implemented in accordance with timescales to be agreed and retained and maintained thereafter in accordance with the approved details in perpetuity.

- 4) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. In discharging this condition, the Local Planning Authority shall expect to see details concerning pre-commencement checks for protected species (badger, breeding birds and Great Crested Newts), toolbox talk for contractors, and appropriate working practices and safeguards during site clearance, construction, and for retained habitats and for wildlife that are to be employed whilst works are taking place on site including storage of materials, procedure should protected species be found, protection of retained trees and contamination protection for any water courses. The development shall only take place in accordance with the agreed Construction Environmental Management Plan.

- 5) The dog walking use hereby approved shall only operate in the field during daylight hours between 06:00 hours and 21:00 hours and shall cease at dusk in all instances, and shall only be available to those who have booked in advance of any exercise visit.
- 6) No more than 6 dogs shall be allowed in the field at any one time (per single booking).

***** End of Conditions *****