



Appeal Decision

Site visit made on 21 February 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2024

Appeal Ref: APP/D2320/W/23/3323509

Land at Holker Lane, Ulnes Walton, Leyland, Lancashire PR26 8LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Dog Fields at Holker Lane against the decision of Chorley Borough Council.
 - The application Ref is 22/01094/FUL.
 - The development proposed is the change of use of a field from agricultural land to secure dog walking and training field, erection of 1.8m high fencing along with associated car parking (retrospective).
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of a field from agricultural land to secure dog walking and training field, erection of 1.8m high fencing along with associated car parking (retrospective) at Land at Holker Lane, Leyland, PR26 8LL in accordance with the terms of the application, Ref 22/01094/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) This permission is granted for a temporary period expiring 18 months from the date of this decision.
 - 2) The use hereby permitted shall not occur outside the hours of 08:00 to 18:00 hours on Mondays to Fridays, 09:00 to 16:00 hours on Saturdays and Sundays, and 10:00 to 16:00 on Bank or other National Public Holidays.
 - 3) No more than six dogs shall use the facility at any one time and all customers must have booked in advance of any visit. A booking shall last no more than 50 minutes and there shall be a 10-minute gap between booking slots.

Preliminary Matters

2. On 20 December 2023, the Government published its revised National Planning Policy Framework ('the Framework'). The Framework represents the Government's up-to-date planning policies for England and how they should be applied. I have had regard to the Framework in reaching my decision.
3. Although the proposal is described as retrospective, the use of the land for the purposes as outlined was not occurring, although fencing has been installed. I have proceeded on this basis.

Main Issues

4. The appeal site is within the Green Belt and so the main issues are:
- Whether or not the proposed development would be inappropriate development in the Green Belt, having regard to the effect on openness and the purposes of including land in the Green Belt, in regard to the Framework and any relevant development plan policies;
 - The effect of the proposed development on the living conditions of occupants of nearby residential properties with regard to noise and disturbance;
 - If the proposed development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Site and appeal development

5. The appeal site is situated on the northern side of Holker Lane within the open countryside. The site is broadly rectangular in shape and comprises an open field with fencing. The site is surrounded by agricultural fields to the north and west. To the east are expansive greenhouses for a nursery garden, and to the south is a mix of residential properties and rural enterprises.
6. The proposal is to use the site for dog walking and training. The plans include the installed fencing and a small parking area.

Whether or not inappropriate development in the Green Belt including the effect upon openness and the purposes of the Green Belt

7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework also outlines, at paragraph 154 that apart from a list of given exceptions, the construction of new buildings should be regarded as inappropriate development in the Green Belt. One such exception is b), namely the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
8. Paragraph 155 also outlines that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Such forms of development include, as outlined in 155 e), the material changes in the use of land (such as changes of use for outdoor sport or recreation).
9. The proposed use of the appeal site as a dog walking and training facility for dog owners for pleasure could reasonably be considered to constitute a facility for outdoor recreation. Paragraph 150 of the Framework sets out that having defined Green Belts, local planning authorities should plan positively to enhance their beneficial use, such as, amongst other things, provide opportunities for outdoor recreation.

10. Therefore, having regard to the Framework, it is necessary to assess whether the proposed development would preserve the openness of the Green Belt, or conflict with the purposes of including land within it.
11. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual aspect.
12. The development includes the provision of 1.8m high fencing and associated car parking. I observed on my site visit that the fence has been installed but the parking area has not.
13. The fence is a post and wire style fence. It is of a design which allows views to pass through it and thus the site appears open. It is not wholly dissimilar to livestock fencing that is installed in countless rural locations, albeit of a slightly greater overall height. There is hedging with interspersed trees on the Holker Lane boundary and on the eastern boundary that provides an element of screening, and the fence is not highly prominent. For these collective reasons, it does not cause harm to, and thereby preserves, the openness of the Green Belt in both spatial and visual terms.
14. The Council have also set out that, whilst they considered the fence to be inappropriate development, it would constitute permitted development and therefore could be erected without planning permission. I also acknowledge that the fence could be erected without planning permission.
15. Having regard to the parking area that is proposed to be created, this would be a small area adjacent to the Holker Lane access for around 6 vehicles. It would consist of a Cell Pave permeable grid system comprising a sub-base with grass. The effectiveness of such systems can vary, however, in this rural context the opportunity for a hard surface treatment which allows grass to grow through it would be preferable to an alternative, more, visually unappealing installation. This part of the development would be at surface level and not highly discernible. I acknowledge that the parking of vehicles has the potential to harm openness in both visual and spatial terms, however in this instance, only a limited number of vehicles would be parked on what is a relatively small area, and at certain times of the day. For these collective reasons, it would not cause harm to, and would thereby preserve, the openness of the Green Belt in both spatial and visual terms.
16. In terms of the proposed use, it would involve very limited permanent features. The exercising of a limited number of dogs with their owners would have a minimal impact on the openness of the Green Belt in both visual and spatial terms and would therefore preserve the openness of the Green Belt.
17. Having regard to the purposes of including land within the Green Belt, the proposed development would result in a limited change in the appearance of the site. It would retain its open rural character. Due to the nature of the proposed use and its overall scale, size and siting, it would not lead to encroachment of the countryside, nor would it result in urban sprawl.
18. I therefore find that the proposed development, forming an outdoor recreational use, would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It would therefore amount to not being inappropriate development in the Green Belt.

Living conditions

19. There are residential properties located on Holker Lane, the closest of which is around 40 metres from the site. I observed on my site visit that the area was generally very quiet with occasional passing traffic and noise from agricultural activities.
20. The appellant has submitted a Noise Assessment by Martec Environmental Consultants Ltd which considers the impact of noise on the nearby residential properties. The report makes a reasonable suggestion that dogs in such a facility are under close supervision and control and must be reasonably well adjusted and used to other people and dogs for the facility to function effectively; consequently, the dogs are much less likely to bark than those housed in facilities such as a boarding kennels.
21. In this regard, whilst occasional barking would be inevitable, the presence of owners or handlers would serve to ensure this would be limited or at least brought under control, as opposed to unrestricted barking, lacking the control of owners or handlers, that may occur at other dog orientated facilities.
22. The predictions in the assessment of dog barking assumes that the site would be in continuous all-day use by groups of dogs barking at the highest observed rate. The corresponding predicted level at the nearest dwellings would range from 18 to 32 LAeq,12hr. The assessment considers that this would be a significant over-estimate of dog barking for a facility such as this, and that on the basis of the assumptions, the noise impact should not bar the grant of planning consent for the development.
23. The Council's Environmental Health Officer (EHO) advised that the noise impacts on nearby properties would only be known should the use be carried out. I acknowledge that the barking of dogs is a random and unpredictable noise event which varies between breeds. It can also vary in terms of the environment in which the dog finds themselves. Therefore, it is more difficult to predict than a continuous known noise source and as a result, the potential for noise and disturbance to occur.
24. In this case, the separation of the appeal site from residential properties combined with the limitation on numbers of dogs who may be permitted to use the facility, and the hours of operation, both of which could be secured by condition, I consider that it would not be unreasonable to conclude that the use may occur without causing unacceptable levels of harm. This is also combined with the fact that should the Council receive any subsequent complaints once the activities were operational, then these would be investigated under the provisions of the Environmental Protection Act 1990, something also identified by the EHO.
25. I am nevertheless particularly conscious of the unpredictability of dogs barking, where excessive and prolonged barking would have the potential to have an unacceptable impact on the living conditions of residents.
26. Planning practice guidance on the use of planning conditions outlines that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area. Whilst trial periods are seldom entirely satisfactory, and I acknowledge the appellant's preference for a permanent consent, I consider

that in this case, it would be appropriate, reasonable and necessary to grant planning permission for a temporary period of 18 months in order that the impact on the living conditions of occupants of surrounding residential properties may be monitored. If following this temporary period, it is held that the use can be undertaken without causing harm to the living conditions of occupants of surrounding residential properties by reason of noise and disturbance, the appellant may consider applying for a permanent consent.

27. I therefore find that based on the evidence before me, allowing the use for a temporary period of 18 months subject to usage restrictions, would not cause harm to the living conditions of occupants of surrounding residential properties. It would comply with Policy BNE1 of the Chorley Local Plan (2015) which requires, amongst other things, that developments do not cause an unacceptable degree of noise disturbance to surrounding land uses.

Conditions

28. In the interests of the living conditions of occupants of surrounding residential properties, I have imposed conditions limiting the development to 18 months in order that its effects can be monitored. Also in the interests of living conditions, I have imposed conditions restricting the operating hours and the number of dogs permitted to use the facility at any one time.
29. I note the appellant's preference for longer opening hours but, in my judgement, there would be a greater likelihood of disturbance during the evening when residents may reasonably expect a quieter noise environment.
30. I do not agree with the Council that a condition limiting the number of dogs would be unenforceable, as this is something that could be monitored relatively easily.

Conclusion

31. I have found that the proposal would not represent inappropriate development in the Green Belt. As such it is not necessary for very special circumstances to exist. Subject to conditions, the development would also not cause harm to the living conditions of occupants of nearby residential properties with regard to noise and disturbance.
32. For the reasons set out above, and having had regard to all other matters raised, I therefore conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR