



Appeal Decision

Site visit made on 14 May 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th May 2024

Appeal Ref: APP/F2605/W/23/3331574

Summer Lane Kennels, Summer Lane, Carbrooke, Norfolk IP25 6TR

- 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 Mrs Beverly Lee against the decision of Breckland Council.
 - The application Ref is 3PL/2023/0146/F.
 - The development proposed is described as "on commercial land, (Dog Kennels) the rationalising of the site, on the northwest section the erection of semi-detached Industrial Units".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has undertaken a single policy partial update of its Local Plan. Whilst there has been no change to the policies relevant to this appeal, in my decision I have referred to the policies of the Breckland Local Plan 2023 (LP).

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed development would be in a suitable location, having particular regard to the local development strategy;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposal on highway safety.

Reasons

Whether in a suitable location

4. As explained in its supporting text, LP Policy EC04 directs the majority of employment development to strategic employment allocations and established employment areas. The application site comprises land associated with a commercial kennels which is outside of any settlement. The site is not within an identified General Employment Area (GEA) or allocated site.
5. Policy EC04 recognises a need to provide for businesses which support the rural economy and permits development outside GEAs and allocated sites where certain criteria are met.

6. Criterion (a) of Policy EC04 requires proposals demonstrate there are no suitable sites available on identified or allocated employment sites. The appellant asserts there is a need and demand for employment units in the area and promotes the site for development since it is within their ownership. However, the proposal does not demonstrate that there are no available identified or allocated sites, and thus does not satisfy criterion (a).
7. Alternatively, criterion (b) of Policy EC04 supports development outside GEAs and allocated sites where justified by particular reasons, including to enable the expansion of an existing business; to support agriculture, forestry, or industries where it is advantageous to be close to the market served; or where the business operations would be detrimental to a settlement's amenity.
8. No end user of the proposed units is specified, and there is no indication that the units would serve the existing kennels business. The appellant asserts the proposal would tidy up the site. This is not a reason listed at Policy EC04(b), and I have considered the effects of the proposal on the character and appearance of the area below. Consequently, no particular reasons exist to justify the development in this location.
9. The appellant considers Policy EC04 to be restrictive in its strategy for the distribution of growth and requests the proposal be determined against the National Planning Policy Framework (the Framework). However, paragraph 2 of the Framework indicates proposals should be determined in accordance with the development plan, unless material considerations indicate otherwise, and I have been provided no compelling reasons to suggest relevant policies should be afforded diminished status.
10. The Framework is a material consideration and at paragraphs 88 and 89 recognises that sites to meet the needs of rural areas may have to be found outside existing settlements and supports sustainable growth and expansion of all types of businesses in rural areas. The LP does not prohibit employment development in rural areas but, as set out above, the proposal fails to comply with Policy EC04's criteria for employment development outside GEAs.
11. Paragraph 89 of the Framework suggests that in meeting business needs in rural areas, the use of previously developed land should be encouraged where suitable opportunities exist. The Framework's definition of previously developed land includes land which is or was occupied by a permanent structure, including the curtilage of the developed land.
12. However, the Framework's definition of previously developed land states it should not be assumed that the whole of the curtilage should be developed. The proposed units would be sited on an area of undeveloped grassland. Whilst it may be unlikely the site would be returned to agricultural use it remains unclear how the proposal would contribute to making effective use of land. The circumstances of the site, being land within the curtilage of a permanent structure, therefore carries limited weight.
13. The appellant was of the view that commercial development on the site may be acceptable. However, it is my understanding that the Council issued pre-application advice on the basis the proposed development would represent the replacement of the existing kennels. The circumstances of the pre-application therefore materially differ from the appeal proposal. Moreover, my decision is not bound by pre-application advice issued by the Council.

14. As set out above, the proposal fails to demonstrate there are no other suitable sites available at GEAs or at allocated sites, and there are no particular reasons which justify the development in this location. Whilst within the curtilage of a permanent structure, namely Summer Lane Kennels, this is not sufficient to outweigh conflict with the development plan. Therefore, having regard to the local development strategy, the proposal would not be in a suitable location.
15. The proposal conflicts with LP Policy EC04 since it does not satisfy its criteria for employment development outside GEAs and allocated sites.

Character and appearance

16. The site is a grassed plot and gravelled driveway within the curtilage of Summer Lane Kennels, which comprises a bungalow, dog kennels, caravans, and outbuildings. To the north is a paddock and outbuildings which at time of my decision is the subject of a separate appeal¹. Whilst a quarry is situated to the south, the surrounding area predominantly consists of open agricultural fields. Summer Lane's narrow width and vegetated verges contributes a rural appearance. The area therefore has a verdant, countryside character.
17. The existing kennels buildings and dwelling are single storey height and modest in scale. The proposed development would comprise two adjoining industrial units, with a mezzanine floor. The proposed units would be significantly greater in scale and bulk than existing buildings on the site.
18. The site is generally screened by hedges and trees around the boundaries of the wider kennels site, including along the site's frontage to the highway, and the proposal would include additional planting. However, there are views from Summer Lane into the site via the open vehicular access.
19. The kennels buildings are clustered in the southeast corner, distant from the access and set back by a long driveway and beyond the open, grassed appeal site. The proposed units would be sited close to access where they would appear visually prominent to passing road users from Summer Lane. The units would result in the loss of the open grassed area at the site's frontage and a significant increase in built form on the site.
20. Whilst the units would be seen in the context of other buildings, they would appear visually dominant by virtue of their prominent siting and large scale and would be perceived as encroachment of development into the countryside. Due to the proximity to the access, the additional planting would not be sufficient to mitigate the proposed development's visual impacts. For these reasons, the proposal would harm character and appearance of the area.
21. The proposal would conflict with LP Policies GEN02, COM01, and ENV05, which together require proposals respect, be sensitive to, and integrate to a high degree of compatibility with the character of the surrounding area and recognise the intrinsic character and beauty of the countryside.

Highway safety

22. The site is accessed from Summer Lane, a narrow, single-track carriageway, flanked by low verges and hedges. This route provides a well-used link between Carbrooke and Norwich Road and the national speed limit applies.

¹ APP/F2605/W/23/3333597

There is a busy sand quarry to the south and therefore road users would be likely to encounter HGVs. There is no pedestrian footway or provision for cyclists with limited opportunities for refuge from vehicles, and the road is unlit. Therefore, the highway would be unsuitable for pedestrians and cyclists.

23. The appellant estimates the proposed development would contribute a low increase in traffic of around two to four vehicles per hour during daylight hours. However, the application form indicates the proposed units could be used for a variety of industrial or commercial processes, which could generate a range of vehicle movements. Consequently, the proposed development's vehicle movements are not known, and its impacts cannot be fully assessed.
24. The narrow road width would require drivers to stop at, or reverse to, the occasional passing places. Whilst the scheme's traffic volumes are unknown, the proposal would nonetheless result in the intensification of use of the highway, thereby increasing the risk of conflict between road users.
25. The proposed access design seeks to improve safety. However, visibility is restricted in both directions by vegetation. Whilst the appellant controls land to the south, the proposal fails to demonstrate that an adequate visibility splay would be achieved to the north at land outside the appellant's ownership.
26. In addition, the proposal does not demonstrate the arrangement of the access would accommodate the turning manoeuvres of large vehicles such as HGVs or towing vehicles. Overrunning of the carriageway would cause erosion of verges, creating a skid hazard from mud on the road surface. Therefore, the proposal fails to demonstrate the access geometry would be of a suitable standard.
27. Accident data indicates two incidents have occurred in the past 8-10 years. The appellant considers this accident rate to be very low. However, past accident data does not guarantee future events, particularly as the proposed development would increase traffic using the highway and access.
28. As set out above, due to its narrow width and absence of provision for pedestrians and cyclists, Summer Lane is of an inadequate standard to serve the development. Suitable visibility would not be achieved from the site's access, and the plans do not indicate the access geometry would be suitable for use by large vehicles. The proposal therefore fails to demonstrate a suitable standard of highway safety would be achieved by the development.
29. The proposal would conflict with LP Policies TR01, TR02, EC04, and COM1 which together require proposals provide safe, suitable and convenient access, mitigate impacts on the highway network through type and volume of traffic generated, and not compromise highway safety. In addition, the proposal would not satisfy paragraph 115 of the Framework which seeks to prevent development which would have an unacceptable impact on highway safety.

Conclusion

30. For the reasons set out above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be dismissed.

E Dade

INSPECTOR