



Appeal Decisions

Site visit made on 19 June 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Appeal Ref: APP/M3645/W/23/3331071

Carewell Farm, St Piers Lane, Lingfield, Surrey RH7 6PN

- 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 Ms C Holgate of Carewell Canines against the decision of Tandridge District Council.
 - The application Ref is TA/2023/402.
 - The development proposed is change of use from F2(c)equine to F2(c) canine for an additional secure Dog Walking Field and retrospective permission for a Dog Agility Training Arena with associated vehicle access and limited parking for both activities.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms C Holgate of Carewell Canines against Tandridge District Council. The cost application is the subject of a separate decision.

Preliminary Matters

3. I have determined another appeal¹ at the same site, that appeal proposal sought to amend a condition relating to operating hours and the number of dogs allowed in two of the secure dog walking fields at one time. That appeal is subject to a separate decision.
4. The Council initially did not consult all of the interested parties who responded to the application on the appeal. This error was rectified and interested parties were given an extended deadline to respond to the consultation. I am therefore satisfied that interested parties are not prejudiced by the nature of the appeal consultation.
5. There is conflicting evidence on whether enforcement action in relation to the use of the site, not in compliance with planning conditions, is ongoing. Nonetheless, my assessment is based upon the planning merits of the appeal proposal only and is without prejudice to any ongoing enforcement action.
6. The appeal proposal includes the retrospective construction of a Dog Agility Training Area. The appellant indicated on the application form that the works had started and finished in November 2022. During my site visit I observed a training area in the position shown on the application plans. Therefore, throughout my decision I will refer to this as the existing training area.

¹ Appeal Ref. APP/M3645/W/24/3339155

However, when discussing the appeal proposal, as a whole, I will refer to the 'proposed development', despite it including the training area, as other aspects are yet to be constructed.

7. The wider site has been the subject of an extensive planning history. Three applications are particularly pertinent to the appeal proposal. A planning permission² for the change of use of two fields from paddock and grazing to secure dog walking fields. A further planning permission³ for the change of use of another field from paddock and grazing to a secure dog walking field. Finally, a lawful development certificate⁴ to confirm that the lawful use of land, including the appeal site, is for outdoor equestrian use.

Main Issues

8. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- the effect of the proposal on the living conditions of residents of 1 and 2 Carewell Farm Cottages, with particular regard to noise and disturbance; and,
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

9. The appeal site is within the Green Belt. Policy DP13 of the Tandridge Local Plan, Part 2: Detailed Policies, 2014-2029, July 2014 (LPP2), indicates that the construction of new buildings in the Green Belt is inappropriate, subject to a few specified exceptions or unless very special circumstances can be demonstrated. This is consistent with the approach detailed in Chapter 13 of the Framework.
10. The definition of a 'building' detailed in Section 336 of the Town and Country Planning Act 1990, includes 'any structure or erection'. Therefore, the fences and some of the structures within the field would be defined as buildings.
11. One of the specified exceptions, detailed in LPP2 Policy DP13 and paragraph 154 of the Framework, is the provision of appropriate facilities 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.
12. The appeal proposal is for the provision of an appropriate facility for outdoor recreation. Therefore, whether it would be inappropriate development in the Green Belt, is dependent on its effect on the openness of the Green Belt and whether it conflicts with the purposes of including land within the Green Belt.
13. The openness of the Green Belt has both spatial and visual dimensions. I note that the appellant has sought to screen parts of the proposed development

² Planning permission Ref. 2020/2130, granted 22 April 2021

³ Planning permission Ref. 2021/1149, granted 29 December 2021

⁴ Application Ref. 2022/590, granted 31 October 2020

with vegetation and the proposed fencing would either be mesh or deer fencing. Moreover, the training area is modest in size. In visual terms, this would help reduce the effect of the proposal on the openness of the Green Belt. Nevertheless, the proposal would lead to built development in areas which are currently free from lawful development. As such, the proposal would reduce the openness of the Green Belt, in both spatial and visual terms. Therefore, the appeal proposal would be inappropriate development in the Green Belt.

Living conditions

14. The appeal site is in a semi-rural area on the edge of Lingfield. The entrance to the site is in proximity to 1 and 2 Carewell Farm Cottages (Nos 1 and 2) and commercial uses including a veterinary practice, a self-storage business, and an equestrian store. Three of the fields near to the appeal site are used as secure dog walking fields. During my site visit I observed a wood processing area within the rear garden of No 2. Also, the appeal site is located under a flight path. Therefore, there are several activities close to the appeal site which contribute to the amount of noise experienced in the area.
15. A lawful development certificate has been issued which confirms that the lawful use of some of the land owned by the appellant, including the appeal site, is for an outdoor equestrian use. This land is not currently being used for equestrian purposes. However, the appellant has indicated if the planning permission was to be refused, the land would be used for these purposes. I consider that there is a more than theoretical prospect of this occurring, as the appellant has sought to confirm the lawful use. As such, an outdoor equestrian use forms part of my assessment of the existing site.
16. There is no substantive evidence before me on how the proposed change of use would affect vehicle movements when compared to the extant use. Even if, the number of vehicle movements and the hours of activity were reduced by the appeal proposal, the nature of the activity would be different.
17. The secure dog walking field and training arena would not be used at full capacity, all of the time. However, it is necessary to assess the lawful capacity of both the existing use and proposed use of the fields, and the amount of noise and disturbance that would generate. The appeal proposal would lead to a significant increase in the number of dogs visiting the wider site. Whilst dogs may not be inclined to bark during exercise, dogs may be inclined to bark when they arrive, when vehicles or people pass the field they are in, or at the sight of or upon hearing other dogs. As such, the increase in the number of dogs would lead to increased occurrences of dogs barking across the wider site.
18. The sound of dogs barking is intermittent, impulsive and often loud. As such, it has a significantly harmful effect when it occurs close to noise sensitive development. The proposed secure dog walking field is positioned away from Nos 1 and 2. Nevertheless, dogs and their owners would have to travel across land and past other fields, close to the properties, which could lead to more dogs barking in proximity to Nos 1 and 2.
19. Furthermore, the proposed operating hours for the secure dog walking field are 0545 to 2045, seven days a week. I note that nearby fields are used across similar but shorter time periods and the equestrian use is not restricted by operating hours. Therefore, the proposed operating hours would lead to increased occurrences of dogs barking for long periods of the day. The increase

in barking during early morning hours and late into the evening is particularly harmful, given residents of Nos 1 and 2 would reasonably expect a reduction in noise levels during these times.

20. Trainers using the Dog Agility Training Arena often have raised or amplified voices. The training arena is located close to the rear garden of Nos 1 and 2. The hours of operation for the arena is 0800 to 2000, 7 days a week. As such, it is likely there would be raised voices in proximity to Nos 1 and 2 for long periods of the day, including evening hours.
21. Following the refusal of the application, the appellant has commissioned a Noise Assessment. I acknowledge that the Assessment has been produced by a suitably qualified acoustician and it concludes that the predicted specific sound levels do not exceed the background noise levels.
22. Nonetheless, the level of activity present on site during the measurement period is unclear. The Assessment states that the three fields were fully booked during the measurement period. It is not clear how many dogs were in each of the fields, and how that compares to their average use. Moreover, the assessment does not describe how the training area was being used during the measurement period. I cannot be certain that the assessment accurately reflects the proposed levels of activity across the wider site, without further evidence. Therefore, I only ascribe limited weight to its conclusions.
23. There is conflicting evidence on whether No 1 is currently occupied. However, this does not alter my assessment of the proposal. No 1 could be lawfully occupied in the future if it is not already. The proposal would affect both existing and/or future residents.
24. Notwithstanding a lack of objection from the Environmental Health Officer and the local highways authority, based on the evidence before me, I conclude that the appeal proposal would lead to a moderate increase in noise experienced by the residents of Nos 1 and 2.
25. I note that the Council has granted permission for secure dog walking fields in neighbouring fields and did not object to the amount of noise generated by their use. Whilst the appeal proposal would only lead to a moderate increase in the amount of noise generated by the wider site, it is within a relatively noisy environment. Therefore, the proposal will have a significantly adverse effect on the living conditions of residents of Nos. 1 and 2. As such, the appeal proposal would be contrary to Policy CSP18 of the Tandridge District Core Strategy, October 2008 (CS), and LPP2 Policy DP7. These policies indicate that development must not significantly harm the amenities of neighbouring properties.

Other considerations

26. The appeal proposal has received many letters of support from the local community and from customers of the facility. There is a high demand for the facility and a desire for it to be extended. I also note that the facility provides a vital service for people whose dogs are not comfortable with walking in public areas and a safe place for lone dog walkers. Furthermore, the appeal proposal represents a sustainable expansion of a rural business and would represent an increase in investment. Given the above, I ascribe substantial weight to the benefits of the proposal.

27. The proposal not having a harmful effect on trees, parking, highway safety, or neighbouring living conditions with regard to being overbearing, overshadowing or reducing privacy, are all neutral factors.

Whether very special circumstances exist

28. Paragraph 153 of the Framework states that “‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”
29. The appellant has stated that the proposal has been found to be wholly acceptable in terms of the Green Belt. However, the Council has indicated that very special circumstances exist to overcome the harm identified to the openness of the Green Belt, but not to overcome other harm identified. As such, the Council do not consider that the proposal has passed the test identified in paragraph 153 of the Framework.
30. I have found the proposal to be inappropriate in the Green Belt. As per paragraph 153 of the Framework, I ascribe substantial weight to this harm. In addition, the proposal would be harmful to the living conditions of neighbouring residents. Given the permanence of the development and the extensive hours of operation, alongside the existing noisy environment, I ascribe significant weight to this harm.
31. Although I ascribe substantial weight to the other considerations in favour of the appeal, I find that they do not clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

32. The Public Sector Equality Duty (PSED) requires me to have due regard to the need to eliminate discrimination, harassment, victimisation, and other prohibited conduct, advance equality of opportunity, and foster good relations between persons who share a relevant protected characteristics and those who do not share it. Some of the supporters of the proposal have indicated that they share the protected characteristic of disability, as set out within the Equality Act 2010. Whilst additional secure dog walking facilities would advance equality of opportunity, it has not been demonstrated that the proposal is the best way of expanding access to similar facilities in the local area. Having regard to the PSED, it is still proportionate and reasonable for me to dismiss this proposal.
33. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR