



Appeal Decision

Site visit made on 26 June 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2024

Appeal Ref: APP/P4415/W/24/3338811

Land off Kingswood Ave, Laughton en le Morthern

Easting: 452587, Northing : 387836

- 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 Mr Nick Pagowski against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref is RB2023/1697.
 - The development proposed is the change of use to off road parking & dog training area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies
 - (ii) The effect of the proposal on the living conditions of the occupiers of nearby dwellings with particular reference to noise and disturbance
 - (iii) 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 inappropriate development

3. Paragraph 155 of the Framework sets out that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes at 155e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). Policy SP 10 of the Sites and Policies Local Plan 2018 (SAP) is consistent with this national policy. The Council consider that the dog training element of the proposal would be a change of use for outdoor recreation and one which would have no impact upon the openness of the Green Belt or upon its purposes. I find no reason to take a different view on that matter.

4. The associated parking area would however change the nature of the existing paddock from open land to an area on which vehicles would stand for at least part of the days on which the proposed dog training facility took place. Given that it is proposed that 8 parking spaces would be provided and thus it is possible that 8 vehicles could be stood on it, its visual and spatial impact on openness would be notable, albeit limited to those times when dog training was occurring. It would therefore not preserve the openness of the Green Belt and furthermore it would represent an encroachment into the countryside, contrary to the purposes set out in paragraph 143 of the Framework. It would for those reasons be inappropriate development in the Green Belt.
5. There is the further matter of the potential for fencing, to which the Council refer but which neither the written submissions suggest, nor the plans submitted show, as being proposed. If this was required to secure dogs on the site or for noise attenuation purposes or both, then depending on what was proposed this too could be an element that would fail to preserve the openness of the Green Belt.
6. In conclusion, the proposed car parking area would be inappropriate development in the Green Belt. Any fencing required may also represent inappropriate development. Therefore, the proposal would fail to accord with Policy SP 10 of the SAP and with the Framework where they seek to protect the Green Belt.

Living conditions

7. The nearest residential properties are those located at the end of Kingswood Avenue which back onto the appeal site. These appear to be arranged as ground and first floor flats. They have windows which face towards the appeal site and rear garden areas. With the exception of some noise generated by animals currently present on the land adjacent to the appeal site which I shall return to later in my decision, at the time of my visit the noise environment in the area was notably one of quietness. Due to the proximity, it is likely that noise from barking dogs would to some degree be apparent from within those dwellings, especially when windows were open, and to people sat out in their rear garden areas.
8. The appellant has set out that their proposed business would operate from 7am to 7pm every day of the week. There would be 5 sessions per day, with a maximum of 3 dogs per session, and with at least an hour between each session. The dogs in each group would come from the same household and not from multiple households. Whilst these measures would help to minimise the potential for disruption from the dogs, they are dogs that would be being trained. If these were dogs being trained for the first time, it is reasonable to presume, without any evidence having been provided to the contrary, that they would be more prone to outbursts of barking than trained dogs.
9. Noise from barking dogs is an intermittent disturbance which would follow no discernible pattern, and which could occur at times and for durations that could not be readily anticipated. Periods of barking might also be prolonged. On the basis of the times of use put forward, it could occur throughout the day on both weekdays and weekends as early as 7am and up until 7pm. This would have the potential to cause significant disturbance to the occupiers of the nearest dwellings if it could be readily heard from within those properties and their

gardens, and consequently result in harm to the living conditions of the occupiers of those dwellings.

10. The Council's Environmental Health Officer requested that a Noise Assessment be provided to assess the likely noise levels from barking dogs at these dwellings. Whilst the appellant has commissioned an assessment, this appears to be primarily desk based, limited in its scope and it does not aid in assisting as to what impact barking dogs might have on the nearest dwellings. Without that information, it is not possible to establish at what level the noise from barking dogs might be, and the impact that it would have on the living conditions of the occupiers of those dwellings.
11. With regard to noise from vehicle movements, this would be expected to occur only at the beginning and end of the sessions, and if all dogs did come from one household then it is likely that only the movement of a limited number of vehicles would occur to and from the site at any one time. Furthermore, noise from vehicle movements is a noise that can be more readily anticipated in terms of its likely duration. Therefore, its impact and the likelihood of it resulting in harm to the living conditions of the occupiers of the nearby dwellings is substantially less.
12. The appellant refers to the noise generated by animals, both at the existing time and in terms of animals that could be brought onto the site. At the time of my site visit there were goats and chickens on the land immediately adjacent to the appeal site and owls on the appeal site. Crowing of cockerels occurred and that too is a noise that occurs intermittently and with no apparent pattern. However, there is nothing before me to enable a comparison of the current noise environment with that which may result from the appeal proposal. Furthermore, there is no specific indication as to what type of other animals might be brought onto the appeal site, so it is also not possible to make a judgement as to what effect they may have on the surrounding noise environment.
13. For these reasons and without any substantive evidence to demonstrate otherwise, I conclude that the proposal would cause harm to the living conditions of the occupiers of nearby dwellings as a result of noise and disturbance. Consequently, it would fail to accord with Policies SP 10 and SP 52 of the SAP where they seek to safeguard living conditions.

Other Considerations

14. A letter from the local Member of Parliament sets out reasons as to why the proposed development is being pursued, including to prevent dogs from using public spaces and recreation grounds in light of dog attacks throughout the country. I also note that two local residents offered support for the proposal at planning application stage, including on the ground that the proposal would help to improve parking around the bottom of Kingswood Avenue, and that there was no objection raised by the Highway Authority. However, the matter related to dog attacks is not substantiated with any evidence of a concern in the local area and it is unclear as to how the proposal could relieve any parking issues that are already arising. Therefore, these considerations carry only limited weight in support of the proposal.
15. The appellant makes reference to having made pre-application enquiries to the Council and to their dissatisfaction with the planning application determination

process. I also note that they have amended their proposal to attempt to overcome the issues that were raised during the course of a previous planning application. Those are however not matters that have any influence on my considerations of the planning merits of the specific proposal that is before me, and therefore I do not attach any weight to them in its favour.

16. Submissions made by the appellant also appear to suggest that what is proposed might not represent a material change of use, however that is not a matter for me to determine in an appeal made under s78 of The Town & Country Planning Act 1990. It is open to the appellant to apply to have that matter determined under sections 191 or 192 of the Act.

Conclusion

17. The Framework at Paragraphs 152 and 153 establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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 development, is clearly outweighed by other considerations.
18. The proposed parking area would be inappropriate development in the Green Belt and it has not been demonstrated that dog training could take place on the site without leading to harm to the living conditions of the occupiers of nearby dwellings through noise and disturbance. The other considerations put forward in this case do not clearly outweigh the harm to the Green Belt and to living conditions. Consequently, the very special circumstances necessary to justify the development do not exist.
19. For the reasons given above, I conclude that the proposal conflicts with Policies SP 10 and SP 52 of the SAP and with the objectives of the Framework where they seek to protect the Green Belt and living conditions. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR