



Appeal Decision

Site visit made on 18 June 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

Appeal Ref: APP/U2750/W/24/3340418

Field off Railer Bank, Mickley HG4 3JF

- 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 L Furlong against the decision of North Yorkshire Council.
 - The application Ref is ZC23/02361/FUL.
 - The development proposed is change of use of agricultural field to a dog walking field, with associated gravel car parking area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became National Landscapes (NL). The site lies within the designated Nidderdale NL. I have thus used the NL description even where the AONB description is directly cited within the policies and guidance.

Main Issues

3. The main issues are:
 - Whether the appeal site would provide an appropriate location for the proposed use, with particular regard to the relevant provisions of the development plan and its compatibility with neighbouring land uses; and
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties and the tranquillity of the NL, with particular regard to noise disturbance.

Reasons

Whether the appeal site is an appropriate location

4. The appeal site comprises an agricultural field used to graze sheep. The site sits on sloping ground, with the lower part of the site to the north and a considerable incline rising towards the southern boundary. The site boundaries are typically lined by trees and other vegetation, albeit with gaps and views through in places. To the south and north-east are other grazing fields. The public highway bounds the site to the west, with an area of woodland beyond.
5. The evidence indicates that the field to the north-east is used for grazing by Hebridean sheep. At the time of my site visit, I could see through gaps in the boundary hedging that there was a dozen or so black or brown sheep

sheltering in the western corner of this field. The sheep promptly began to vacate the area when they detected my presence on the appeal site, displaying the timidity described in representations from the Hebridean Sheep Society.

6. The appeal proposal would permit up to 12 dogs to roam freely within the site, albeit under supervision and contained behind mesh fencing and additional planting, with a ratio of 6 dogs to 1 person. I recognise that this type of proposal may be suited to a countryside setting. Nevertheless, users of the appeal site are likely to naturally gravitate to the northern part of the site, due to its topography. The characteristics of the site would thus encourage activity to occur close to the sheep in the neighbouring field to the north-east.
7. Additional soft landscaping is proposed along parts of this boundary, though detailed planting plans are not before me. The proposed tree planting that is shown would be somewhat sporadic and take time to mature. Any deciduous planting would be less effective in winter months. Tall grasses, wildflower and some bushes would not preclude dogs from approaching the boundary, as the fence line would sit behind the proposed planting. The topography of the site would also provide clearer views of dogs in the field from the north and east and amplify any barking in these directions. It is thus not clear that these proposals would adequately obscure mutual views between fields.
8. Even where dogs are not within sight of the sheep, the proposed mitigation measures would do little to negate the sound and smell of dogs playing in the next field. Based on my observations and the evidence before me, it is likely that the sight, smell and sound of groups of unfamiliar dogs roaming around the adjacent field would cause distress to sheep, particularly for pregnant ewes or ewes with young lambs. Even if this did not cause direct harm to the sheep, it would likely curtail the extent of the field that would be suitable for grazing.
9. The noise and disturbance arising from the proposal would thus be harmful to neighbouring land uses and would detract from the environmental and economic wellbeing of the area. Notably, the National Sheep Association (NSA) recommends the placement of dog parks without sheep grazing adjacent and conclude that the appeal site would not be a suitable location for this use.
10. The appellant alleges Hebridean sheep have no commercial value. However, there is no evidence before me to substantiate this. Though dogs may walk past the fields occupied by Hebridean sheep most days, this is not comparable to dogs roaming freely across the adjacent field throughout the day.
11. I recognise that the current tenant sheep farmer also has sheep grazing in the adjacent field to the south of the appeal site. However, I saw on my site visit that the relationship between the appeal site and this neighbouring field is appreciably different, with the steep hillside reducing access to the shared boundary. This would be restricted further by the placement of the fence line at a lower level and away from the existing fence, with vegetation between. This field is also larger, and the sheep within it are a different breed. The effect of the proposal on this neighbouring site is thus materially different.
12. In response to freedom of information (FOI) requests submitted by the appellant, North Yorkshire Police and West Yorkshire Police indicate that there have been no prosecutions for sheep worrying arising from dog exercising fields within their areas. However, this does not demonstrate that the appeal

proposal would not cause distress to sheep in the adjacent field, given the characteristics of the site, and would not result in the harm identified above.

13. I therefore conclude that the appeal site would not provide an appropriate location for the proposed use, with particular regard to the relevant provisions of the development plan and its compatibility with neighbouring land uses. It would be contrary to Policies HP7, EC3 and GS6 of the Harrogate District Local Plan 2014-2035 adopted March 2020 (the Local Plan). These policies, among other provisions, seek to support sustainable economic growth in rural areas, protect land uses in the countryside from excessive noise disturbance and conserve and enhance the natural beauty and special qualities of the Nidderdale NL.
14. The proposal would also conflict with Paragraph 191 of the National Planning Policy Framework (the Framework) which, among other provisions, seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution and the potential sensitivity of the wider area to impacts that could arise from the development, including mitigating and reducing to a minimum potential adverse impacts arising from noise.

Living conditions and tranquillity

15. The nearest dwellings to the appeal site are located to the west, at Judy House and to the north-east, at High Bank. While not immediately adjoining the site, both dwellings are less than 100 metres away, and each a similar distance from the central part of the site. Dwellings within Mickley are further away.
16. There is no substantive evidence before me regarding existing noise levels at the site or in the surrounding area, or the anticipated increase in noise arising from the proposal. I must therefore assess the relevant matters on the merits of the case as I see them. I observed at the time of my site visit that the NL in this area is relatively quiet and tranquil and, due to the local topography, sound can travel a considerable distance. It is thus sensitive to noise.
17. While dogs using the field are unlikely to bark for the duration of their time there, it is probable that many will bark at some point during their visit. This is likely to vary considerably based on several factors, including the number of dogs present together, their temperament and relationship to one another, who is supervising them and the presence and visibility of sheep in neighbouring fields. Given the size of the site, anyone supervising the dogs would also likely have to shout to attract their attention or to control any unruly behaviour.
18. At any one time, noise from the site may not be significant. However, over the course of the day this would amount to a considerable and repetitive intrusion into what is currently a relatively quiet and tranquil valley. This noise would have a deleterious effect on the living conditions of the nearest neighbours and would be more acute in summer months when the field would be in use for longer throughout the day and there would be greater activity overall.
19. I recognise that a site management plan has been prepared, and the Council's Environmental Health department has not objected subject to various control measures being implemented. However, many of the above factors would be difficult to adequately control through the management plan, particularly at busier times, and as the site would be open to the public.

20. The appellant has collated responses to FOI requests sent to every local authority in North and West Yorkshire, which indicates there have been no upheld noise complaints arising from any of the organised dog exercising fields in these areas. Nevertheless, the locations and details of each of those sites are not before me. The assessment of noise and disturbance for planning purposes is also not equivalent to the assessment of a statutory nuisance, which may be investigated by a local authority.
21. I also acknowledge that the NL Joint Advisory Committee considered that the effect of the proposal on the character of this part of the NL would be relatively limited. However, this does not in itself demonstrate that the proposal would not have an adverse impact on the living conditions of neighbours or the tranquillity of the NL in this area.
22. While the appellant may already walk dogs through the village, including in Mickley Wood opposite, the relationship of the woods to neighbouring land uses and dwellings, and the level of screening and noise mitigation provided by the denser vegetation, is materially different to the appeal site.
23. I therefore conclude that the proposal would have a harmful effect on the living conditions of the occupiers of neighbouring properties and the tranquillity of the NL, with particular regard to noise disturbance. It would be contrary to Policies GS3, GS6, EC3, HP4 and HP7 of the Local Plan. These policies, among other provisions, only permit development beyond development limits where it is expressly permitted by other development plan policies or the Framework. They also seek to support the environmental well-being of the NL, protect the countryside from noise pollution, and ensure that development does not result in significant adverse impacts on the amenity of neighbours and does not cause excessive noise disturbance to residents in the area.
24. The proposal would be contrary to Paragraph 191 of the Framework, in respect of its aim of avoiding noise giving rise to significant adverse impacts on health and the quality of life. It would also be contrary to the objective of the Nidderdale NL Management Plan 2019-2024 to safeguard the tranquillity of the NL. It would thus conflict with the statutory duty to seek to further the purposes of conserving and enhancing the natural beauty of NLs, and paragraph 182 of the Framework.

Other Matters

25. I recognise that the provision of controlled and dedicated spaces to allow owners to exercise their dogs can be beneficial in addressing the challenges presented by dog walking in nature-rich areas, along public rights of way, on agricultural land and amongst livestock. The proposal would potentially provide employment opportunities. It would also provide additional tree and shrub planting and increased maintenance of the field with associated environmental benefits. However, given the nature and scale of the development, these benefits would be modest, and it has not been demonstrated that they would outweigh the identified harm.
26. While the parties held constructive discussions during the application, and the appellant has amended the scheme since its inception, this does not indicate that the appeal proposals are acceptable with respect to the main issues.

27. Other than where set out above, I have not identified conflict with any other relevant parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.

Conclusion

28. The proposed development conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR