



Appeal Decision

Site visit made on 4 July 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2024

Appeal Ref: APP/V3120/W/23/3332863

Banny Hill Farm, Baulking, Faringdon SN7 7QE

- 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 and Mrs Cale of Vale Game against the decision of Vale of White Horse District Council.
 - The application Ref is P23/V1366/FUL.
 - The development proposed is change of use of land to form a dog exercise field including associated works.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to form a dog exercise field including associated works at Banny Hill Farm, Baulking, Faringdon SN7 7QE in accordance with the terms of the application, Ref P23/V1366/FUL, subject to the conditions set out in the schedule below.

Main Issues

2. The main issues are: i) whether the proposed use would be suitably located in terms of its accessibility to sustainable means of transport, and ii) whether the proposal is a form of rural diversification which would be supported by the development plan.

Reasons

Accessibility

3. Policy DP35 of the LPP2¹ sets out criteria where proposals for small scale countryside recreational facilities will be supported, which include where it is located within good access to public transport. In addition, Policy CP35 of the LPP1² states, among other things, that the Council will work with the County Council and others to encourage the use of sustainable modes of transport and support measures that enable a modal shift to public transport, cycling and walking in the district.
4. The appeal site is in a distinctly rural location. The road to the site lacks any designated footpath or lighting and vehicles have the potential to travel on this stretch of road at fast speeds. While the verges of the road had been mown at the time of my site visit, this would not necessarily always be the case, and some parts are narrow and uneven, which would cause users to walk in the road. The combination of these factors result in the route along the road being

¹ Vale of White Horse District Council Local Plan 2031: Part Two- Detailed Policies and Additional Sites, 2019

² Vale of White Horse District Council Local Plan 2031: Part One

an unattractive and unsafe route for pedestrians, particularly during darkening hours or inclement weather.

5. The appellant accepts that the facility is not one people are likely to visit by bus. Nonetheless, a bus service has been reinstated which passes through Uffington, for which the nearest stop is approximately 1,500m from the appeal site. While a distance of 800m is not necessarily a maximum desirable walking distance, particularly for dog walkers, given the characteristics of the route along Station Road, and the distance involved, this is unlikely to provide an attractive alternative to car use. The route via Uffington-Gorse still utilises Station Road in part, although its other off-road sections may be attractive to some users.
6. However, overall the site is not one which can be described as having good access to public transport and it is likely that users of the site would rely heavily on private cars. The proposal would not, therefore, be suitably located in terms of its accessibility to sustainable means of transport. The main parties agree that the use comprises a countryside recreational facility, and as such Policy DP35 is relevant. As the proposal would not meet the criteria it sets out, the proposal is therefore in conflict with Policy DP35, and it would not encourage sustainable modes of transport, in conflict with Policy CP35 of the LPP1. The provisions of the National Planning Policy Framework (the Framework) insofar as it promotes sustainable transport are discussed further below, since it requires consideration of the type of development and its location.

Rural Diversification

7. Policy DP12 of the LPP2 supports proposals for rural diversification, provided that they are ancillary to, and related to, the existing business enterprise. The appellant describes that grassland including the appeal site is currently managed agriculturally to raise sheep and produce hay, and that Banny Hill Farm is also the base for their business which specialises in pest control.
8. The appeal site is located close to the main farm buildings and can be considered well related to the farm in terms of its position. The proposal would be managed and operated by the same staff as the farm and administered from the existing nearby office. In addition, the appellant has set out that the proposal would provide an additional source of income for the farm and help to maintain the farm's operation and land. The combination of these factors leads me to conclude that the proposal would be rural diversification, which would be ancillary to, and related to, the existing farm enterprise. The scheme would therefore benefit from support under LPP2 Policy DP12.
9. In reaching this view I have had regard to the appeal decision evidenced by the Council³, however there are important differences with that decision. In particular that Inspector notes a significant distance from the main farm buildings and that development would appear as a standalone facility, not meaningfully related to the farm. For the reasons set out, this would not be the case for this appeal scheme.
10. The Uffington and Baulking Neighbourhood Plan, made 2019 (the NP) also forms part of the development plan. This states that diversification will be

³ Appeal Decision APP/V3120/W/21/3286082 – Newbury Road, Harwell, Didcott

encouraged where appropriate to avoid the loss of more farms, and its Policy EE2 states that development and diversification of agricultural and other rural land-based businesses in its Plan area will be supported. The proposal therefore also complies with this policy.

11. Furthermore the Framework supports the development and diversification of agricultural and other land-based rural businesses, and sustainable rural leisure developments which respect the character of the countryside, which would be the case here. The Council accept that NP Policy EE4 was not considered most relevant to the determination of the application and was not relied upon in its reason for refusal.
12. In summary on this main issue, the proposal would be a form of rural diversification and the proposal would comply with LPP2 Policy DP12 and NP Policy EE2, as well as the Framework insofar as it supports a prosperous rural economy.

Planning Balance

13. The Framework acknowledges that development should take appropriate opportunities to promote sustainable transport modes, given the type of development and its location. Given the proposal has been found to be rural diversification and given the particular characteristics of this proposal, I do not find conflict with this part of the Framework.
14. The assessment above finds conflict with the development plan insofar as the location of the development is concerned. However, the proposal would constitute rural diversification which is supported by other development plan policies, as well as the Framework. Therefore the relevant policies pull, to some degree, in different directions and it should be established which is the dominant policy⁴.
15. In the case of the appeal scheme the effects of the unsustainable location would be very limited due to the low capacity of the site and the way it would operate, taking only hourly bookings during daylight hours and having just two parking spaces, resulting in a low number of vehicle movements and limited harm in this respect. Furthermore, as a scheme of rural diversification and given the nature of the proposed use, this is more likely to be a use located in an area with less accessibility to public transport. In combination these factors lead me to conclude that the policies of the development plan which support rural diversification should be given greater weight in the assessment of the appeal scheme. As such, the proposal would not conflict with the development plan when read as a whole.

Other Matters

16. I appreciate concerns for the potential effects on the bridleway which can be used by horses. However it is not apparent that the potential effects on the bridleway would cause conflict with the development plan and, given the existing effects of the proximity to the railway, these effects would not amount to considerations of weight to refuse planning permission. Matters relating to risk assessments are for the appellant and it is not necessary to consider the suitability of alternative sites across the farm as part of the appeal. The proposal, as it is before me, does not include alterations to the access track,

⁴ R v Camden LBC [2001] EWHC (Admin) 1116

however concerns relating to its surface could reasonably be addressed and would not amount to a reason to withhold planning permission.

Conditions

17. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
18. In addition to the standard time limit condition, a condition listing the approved drawings is also necessary to provide clarity and the plan titled as indicative is not included. To maintain highway safety, details of parking and a turning circle are necessary. It is not apparent why details of sustainable drainage would need to be included given its location and nature, nor what works would need to take place at the point of access, particularly given the limited scope of the red line of the appeal site in this area. Overall there is not sufficient evidence to support why those requirements meet the test of necessity here. To ensure appropriate waste collection provision, those details should also be reserved by condition.
19. For visual, amenity, and ecological reasons, a condition makes clear that external lighting should not be installed. Further conditions have been suggested by the Countryside Access Officer relating to the public right of way. However, since these relate primarily to alterations which are not proposed as part of the appeal and take the form of informatives, these would not meet the test of necessity for planning conditions.

Conclusion

20. Although the proposal would conflict with parts of the development plan, for the reasons given the proposal should be regarded as being compliant with the development plan when read as a whole. The appeal is therefore allowed.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings: Site location plan, 'Proposed Dog Exercise Area' dated June 2023.
- 3) Prior to the commencement of the use, full details of the two parking spaces and a turning area for vehicles on the site shall be submitted to and approved in writing by the local planning authority. The approved turning area and parking spaces shall be installed in accordance with the approved details and shall be available for use at all times.
- 4) Prior to the commencement of the use, details of provisions for storage and collection of waste from the site shall be submitted to, and approved in writing by, the local planning authority. The use shall be maintained in accordance with those approved details.
- 5) No external lighting shall be installed to the site.

End of Schedule