



Appeal Decision

Site visit made on 12 February 2025

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/A0665/W/24/3355140

Land At Norley Road, Cuddington, Northwich, Cheshire CW8 2TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Miss Charlotte Ruddy against the decision of Cheshire West and Chester Council.
 - The application Ref 23/01838/FUL was approved on 28 May 2024 and planning permission was granted subject to conditions.
 - The development permitted is Change the use of agricultural land to a dog exercise facility, erection of 1.8m high fencing to boundary with parking area and access gates onto Norley Road (Retrospective).
 - The condition in dispute is no. 2 which states that:
Dogs shall not be permitted within the site except during the following periods: 08.00 to 18.00 Monday to Friday 08.00 to 13.00 Saturday. The site shall not be used for any purpose at any time on Sundays and Bank Holidays.
The reason given for the condition is: To preserve the openness of the Green Belt and to safeguard the amenity of surrounding occupants.
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Decision

1. The appeal is allowed and the planning permission Ref 23/01838/FU for Change the use of agricultural land to a dog exercise facility, erection of 1.8m high fencing to boundary with parking area and access gates onto Norley Road at Land at Norley Road, Northwich, CW8 2TJ granted on 28 May 2024 by Cheshire West and Chester Council, is varied by deleting condition 2 and substituting it for the following condition:

The hours of operation of the business, and access to the site by customers, shall only be between the hours of 07:00 and 19:00 on any day.

Preliminary Matters

2. The original decision notice contained wording that is not a description of development and I have removed that from the decision wording above. The planning history of the site is referenced within the evidence.
3. Despite the original reason for the condition referencing the openness of the Green Belt, there is nothing within the evidence to indicate that this condition was included for reasons relating to the openness of the Green Belt. The statement of the Council focuses on the potential effects of a revised condition on the living conditions of surrounding occupiers and it is this matter within the reason for the condition on which I will focus my consideration.

Main Issue

4. The main issue is the effect that extending the hours within which the site could be used would have on the living conditions of nearby residential occupiers and whether the condition in its current form is necessary and reasonable in other respects.
5. The permission currently restricts dogs from being permitted within the site except between the hours of 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 Saturday. The site shall not be used for any purpose at any time on Sundays or Bank Holidays.
6. The appeal requests the deletion of that condition and its replacement with a condition which would read 'the hours of operation of the business, and access to the site by customers, shall only be between the hours of 07:00 and 19:00 on any day'.

Reasons

7. The site to which the appeal relates is situated within rolling countryside, a limited distance from Norley and Delamere Park. The nearest residential properties to the site are at Camomile Farm and Keepers Cottage to the south and those situated on the fringes of Delamere Park at The Dell.
8. The permission enables the site to be used by one customer and up to three guests along with no more than six dogs at any one time. There is potential for the site to give rise to noise, the most noticeable of which may be associated with dogs using the site barking.
9. The potential for dogs to bark whilst at the site would vary hugely and would likely be dependent on the particular character of any dog and other environmental factors. Many dogs would be unlikely to bark at the site whilst others may. No formal assessments of noise at the site are included within the evidence.
10. Amending the condition as suggested would allow for the potential for that noise to be experienced within the area slightly earlier in the mornings and slightly later into the evenings Monday to Friday and for much more extensive hours during the weekends and bank holidays.
11. However, properties at the Dell are set some distance from the site and there is a substantial area of woodland between the appeal site and its dwellings which may well serve to screen noise from the site. Keepers Cottage is also partially screened by the extension of that woodland to the south of Norley Road. The evidence indicates that Camomile Farm is a working farm and as such there may be some noisy activities that take place at that site in any event.
12. The evidence indicates that the site has been operating with extensive opening hours between 2021 and 2024, when planning permission was obtained. There is limited evidence of any significant adverse impact on the living conditions of nearby residential occupiers during this period.
13. I therefore conclude that deleting the existing condition and inserting that proposed would have no significant adverse impact on the living conditions of nearby residential occupiers and that the condition as it stands is not necessary nor reasonable in other respects.

Other Matters

14. My attention has been drawn to a recent appeal decision¹ within the locality for the change of use of an agricultural field to a dog exercise area which imposed restrictions on hours of use similar to those imposed by the Council at this site. However, the relationship between residential properties and the site within that appeal do not appear to be identical given that the land appears much more open between the appeal site and residential dwellings. I therefore afford that matter limited weight.
15. My attention has also been drawn to further appeals from elsewhere within the country by the Council and which relate to dog exercise areas. However, the first appeal decision² indicates that the closest residential property was 50m away from the site and the second³ was considered on the basis of the use of the site by more dogs at any one time. With regard to land south of Little Chatsworth Cottages⁴, the cottages were described as a limited distance from the site with gardens close by, whilst a further residential property, Woodbury was in close proximity. Within the Kerry Hill Farm appeal⁵ the distance from that appeal site to residential properties being considered is unclear but the decision appears to identify two or three dwellings close to the site. There do appear to be some differences in circumstances with regard to those appeals and I therefore afford them limited weight.
16. In any event, no two sites are likely to be the same and it is key that every site should be considered on its own merits and circumstances.
17. The proposal also appears to be accompanied by letters of support from the occupiers of both Camomile Farm and Keepers Cottage. Whilst I appreciate that there was objection to the original scheme on the basis of noise and that occupiers of those two closest properties could change in the future, that correspondence should be afforded some positive weight in support of the appeal.

Conclusion

18. There is nothing to indicate that the extended opening hours would result in a significant adverse impact on the living conditions of nearby residential occupiers. The appeal should therefore be allowed.

T Burnham

INSPECTOR

¹ APP/A0665/W/23/3319849 - Land off Marsh Lane, Dutton, Northwich.

² APP/C/17/3182333 - Land at Delph Farm.

³ APP/E2001/W/19/3232261 - The Acorns, Rossmoor.

⁴ APP/R1038/W/23/3328019 – Land south of Little Chatsworth Cottages.

⁵ APP/B3438/W/23/3327130 - Kerry Hill Farm, Eaves Lane.