



Appeal Decision

Site visit made on 20 February 2025

by John Felgate BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2025

Appeal Ref: APP/R0660/W/24/3356138

Land at Georges Lane, Aston by Budworth, Northwich, Cheshire CW9 6LS

- 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 Stefi Szczerba against the decision of Cheshire East Council.
 - The application Ref is 24/2271M.
 - The development proposed is described in the application as: *“Change the use of agricultural land to recreational use (canine, retrospective)”*.
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Decision

1. The appeal is allowed and planning permission is granted for the development described above, on land at Georges Lane, Aston by Budworth, Northwich, Cheshire CW9 6LS, in accordance with the terms of the application, Ref 24/2271M, subject to the conditions in the attached schedule.

Background and main issue

2. The appeal site comprises a single small paddock of about 0.34 hectares, together with a gravelled access way and parking area, set within an area of mainly open farmland. Since July 2021 the site has been used as the ‘Great Budworth Dog Park’, where customers bring their dogs for outdoor exercise. The appeal seeks retrospective planning permission for the change of use from agricultural land.
3. On the Policies Map for the District, the appeal site lies within an area defined as Green Belt. Within that area, Policy PG3 of the Cheshire East Local Plan (the CELP)¹ states that planning permission will not be granted for inappropriate development, except in very special circumstances, in accordance with national policy.
4. The meaning of ‘inappropriate’ in this context is defined in the National Planning Policy Framework (the NPPF). Paragraph 159 makes clear that development in Green Belts is inappropriate unless one of the exceptions specified in that paragraph applies. These exceptions include, at sub-paragraph h(v), material changes in the use of land, including but not limited to, outdoor sport or recreation and various other uses. The exception is subject to the proviso that the development must preserve the Green Belt’s openness, and not conflict with the purposes of including land within it.
5. In the present case, there is no dispute that the use of the appeal site as a dog exercise park is a material change of use, to which the exception at h(v) is potentially applicable. The Council’s reason for refusal contends that the use fails

¹ adopted in July 2017

to preserve the Green Belt's openness, due to the level of activity and traffic generated.

6. Having regard to this, and the various other submissions before me, the main issue in the appeal is whether the proposed use would represent 'inappropriate development' in terms of the relevant planning policies.

Reasons for decision

7. The dog park operates on the basis of individual one-hour sessions, which are pre-booked via a dedicated website. Customers are required to observe and comply with the terms and conditions set out in the Park Rules and Dog Management Plan. Based on the booking records supplied by the appellant, for a 4-week period during the month of October 2024, the average number of bookings during that period was 8 sessions per day, with the actual number on any single day ranging from a maximum of 13 down to just one. The great majority of these bookings were recorded as being for only one or two dogs at a time. The accuracy of these records has not been disputed. In addition, although the evidence is limited, the appellant states that most bookings involve a single owner or handler, attending on their own, and using a single vehicle.
8. As the Council points out, the level of use is likely to be greater in the summer months, due to better weather and longer hours of daylight. However, this seems likely to be balanced by fewer bookings in winter. I see no reason to doubt that the period chosen is reasonably representative of the average over the year as a whole. Overall, based on the appellant's evidence, it seems to me that the typical daily traffic generation would be likely to be in the region of 8-10 vehicles, or 16-20 movements, per day.
9. I appreciate that the current level of take-up is only around 60% of the total number of sessions available, potentially leaving scope for some intensification. But few businesses of this kind would expect to achieve full occupancy across the board. In my view, the maximum amount of intensification that it would be realistic to anticipate would be to around 75% of full capacity, implying no more than an extra 2-3 vehicles a day overall.
10. I agree that there appears to be nothing in the park's rules that prevents group bookings involving multiple owners, each with their own vehicle; nor indeed anything that would stop even single-dog bookings from being attended by additional persons, travelling separately. Either of these scenarios could potentially involve additional vehicles. However, there is no evidence that this has tended to occur in practice. Realistically therefore, such instances seem likely to be relatively rare. But in any event, the numbers of dogs and vehicles could be controlled by condition.
11. Overall, the maximum traffic generation seems unlikely to exceed an average of around 10-13 vehicles, or 20-26 movements, per day. At the most, this would represent no more than about 2 movements per working hour. This means that, for the vast majority of the time, no traffic movements at all would be taking place. I accept that, even at this low level, the numbers of movements would probably exceed those that would be generated by an agricultural use. But nevertheless, the numbers would be so low as to be unnoticeable for most of the time. To my mind therefore, the impact of these traffic movements on the openness of the Green Belt would be negligible.

12. With regard to parked vehicles, for the same reasons as above, it seems to me that the number of customers' vehicles present on the site would usually be no more than one, or sometimes two. At changeover times between sessions, this would potentially double, but only briefly, as clients are required to allow 5-10 minutes for this purpose. As the site is close to the appellant's home, and is monitored by CCTV, no permanent presence on site is needed. The parking area is adjacent to a clump of trees and vegetation, which either screens or provides a backdrop, depending on the direction of view. To my mind, the effect of such a small number of private cars or other small domestic vehicles in this location, for part of the time, would again have a negligible impact on openness.
13. The Council takes no issue with the open-sided wooden shelter that has been erected, nor with the presence of various small items of dog training equipment. I see no reason to differ. The shelter is small, and rustic in appearance, and is not dissimilar from structures that might often be seen in connection with livestock or other agricultural activities. The other items are freestanding, easily movable and visually insignificant. But in any event, the permission sought is only for the use of the land, and there is no suggestion that any of these physical structures is integral to that use. In addition, the gravel surface to the access and parking area is said to pre-date the present use; and the post-and-rail fencing that encloses the site is rural in appearance, and appears to be within permitted development limits. To my mind, none of these features has any material effect on openness.
14. There is no suggestion that the use has any adverse effect on the purposes of Green Belts as set out at NPPF paragraph 143. Again I agree. Given that the development would not involve any built development, it would not contribute to urban sprawl, nor would it result in the merging of nearby towns; nor would it represent an encroachment on the countryside, or affect any of the other stated purposes.
15. In the light of all the above considerations, I am satisfied that the proposed development would have no effect on openness, and would avoid conflict with the Green Belt's stated purposes. On this basis the scheme would fall within the exception for material changes of use within NPPF paragraph 154 h(v), and would therefore not constitute inappropriate development. It follows that the development would involve no conflict with CELP Policy PG3.

Other matters

16. NPPF paragraph 88 supports the sustainable growth and expansion of all types of businesses in rural areas, the diversification of agricultural and land-based rural enterprises, and sustainable rural leisure developments. In the present case, although the dog park is small in scale, it evidently provides an income for the appellant, and contributes in a modest way to the local economy. From the numerous letters of support received, it is also clear that the business provides a service that is valued by customers, and thus contributes to community life in the area. These considerations weigh in favour of the appeal.
17. Dogs when exercising will inevitably cause some noise by barking. But in the countryside, animal noises are to be expected. In this case, the nearest unconnected residential properties are at least 200m away from the appeal site. Although some noise is likely to be audible, I see no reason to think that the level of disturbance would be unacceptable.

18. I note that lighting previously in place on the site was considered to cause annoyance. However, that lighting now seems to have been removed, and none was in place at the time of my visit. Any future replacements, and the hours of use, can be controlled by conditions.
19. With regard to highway safety, Georges Lane is a cul-de-sac, and although it serves a number of businesses around Gravestones Farm, the overall volume of traffic on the lane appears quite small. As discussed above, the number of additional vehicles generated by the dog park use would be negligible. From my observations, traffic speeds are generally quite low, and passing places are available. I therefore see no reason why the proposed use should give rise to any significant safety risks. I note that part of the road is unadopted, but any breach of private rights would be a civil rather than a planning matter.
20. I have no reason to doubt that there may be badger setts in the area, but there is no evidence that any are present on the appeal site, or are affected by the proposed use. In this regard, it is relevant that badgers are legally protected, and that protection would be unaffected by the grant of planning permission.
21. I note the comments of a local resident regarding dangerous dogs, including the 'XL Bully' breed. However, there is no evidence of any dogs having escaped from the appeal site or caused danger or nuisance. In any event, the control of dangerous breeds is covered by other legislation, and again the protections afforded by that legislation apply irrespective of any planning permission.
22. I appreciate that there is a public footpath which runs close to the appeal site. However, the path does not cross the site, nor does it appear to directly adjoin the site, and there is no evidence of any interference with users. In any event, any such interference is, and would continue to be, prohibited by other legislation.
23. A number of the representations received suggest that the dog park use sometimes also takes place at the appellant's nearby manege, particularly during periods of bad weather. However, the appeal proposal that is before me relates only to the site defined in the original planning application, and my decision therefore relates only to that land.
24. Reference is made in some representations to listed buildings in the vicinity. However, these have not been identified. The appeal site is well away from any buildings, and in any event, the use as a dog park does not appear to have materially changed the appearance of the land. In the absence of any further information, I am satisfied that the development would not adversely affect the setting of any heritage assets, or affect their significance in any other way.

Conclusion

25. As set out above, I have found that the use of the appeal site as a dog park is not inappropriate in terms of green belt policy, and as such, it does not conflict with CELP Policy PG3. There is therefore no need for me to consider whether very special circumstances have been demonstrated. No conflict with any other policies has been suggested.
26. Where development is compliant with the development plan, NPPF paragraph 11(c) makes it clear that approval should be granted without delay. In the light of the above, I find the present appeal to be clearly such a case.

27. In addition, the contribution that the use makes to the local community and rural economy adds further weight in favour. No significant harm arising from the use has been substantiated.
28. For these reasons, the appeal is allowed, and planning permission is granted, subject to the conditions set out in the attached schedule.

Reasons for conditions

29. In considering the conditions suggested by the Council, I have had regard to the advice in NPPF paragraph 57, that planning conditions should be kept to a minimum, and only imposed where they are, amongst other things, necessary, relevant to planning, and enforceable. I have also edited those that I have imposed, for reasons of clarity and concision.
30. I agree that restrictions on the hours of operation and external lighting are reasonable, to avoid the possibility of nuisance to neighbouring occupiers. These are incorporated in Conditions 1 and 2. I also agree that a condition relating to the management of waste is necessary, to ensure good standards of visual amenity and public health (Condition 3).
31. With regard to the Park Rules and Dog Management Plan, whilst I have no doubt that these are highly beneficial for site management purposes, much of their content goes well beyond matters that are relevant to planning. I have therefore substituted a condition (Condition 4) which is designed to control only those items from the Rules and Management Plan that are necessary to make the use acceptable in planning terms, comprising the booking system, length of sessions, and vehicle and dog numbers.
32. A condition requiring adherence to the approved plans is not appropriate in this case, because the development is for a change of use only. I have therefore omitted this condition.

J Felgate

INSPECTOR

[SEE ATTACHED SCHEDULE]

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The use hereby permitted shall not operate outside the following hours:
March to October: 07.00 – 21.00
November to February: 08.00 – 16.00
- 2) No external lighting shall be installed or used at the site, other than in accordance with details that shall have been submitted to the local planning authority and approved in writing.
- 3) All waste shall be dealt with in accordance with the submitted Waste Management Plan.
- 4) The use shall operate on the following basis:
 - (i) All users shall be required to pre-book for a specified session.
 - (ii) Sessions shall be of one hour's duration, including a 10-minute changeover period.
 - (iii) The number of dogs permitted per booking shall not exceed 7.
 - (iv) The number of vehicles per booking shall not exceed 2.