



Appeal Decision

Site visit made on 17 February 2025

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2025

Appeal Ref: APP/T3725/W/24/3350169

Swallowfield Stud, Rising Lane, Lapworth, Warwickshire B94 6JD

- 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 Mogz and Dogz Limited against the decision of Warwick District Council.
 - The application reference is W/23/1175.
 - The development proposed is change of use of field and 3 buildings to dog care and walking use (Sui Generis) including erection of dog run and replacement roof to the buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Noise Statement (NS) has been submitted with the appeal, which is supplementary to the Noise Assessment (NA) documents submitted with the application. The NS does not fundamentally alter the proposal, but rather summarises the findings of the NA documents and suggests mitigation that seeks to overcome the Council's concerns. Given its content and nature, I am satisfied there is no procedural unfairness in me taking account of the NS in my decision.
3. The National Planning Policy Framework (the Framework) was revised in December 2024. Because the changes do not materially affect the main issue in this case, no prejudice is caused in me deciding the appeal without reverting to the parties for further comment.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupants of Swallowfield Lodge and Swallowfield Stud, with particular regard to noise and disturbance from dog barking.

Reasons

5. The appeal site lies within an existing equestrian centre, which is accessed via a track from Rising Lane. It is separated from the nearest properties on Rising Lane by paddocks. However, Swallowfield Lodge and Swallowfield Stud are residential properties within the equestrian facility itself, and they are therefore located in close proximity to the appeal site.
6. The proposed development would allow for the care of up to 35 dogs on weekdays excluding public holidays and over the Christmas period. Between the hours of 8am and 5pm, the dogs would be accommodated within outbuildings with an

attached external dog run. The dogs would be exercised in a nearby field in small groups between the hours of 9am and 2pm.

7. In the absence of a widely accepted method for assessing the effects of dog barking noise, the NA used a bespoke method, which included a noise level penalty to account for the intrusive character of barking. On this basis, the NA found that the noise arising from the exercising of dogs within the external field would be unlikely to cause significant adverse effects at the nearest dwellings Swallowfield Stud and Swallowfield Lodge. There is inevitably a degree of uncertainty where noise level conclusions are based on predictions. However, only a small number of dogs would be exercised at any one time and under supervision, which would reduce the likelihood of excessive barking. Moreover, given that exercising would only be carried out over a short period during the normal working day, it is unlikely to cause detrimental noise nuisance.
8. However, the NA does not include a quantitative assessment of barking noise arising from the outbuildings and proposed dog run, and it is not clear from the evidence whether access to the dog run would be controlled. The evidence indicates that the number of dogs on site would be likely to vary throughout the day, and it is clearly the appellant's intention to use operational and management measures to reduce barking. However, at the scale of the development proposed, it is entirely feasible that up to 35 dogs would be accommodated together in close quarters across a large part of the day. In these circumstances the opportunity for sustained barking by many dogs simultaneously would clearly arise. Due to the intermittent and repetitive nature of barking, and the numbers of dogs involved, this would be a particularly irritable noise source at high volume.
9. The NS seeks to demonstrate that noise levels arising from barking within the outbuildings and dog run would not be significant due, in part, to the distance between the facility and the nearest dwellings as well as the presence of intervening buildings. However, the NS does not clearly state the factors that have been taken into account in forming this conclusion and, therefore, there is uncertainty over the assumptions and limitations of the NS findings. For example, it is not clear whether the predicted noise levels have assumed the facility is operating at its maximum capacity and the evidence does not set out the number of dogs assumed to have been present in the external run at any one time.
10. Moreover, whilst noise levels could be mitigated to some extent through acoustic fencing and alterations to the fabric of the buildings, the evidence does not convince me that such measures would be effective given the large number of dogs involved, the need to ensure appropriate animal welfare in terms of ventilation and toileting amongst other things, and the lightweight design of the acoustic fencing as indicated on the proposed site plan. Furthermore, it would not be appropriate to secure an alternative fence design through condition because, without sufficient information about the dimensions and materials of any such fencing, I cannot conclude on its effectiveness, and it could conflict with national and local policies in respect of the Green Belt.
11. Because Swallowfield Stud and Swallowfield Lodge are associated with the equestrian business which, in turn, has some control over the appeal site, it is feasible that the occupants could be less sensitive to barking noise than other residents. However, even if this were the case, the noise levels arising from many dogs barking simultaneously and throughout the day would be excessive and

harmful without effective mitigation. In this regard, at the scale proposed, the appeal scheme would fail to accord with the Framework's expectation that development is sensitive to its surroundings and delivers a high standard of amenity for existing and future occupiers.

12. Overall, I conclude that the proposal would cause harm to the living conditions of the occupants of Swallowfield Lodge and Swallowfield Stud, with particular regard to noise and disturbance from dog barking. The proposal would therefore conflict with Policy BE3 of the Warwick District Local Plan 2011-2029 (Adopted September 2017), which states that development will not be permitted that has an unacceptable impact on the amenity of nearby uses and residents.

Other Considerations

13. The proposal would make use of under-utilised land and buildings on a site that forms part of an existing rural enterprise, and it could therefore accord with the objectives of rural diversification policies. It would also make a meaningful contribution to local employment through the creation of 4 jobs, and it would help to address a local need for dog care and walking facilities. However, the cumulative weight of these benefits is not sufficient to outweigh the harm that would be caused due to unacceptable noise effects.
14. It is common ground between the parties that the proposal would not be inappropriate development in the West Midlands Green Belt. In coming to its view on this issue, the Council took account of the height and materials of the proposed fencing as indicated on the submitted plans. Based on the evidence before me, I have no reason to take a different view on this matter.
15. Owing to the accessibility of the location, the Council has not objected to the principle of the development on this site and no objections were advanced from technical consultees in respect of highway matters, flooding, and ecology. The evidence does not lead me to take a different view. The absence of harm weighs neither for nor against the proposal.

Conclusion

16. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

E Catchside

INSPECTOR