



---

## Appeal Decision

Site visit made on 8 April 2025

**by H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 May 2025

---

**Appeal Ref: APP/Z1510/W/24/3351199**

**Land South of Sheepcote Wood, Station Road, Cressing, Essex CM77 8PD**

- 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 Stuart Philpot (SJR Farming) against the decision of Braintree District Council.
  - The application Ref is 24/00878/FUL.
  - The development proposed is Change of use of agricultural land to dog walking field, new access and fencing.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural land to dog walking field, new access and fencing at Land South of Sheepcote Wood, Station Road, Cressing, Essex CM77 8PD in accordance with the terms of the application, Ref 24/00878/FUL, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The Council has used a different address on its decision notice to that which appears on the application form. The amended address has been used by the appellant on their appeal form and supporting documents. Given this address more accurately describes the location of the site, I have used it in the banner heading and my formal decision above.
3. No description of development was provided on the application form, so I have used the description from the appeal form in the banner heading and in my formal decision above, as this matches the description on the Council's decision notice.
4. The appeal has been accompanied by a response to the Council's Ecology and Biodiversity Officer's objection, which related to insufficient information to determine any likely effect on ecology and biodiversity. This additional statement confirms that fencing would be installed around the site and the change of use from arable land to grassland would provide a functional buffer from the adjacent Ancient Woodland which would reduce any potential impacts from current farming practices.
5. The Council is satisfied that with the fencing in place any impacts upon this irreplaceable habitat would be avoided from both direct and indirect impacts during the construction and operational phases of the proposal. On this basis the Council has withdrawn its third reason for refusal. I am satisfied that with this fencing, which is a matter that could be controlled by condition were the appeal allowed, there would be no harm to the adjacent Ancient Woodland from the proposal.

## Main Issues

6. The main issues are:

- whether the proposal would be an appropriate use in the countryside with particular regard to the character and appearance of the area and the accessibility of the site; and,
- the effect of the proposal on best and most versatile agricultural land.

## Reasons

### *Whether an appropriate use in the countryside*

7. The site lies outside of a defined settlement boundary, in the open countryside. The appeal site comprises part of an open agricultural field that has a gated farm access off Station Road. The highway and north-eastern boundary with Sheepcote Wood are formed by well-established hedgerows and trees with the remaining boundaries open to the wider field. The site and wider area have an open and rural character, and the appeal site makes a positive contribution to the surrounding countryside and landscape.
8. The proposal is to use the field for dog walking by private households and dogwalkers as a farm diversification project and to support the rural economy. Mesh fencing at a height of approximately 1.8m would be erected around the perimeter of the field and a small car parking area for 2 cars would be created just off the proposed access which would be surfaced with road planings.
9. The application was not supported by any detailed business case or information pertaining to the viability of the business or how it would support the wider farm enterprise. However, this is not a requirement set out in policy LPP1 of Braintree District Local Plan 2013-2033 (the LP) which seeks only to control development uses appropriate to the countryside. Nor is it a requirement of the National Planning Policy Framework (the Framework) which sets out, amongst other things, that to support a prosperous rural economy, planning decisions should enable the sustainable growth and expansion of all types of business in rural areas and the development and diversification of agricultural and other land-based rural businesses.
10. The appellant has stated that the development would be a farm diversification venture. Whilst no business plan has been provided, any additional income generated from this business would support the farm, and in turn, the rural economy. From my reading of paragraphs 88 and 89 of the Framework, national policy is permissive in supporting rural enterprises and explains that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. The provision of a large field to enable dogs to run safely off the lead requires a large open area. There would likely be limited availability of such land in an urban area. Hence to use a field on a farm would most likely have to involve a countryside location.
11. Other than the mesh fencing and parking area, no permanent structures are proposed as part of the appeal scheme. Consequently, whilst the proposed use would not be agricultural, the majority of the appeal site would remain a green field. The mesh fencing would have a light-weight appearance and would not be dominating or prominent in views from the surrounding area. The proposed access gates would also have a similar appearance to the existing metal field gate and therefore would integrate

harmoniously with the surrounding agricultural landscape. The hardstanding area would also be small in comparison to the extent of the appeal site, located close to the junction with Station Road so as not to unduly encroach into the open field. Whilst the removal of parts of the hedgerow adjacent to the access would increase the visibility of this area, it would not be dissimilar to an area of hardstanding that one might expect to see off an agricultural field entrance. Consequently, the development would not cause unacceptable harm to the intrinsic character and beauty of the countryside or wider landscape, nor would it have an unacceptably urbanising effect on this rural area.

12. The Council also has concerns that the site's location means that there would be a reliance on the use of private motor vehicles, albeit there would not be a highway safety concern related to this. The appeal site is located in a rural area and would be accessed by narrow rural lanes. There are no pavements, wide grass verges or streetlights along Station Road. Therefore, and given the distance between the site and the nearest settlements, most future users of the proposed development would be likely to rely on the use of private vehicles to access the site. This is particularly the case as the likelihood of customers using public transport, as well as cycling, with their dogs would be low. However, the Framework states that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport.
13. Whilst the proposal is likely to be car dependant, it would nevertheless operate at a relatively low intensity. The appellant proposes that the site would be restricted to sole use via an on-line booking system limited to 50-minute slots between 7am to 8pm, 7 days a week. The site would only operate in daylight hours, such that operating hours would be less in the winter months and there would only be space for two vehicles to park within the site, which could be controlled by a suitably worded condition. Given the nature of the adjacent highway there would be limited opportunities for parking off-site and therefore the size of the proposed parking area would limit the number of site users. The facility would give dog walkers a safe and secure environment in which to walk and exercise their dogs off the lead and the appellant's evidence shows there is a demand for such dog-walking facilities.
14. There is nothing to prevent people driving to rural and countryside locations to walk their dogs in more open areas in less restrictive locations. Therefore, given accessibility to sustainable transport options varies between urban and rural areas, it is reasonably likely that local dog-walkers in the area regularly travel by private car to dog-walking destinations. Consequently, subject to ensuring the site is only used by those who have booked in advance and is limited to a maximum of two vehicles per single booking, I consider the proposed use is unlikely to generate a significant number of additional private vehicle movements that are not already operating on the local road network. I therefore consider that the environmental effects of private car travel arising from the proposal would be limited and the site would be in a suitable location with regard to accessibility.
15. I note the conclusions of the previous Inspector from the recent appeal decision<sup>1</sup> on this site, however, I do not have all of the details of this case before me, including any proposed plans or supporting statements. Nevertheless, both parties agree that this scheme was for a development of a different scale, kind and use, including additional built development such that it is not directly comparable to this appeal scheme.

---

<sup>1</sup> APP/Z1510/W/24/3340460

Therefore, whilst noting the conclusions of the previous Inspector, I have determined this appeal based on its own merits.

16. For the above reasons, the proposed use would be appropriate for this countryside location. The proposal would not cause unacceptable harm to the character and appearance of the area in the context of the need to support the rural economy, nor would there be unacceptable harm in relation to the site's accessibility. Consequently, the development would comply with policies LPP1, LPP42 and LPP52 of the LP which, taken together and amongst other things, support appropriate uses in the countryside that protect its intrinsic character and beauty, seek to preserve the character and appearance of the area and promote sustainable transport. The proposal also accords with Chapter 6 of the Framework which seeks to support a prosperous rural economy.

#### *Agricultural land*

17. The evidence indicates the site comprises approximately 5.5 hectares of Grade 2 agricultural land which constitutes best and most versatile (BMV) agricultural land. The appellant advises that the appeal site is not in use as arable farmland but is currently managed grassland.
18. The level of development within the site would be limited to the small area of hardstanding adjacent to the entrance and the perimeter fencing. Consequently, the majority of the site would remain as grassland and there would be a very limited loss of BMV land within the site. The appellant also submits that the hardstanding could be easily removed, and the land reinstated with soil, should the business cease operating, which would enable agricultural activity to resume.
19. No evidence has been provided to quantify the potential impact of the change of use of the land on local agricultural production. However, given the size of the appeal site, it is unlikely that this proposal would have any significant effect on agricultural productivity in the area. The evidence also indicates that the land is not currently in use for agricultural production in any event. Moreover, the extent of development would not preclude the site from being used for agricultural purposes in the future and the proposal would not have an adverse impact on the soil as a resource.
20. Nevertheless, there would still be a very limited loss of BMV land as a result of the appeal scheme and this weighs against the proposal. There would therefore be minor conflict with Policy LPP1 of the LP, insofar as it relates to the protection of soils outside of development boundaries, and the Framework where it seeks to conserve natural capital such as BMV agricultural land.

#### **Other Matters**

21. In addition to the main issues, the Parish Council have raised concerns about the precedent that could be set in the event this appeal is allowed, particularly in light of the development that was recently dismissed at appeal on the site. However, I have assessed this appeal based on the evidence before me and on its own planning merits. Given the differences between the two proposals, I am satisfied that a harmful precedent would not be set in the event this appeal is allowed.
22. The Parish Council also raise concerns in relation to the removal of hedges and trees, however, the Council has not identified any harm in this respect, and I see no reason to come to a different view.

## Conditions

23. The Council has suggested several conditions which I have considered in light of the advice in the Framework and Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability.
24. In addition to the standard three-year time limit condition for implementation, it is necessary to specify the approved plans in the interests of certainty.
25. I have also imposed conditions restricting the operating hours and preventing the installation of external lighting in acknowledgement of the site's countryside location and in the interest of preserving the character and appearance of the area.
26. In order to ensure the development would not result in unacceptable harm in relation to the site's accessibility by generating a significant number of vehicle trips on the road network and the use operates at the intensity as proposed by the appellant I have imposed a condition to limit the use of the site to only those that have booked in advance of their visit and to no more than two vehicles per single booking.
27. In the interest of highway safety, I have also imposed the conditions relating to the provision of the access and visibility splays, use of hard bound surfacing material for the access, laying of the parking spaces and to ensure the access gates are inward opening and positioned back from the highway. However, I have amended the wording of the visibility splay condition to omit reference to the suggested document in the interest of clarity. I have also amended the conditions to relate to the first use of the development rather than occupation and required the parking spaces to be made available for use prior to first use of the site.
28. A condition is also imposed requiring ecological mitigation works to be carried out in accordance with the submitted ecology documents in the interest of protecting biodiversity and ecology. However, I have omitted superfluous wording relating to the Council having already approved these documents in the interest of clarity.
29. The Council has suggested a condition restricting the hours for site clearance and construction works. However, I have not been presented with any persuasive evidence that this condition is necessary to make the development acceptable. Given the site is located away from any residential properties I do not consider this condition to be necessary or reasonable.
30. A condition is also suggested to secure a Habitat Management and Monitoring Plan (HMMP) in association with an approved Biodiversity Gain Plan (BGP). However, where Biodiversity Net Gain (BNG) is applicable, the general biodiversity gain condition is deemed to apply to every planning permission granted. The condition is that the development may not be begun unless a BGP has been submitted to the planning authority and they have approved the plan. BNG applies to the proposed development and there are separate provisions governing the BGP, which can require the provision of a HMMP where significant on-site enhancements are to be provided, which should not be duplicated by planning conditions. As such, I have not attached the suggested condition.

## Planning Balance and Conclusion

31. I have concluded that there would be a very limited loss of BMV land as a result of the development and consequently, given the nature and scale of the appeal scheme, very

minor conflict with Policy LPP1 of the LP insofar it relates to the protection of soils. This conflict attracts very limited weight in the context of the appeal scheme.

32. However, balanced against this, development would be an appropriate farm diversification scheme that would support an existing rural enterprise and in turn, the rural economy. It would also provide benefits to the local community through the provision of safe and accessible green infrastructure as well as improving public access to the countryside. Additional planting would also deliver biodiversity net gains in excess of the 10% requirement. Taken together, these benefits are considered to outweigh the very limited harm I have identified.
33. Therefore, reasons set out above, and having regard to all other matters raised, the proposal is considered to accord with the development plan, when read as a whole. Material considerations do not indicate a decision should be taken other than in accordance with the development plan. I therefore conclude the appeal should be allowed.

*H Whitfield*

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 the following drawings and documents:
  - Site Location Plan (produced on 20 August 2024)
  - Site Plan: Cressing Farm
  - 2423/02 Rev D 'Proposed Site Layout'
  - 2423/01 Rev E 'Site Access and Visibility Splay Assessment'
  - 2022-621-004 Rev A 'Fence and Gate Elevations'
  - Planning Statement (dated 22 April 2024)
- 3) The development hereby permitted shall be carried out in accordance with the mitigation measures and/or works contained in the Preliminary Ecological Appraisal (Plumb Associates Ltd, April 2024) and Response to Braintree District Council's Ecology and Biodiversity Officer's Holding Objection (Plumb Associates, August 2024) and shall include the appointment of an appropriately competent person e.g. an ecological clerk of works to provide on-site ecological expertise during construction. The appointed person shall undertake all relevant activities, and works shall be carried out, in accordance with the approved details.
- 4) The premises shall not be open for dog walking outside the following hours:  
Monday to Sunday 7:00am to 8:00pm
- 5) The site shall only be available for use by those who have booked in advance of any exercise visit and must be limited to a maximum of two vehicles per single booking.



- 6) No external lighting shall be installed at the site.
- 7) Prior to first use of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 95 metres in both directions as shown on Drawing No. 2423/01 Rev E as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
- 8) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 9) Prior to first use of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5.5 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing.
- 10) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge the carriageway.
- 11) Prior to first use of the development, each visitor vehicular parking space shall be provided and made available for use with minimum dimensions of 2.9 metres x 5.5 metres.

**\*\*End of Schedule\*\***