



Appeal Decision

Site visit made on 24 April 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025.

Appeal Ref: APP/X1545/W/24/3352506

Land to the south of Marsh Road, Burnham-on-Crouch, CM0 8NE

- 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 A Hull against the decision of Maldon District Council.
 - The application Ref is 24/00246/FUL.
 - The development proposed is a change of use from agriculture to a dog walking field.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the use and incidental car parking on the character of the site and wider landscape.

Reasons

3. The site is part of a large open field south of Marsh Road. Marsh Road serves a number of isolated farm buildings and dwellings, running across a wide flat rural landscape of the southern part of the Dengie Peninsular between the Rivers Crouch and Blackwater. There are overhead telephone/electricity lines running southwest to northeast close to the eastern boundary of the site, and a public right of way runs adjacent to the eastern boundary from Marsh Road. Pannel's Brook runs to the west. There are some hedgerows and trees, but these do not limit the views across the landscape. To the north of the site, a number of wind turbines are prominent, but otherwise the main characteristic of the area is that of an agricultural countryside.
4. The proposal is that the site would be used for dog walking and dog training classes but there would be no equipment such as cones or obstacles. The proposed service is said to be particularly useful to the owners of dogs which may be nervous, antisocial, and unsocialised, have poor recall or a disability. Customers would be required to make a prior booking to be able to use the area, thus limiting the use of the facility and ensuring that it remains very low density. It is said that there is only one dog walking field of this type with planning permission in the district, some 19 miles away.
5. As paragraph 2 of the National planning Policy Framework (NPPF) states, *"Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate*

- otherwise*". The policies of the Maldon District Local Development Plan, 2014-2029 (LDP) broadly seek to focus development within the defined settlement boundaries, although the proposed use is not one that lends itself to a built-up area. Policy D1, part 1c) of the LDP requires that *"All development must respect and enhance the character and local context and make a positive contribution in terms of landscape setting townscape setting and skylines"*.
6. The site does not fall within any formal landscape designation, but is within the Coastal Landscapes Character Division in the Essex Landscape Character Assessment, a key characteristic of which is few hedgerows or fences; numerous creeks, drainage ditches and dykes. More specifically, the site falls within the Dengie & Foulness Coast F3 Character Area, the key characteristics of which include *the "Large scale, flat landscape, sense of openness/space and wide views. In addition, one of the defining elements of the pattern of field enclosure is the predominantly regular, medium to large size fields bounded by straight ditches and dykes"*.
 7. I am also informed that an explanation of policy within the LDP states that *"The diversification of agricultural land and buildings to alternative activities is vital to the viability of many farm enterprises. The council recognises that the districts economic functions are not only based on formally allocated employment sites but also through employment activities that occur on farm conversions and similar rural sites which provide ...and encourage local intrapreneurial activity."*.
 8. The National Planning Policy Framework (NPPF) is a material consideration of importance. NPPF paragraph 187 of the states:
"Planning policies and decisions should contribute to and enhance the natural and local environment by:
a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;"
 9. At the same time, under the heading 'Supporting a prosperous rural economy', paragraph 88 requires that: *"Planning policies and decisions should enable:*
a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;
b) the development and diversification of agricultural and other land-based rural businesses;
c) sustainable rural tourism and leisure developments which respect the character of the countryside; "
 10. As is often the case, policies, both in a local plan and the NPPF, can pull in different directions, and a balanced judgement is necessary. I take the view that the proposal runs against both the local plan policies referred to and paragraph 187 of the NPPF. The proposal is a form of agricultural and rural diversification intended to provide an alternative income additional to the traditional crop production which is

subject to large market fluctuations. Such diversification is generally policy compliant and in many locations the use proposed would be acceptable.

11. The site would be enclosed by a 1.2m high post and rail chain link fence, both defining and separating the dog walking area. The site would be served by a new vehicular track and a small parking area formed off crushed hard-core, providing parking for five cars on the northern boundary, adjacent to and parallel with Marsh Road.
12. This remote site is not suitable for the proposed development because, whilst low-key and of limited visual intrusion, it would be seen as a random separation of part of a large field, having an unfortunate visual impact on the open rural character of the site and the wider landscape. It would be in view from the public highway and the adjacent public right of way. It would be an unsightly and incongruous intrusion into the Dengie and Foulness Coast Character Area. I appreciate that there could be some softening and screening by planting on the roadside, but this would not be sufficient to overcome the harm that would be done.
13. I have taken account of the suggestion that the proposals would not result in a materially more visually harmful impact than if the land were used for 28 days a year, which would not require permission. But its presence throughout the year would result in a permanent and unsightly and incongruous intrusion into the open landscape and thus have a significant adverse and unacceptable visual impact on its character.
14. There is no apparent reason for the choice of this part of the field. No justification has been put forward for its choice, and it would appear that a more appropriate location, near to existing development, and closer to the built-up area of Burnham-on-Crouch would provide the same opportunity for diversification in a less sensitive location, and requiring less travel from the main urban source of clientele. Whilst there is a clear justification in terms of diversification of farm income, on balance, the proposal is contrary to LDP policies D1 and S1 part 12 and the NPPF, and this is over-riding. The visual impact would clearly be detrimental to the defining characteristics of the Dengie & Foulness Coast F3 Character Area.
15. For the reasons set out above, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR