



Appeal Decision

Site visit made on 23 January 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/U2370/W/23/3329416

Braeden, Bleasdale Lane, Claughton-On-Brock PR3 1UR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Nicola Hadgraft against the decision of Wyre Borough Council.
 - The application Ref 22/00518/FUL, dated 20 May 2022, was refused by notice dated 20 March 2023.
 - The appeal development is retrospective change of use, erection of a building on a concrete base and formation of hard core track.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description on the application form refers to a change of use but does not specify what the change of use would be from or to. The decision notice, however, describes the development as a change of use from agriculture to doggy day care (*sui generis*) including erection of timber building and creation of hardstanding and track. The appeal development has already been constructed, and I have considered the appeal on this basis together with this clearer description.
3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration in this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal it is clear to me that there are no material changes in the revised Framework relevant to the substance of this appeal. I have consulted with the main parties and no further comments have been received beyond those already set out in the statements submitted.

Main Issues

4. The main issues are:-
 - the effect of the appeal development on the character and appearance of the area taking into account the Forest of Bowland Natural Landscape¹;
 - whether the appeal site represents an acceptable location for the appeal development in terms of sustainable transport; and

¹ On 22 November 2023 all designated Areas of Outstanding Natural Beauty (AONB's) in England and Wales became National Landscapes.

- the effect of noise on the occupiers of nearby properties.

Reasons

Character and Appearance / National Landscape

5. The appeal site is located within an area of open countryside characterised by open fields and scatterings of buildings. The topography in the immediate area is generally level with gently undulating land in the distance. There are clear views across the fields interspersed by hedgerows, field boundary fencing and trees. The site is accessed from a narrow lane, Bleasdale Lane, and includes a single storey timber building and an area of hardstanding. Another structure is also on the site but not shown on the plans. The access track is roughly surfaced and fenced and the rest of the site includes some wire fencing and some green mesh sheeting fixed to the fencing as well as metal gates.
6. The site is within the Forest of Bowland AONB/National Landscape where the Framework makes it clear that such areas have the highest status of protection and great weight should be given to conserving and enhancing landscape and scenic beauty.
7. Although the building is single storey and of a timber construction, it is isolated from any other buildings in the immediate area. The use has also resulted in fencing in order to provide a secure environment for dogs and various pieces of paraphernalia for exercise and play. These are not shown on the submitted plans but it is not unreasonable to provide fenced areas and play equipment for the doggy day care facility.
8. Whilst the hedgerows provide some screening and the timber building is similar in appearance to stables which are often found in rural locations, the building is unrelated to anything else around it. This together with the hardsurfacing, fencing and paraphernalia intrude into the countryside landscape and have a negative effect on the landscape and scenic beauty of the area. The development has created a visually intrusive facility within the landscape that conflicts with the objectives of the special protection afforded to areas of National Landscape.
9. The appellant states that the doggy day care facility is an expansion of the existing trekking business. There is an existing equestrian facility to the north of the appeal site. The doggy day care business is stated as providing rural employment for 8 staff members. However, there is a substantial distance between the equestrian facility and the appeal site and no obvious connection, other than land ownership between the two operations. There is no evidence therefore that this would represent an expansion of a business in a countryside area under Local Plan² Policy EP8. In any event, I have found that the scale and nature of the activity is detrimental to the rural character of the area.
10. The use of the site as a doggy day care facility and the associated building and hardstanding is harmful to the character and appearance of the area and fails to protect the landscape and scenic beauty of the Forest of Bowland National Landscape. This is a matter to which I give great weight. The appeal development would conflict with the Framework and Local Plan Policies SP4 and SP5 which recognise the open and rural character of the countryside for its intrinsic character and beauty and within the AONB require development to

² Wyre Council – Wyre Local Plan (2011-2031) (incorporating partial update of 2022). Adopted 26 January 2023.

conserve, enhance and make a positive contribution to the natural beauty of the area. It would also conflict with Local Plan Policy CDMP3 which requires all development to respect and enhance the character of the area.

Location

11. The appeal site is situated in a rural area which is generally accessed by narrow country lanes. Bleasdale Lane has no footways and therefore the site has no opportunities to access the site on foot or means other than via a private vehicle. There is no evidence that it could be accessed by public transport and it does not relate to a settlement. Access to the business use on the appeal site is therefore likely to be dependent on private road transport over some distance due to the location of the nearest settlements. The appellant has explained that dogs are picked up from their homes and brought to the site and then returned home utilising 5 specifically equipped vans. All dogs are transported this way. Also, the facility operates from 1030 to 1430 Monday to Friday and therefore the number and amount of vehicles visiting the site is limited.
12. Although the manner of operation seeks to control the number of visitors to the site, it would be difficult to restrict transport arrangements through a planning condition. For example, it would be an onerous task to monitor the arrival and departure of all dogs each day. Also, whilst the hours of operation could be limited by a condition to those currently stated, the imposition of such a condition would not overcome the harm that I have identified. Moreover, the operation of the site as a doggy day care facility would be inconsistent with the objectives of the Framework in terms of promoting sustainable transport and conflict with Local Plan Policy SP2 in that it would not promote sustainable development in terms of location and accessibility and the creation of sustainable communities. The appeal site therefore does not represent an acceptable location for the appeal development in terms of sustainable transport.

Noise

13. The Council consider that a noise assessment is necessary to assess the potential impact of the doggy day care facility from noise caused by dogs barking. However, the appellant states that the nearest dwelling, Sunningdale is situated over 300 metres away and with Braeden Pony Trekking Centre in between. However, I note an objection from another neighbour at Tootle Hall in relation to noise, amongst other things. The location of any surrounding residential properties have not been clearly identified (on a plan for example) and so it is not clear how close the nearest residential properties are that would potentially experience harm to their living conditions. However, due to the flat and open landscape noise would carry for some distance and a noise assessment would clarify this.
14. In terms of a noise assessment, the appellant states that it would not be appropriate to use dog kennels as a comparison (as apparently suggested by the Council) as the nature of the two facilities differ, as dogs in kennels are much more likely to bark than they do at doggy day care. Notwithstanding different behavioural patterns of dogs in different situations, the facility currently takes in 24 dogs per day but future expansion would enable up to 45 dogs to be catered for. Even taking into account the lowest of these numbers there would be a substantial number of dogs at the site during its operating

hours which could generate high levels of noise. As stated, without a noise assessment it is not possible to determine the extent of this, and although the appellant refers to a comparison between dog kennels being inappropriate, the use has already commenced and so a noise assessment based on the existing operation could at the very least help inform whether there are or would be high levels of noise or not.

15. The appellant acknowledges that there would be an element of noise from a large group of 24 – 45 dogs and although this would be unacceptable in an urban environment, there are no properties within 200 metres of this site and therefore no impact in relation to noise occurs. However, whilst I accept that this facility in an urban environment may affect more people than it would in a less populated rural location, this is not a comparison that justifies allowing a noisy development on this site.
16. Notwithstanding the distance from the nearest dwelling, given the open rural character of the area, it is not possible to determine the extent of noise disturbance from dogs and the operation of the facility on the basis of the information submitted. The appeal development therefore carries an unacceptable risk that it has a harmful effect, in terms of noise on the occupiers of nearby properties in conflict with Local Plan Policies CDMP1 and CDMP3.

Other Matters

17. The appellant state that doggy day care provides a substantial public benefit in that Covid saw an increase in dog ownership which has now led to an increase in problems caused by dogs being kept indoors all day with little or no stimulation when owners returned to their workplace. Doggy day care therefore helps improve the lives of the dogs as well as the pet's household.
18. Also, in addition to providing local employment, the business provides apprenticeship and work experience opportunities for students, local schools and colleges. I also note the positive reviews the day care has received that have been submitted with the appeal documents. Whilst all of the above represent social and economic benefits, they are not of a scale to overcome the harms I have identified, especially in the context of the great weight that is afforded to the Forest of Bowland National Landscape.
19. Furthermore, although Local Plan Policy SP5 makes provision for public benefits to outweigh damage to the AONB in exceptional circumstances, this part of the policy (point 3) relates to major developments and the circumstances must be exceptional. Neither of which apply here. Furthermore, Local Plan Policy SP2 requires development to contribute positively to the physical, social, environments and economic character of the area. Although, the business provides jobs and thus economic benefits as well as a social one in terms of providing care for pets whilst people work, it fails to make a physical or environmental contribution to the area but instead leads to harm on these matters.
20. The appellant points out that there would be no impact on highway safety but the absence of such adverse impact is not a benefit to outweigh the harm that I have found.

Conclusion

21. 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.

J D Clark

INSPECTOR