



Appeal Decision

Site visit made on 18 June 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2024

Appeal Ref: APP/K2420/W/24/3337582

Dawsons Lane, Barwell, Leicestershire LE9 8BE

Easting: 445165, Northing: 296885

- 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 Daemon Johnson, of Hinckley Pets in Home Limited, against the decision of Hinckley and Bosworth Borough Council.
- The application Ref is 23/00455/FUL.
- The development proposed is described as *"Erect a wooden building on a concrete base 10m x 5 to act as a doggy day care centre. This building will be constructed as a wooden framed flat roofed structure. Externally, erect an acoustic fence to surround the site to fence in the dogs attending the day care facility. In total the building and fencing will be 270m². This is only 2% of the total land available. In order to facilitate the day care a change of use from agricultural to Class E(c)(iii) other appropriate services in a commercial, business or service locality."*

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the fourth bullet point of the above header is taken from the application form, omitting the typographical errors.
3. There is disagreement between the main parties about whether the entrance gates and acoustic fencing on the site boundary were included in the application. Two different versions of a 'Planning Design and Access Statement' have been referred to by the parties. I cannot be sure which version was submitted with the application, but the layout of the parking, fencing and gates are shown on the submitted plans. I have dealt with the appeal on that basis.
4. The original application form did not include a full site address for the development. Therefore, I have taken the above address and postcode from the appeal form, which reflects the site location shown on the plans accompanying the application.
5. The appellant suggests that the policies of the Hinckley and Bosworth Core Strategy (2009) (CS) and Site Allocations and Development Management Policies DPD (adopted July 2016) (SADMP) are out-of-date by virtue of their age. However, paragraph 225 of the National Planning Policy Framework (revised December 2023) (the Framework) confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight

that may be given). The policies of the CS and the SADMP, and their consistency with the Framework will be considered under the main issue.

Main Issue

6. The main issue is whether or not the location is suitable for the proposed development, including its effect on the character and appearance of the area, having regard to local and national planning policies.

Reasons

7. The appeal site is a small holding, located at the end of an unmade, single track off Dawsons Lane, within the countryside. The site falls within the 'Green Wedge' which separates the settlements of Hinckley, Barwell and Earl Shilton.
8. The site is gently sloping and is largely bounded on all sides by well-established hedgerows and mature trees. A caravan and other small buildings and structures associated with the small holding are located on the land. The site has a tranquil, open, rural character, as does the surrounding area, which comprises allotments, paddocks, and rural enterprises. Overall, the appeal site makes a positive contribution to the surrounding countryside and landscape.
9. The proposed development is for the change of use of land to provide a 'dog day-care facility'. A timber welfare building is proposed, and gates and acoustic fencing have been erected adjacent to the lane and a public right of way. The fencing would extend around the parking area. Fencing to form a compound area is also proposed adjacent to the new building.
10. The business operates a pickup and drop off service. Therefore, dog owners do not have access to the land for recreational purposes. As such, the main parties agree that the proposed 'dog day-care facility' is not a recreational use.
11. Policy 6 of the CS identifies that the role and function of the 'Green Wedge' is to protect the separation of the settlements of Hinckley, Barwell, Earl Shilton and Burbage in order to help preserve their individual identities and to give urban residents easy access to green spaces thereby contributing to their quality of life. A number of land uses are identified as being acceptable in the 'Green Wedge', provided the operational development associated with such uses does not damage the function of the 'Green Wedge'. This is a broad list of uses, whereby a number of different uses, could fall within each category.
12. Furthermore, Policy DM4 of the SADMP seeks to protect the open countryside and safeguard it from unsustainable development. The policy goes on to specify certain types of development that are deemed to be sustainable, which includes amongst other things, c) it significantly contributes to economic growth, job creation and/or diversification of rural businesses. However, notwithstanding the appellant's suggestion that criterion b) also applies, the proposal does not relate to the change of use, re-use, or extension of existing buildings.
13. These policies are broadly consistent with the Framework, which identifies at paragraph 123 that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment. Paragraphs 88 and 89 of the Framework, also set out that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of

- existing buildings and well-designed, beautiful new buildings, as well as the diversification of agricultural and other land based rural businesses.
14. The proposed use of the land does not suitably fall within the parameters of any of the identified acceptable uses within the 'Green Wedge', as set out in Policy 6 of the CS. As such, conflict arises with the policy.
 15. The existing business is seeking to relocate from its current site on Rogues Lane, which is rented. I acknowledge that the preferred location for the proposed development is within a rural area and the appellant has sought alternative sites. These sites have been discounted for various reasons.
 16. The proposed relocation of the business would help to ensure that the business can continue to operate, as well as expand. It would also enable the business to diversify the activities taking place on the small holding. This would result in the retention and creation of a small number of jobs, which would help to support a prosperous rural economy, as referenced in the Framework. Furthermore, the proposal would also allow potential clients to work whilst their dogs were being cared for and there is support for the proposals from third parties. Therefore, there would be some modest associated economic and social benefits.
 17. Policy DM4 also requires that development shall 'not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside'.
 18. In addition to changing the use of the land, the proposal includes erecting a building, the provision of a parking area, fencing and gates, some which have already been erected. Whilst these may only amount to 2% of the land being developed, they introduce new built development onto the land, which is currently open and largely undeveloped.
 19. While I acknowledge that the building would have a functional, timber design, it would not be a beautiful building. Furthermore, although the fencing has a domestic appearance, this is not a residential area. Additionally, the gates exceed two metres in height and in this location, they have a stark appearance, not in keeping with the rural setting. Therefore, the cumulative effect of new built development on the land would result in unacceptable harm to the open character and beauty of the landscape in the countryside setting.
 20. The landscaping scheme would result in some enhancement to the appearance of the landscape, but this would not suitably overcome the concerns that I have identified.
 21. Overall, I accept that the expansion of the business would result in some economic growth, but this would be modest in terms of the wider economy. As such, the modest benefit would not outweigh the unacceptable harm caused by the proposal on the open character and beauty of the landscape in the countryside setting.
 22. My attention has been drawn to other examples of development in the 'Green Wedge' between Hinckley and Barwell. In particular, a planning application at Inglenook Farm, which is situated on neighbouring land, was for the replacement and extension of existing barns and a new detached barn. Again, whilst the level of detail before me is limited, it appears that this development was in association with a commercial livery and the distinction between this

development and the proposed development is that the Council deemed it to be a recreational use, which was in accordance with the policies of the development plan. Therefore, there are clear material differences between the two schemes.

23. Reference has also been made to a decision by Dacorum Borough Council for a Dog Day Care facility at Little Tring Farm in Hertfordshire. That development relates to a different local planning authority, whose policies are not applicable to this case. Inevitably, it is the detail and specific context of any development which determines whether it is acceptable in practice. Having considered this proposal against local and national planning policy, for the reasons given, I consider that there would be unacceptable harm.
24. There is also limited evidence before me regarding the existing development at Rogues Lane and the planning policy background, including whether it is located within a 'Green Wedge', any other material considerations and any other site-specific circumstances that resulted in planning permission being granted. Therefore, whilst there may appear to be some similarities, a proper comparison has therefore not been possible. Accordingly, as I am required to do, I have determined the case before me on its own merits.
25. Consequently, for the reasons outlined, and with regard to local and national planning policies, I conclude that the location is not suitable for the proposed development, and it would result in significant harm being caused to the character and appearance of the open countryside. As such, the proposal conflicts with Policies DM4 and DM10 of the SADMP, Policy 6 of the CS and the objectives of the Framework.

Other Matters

26. The scheme seeks to provide ecological improvements through planting proposals and a proposal to plant 0.5 hectares of woodland. Beehives are also proposed. However, the land is a small holding and these works have already started. As such, I only attach limited weight to these benefits which could be carried out irrespective of the outcome of this appeal.
27. The appellant suggests that the proposals received positive advice from the Council previously. However, this does not affect my consideration of the planning merits of the proposed development.

Conclusion

28. In conclusion, the relocation and expansion of the business and job creation would result in modest benefits, but these would be outweighed by the location and the harm to the countryside. Therefore, the proposed development is contrary to the identified policies of the development plan read as a whole and there are no other material considerations which outweigh this conflict.
29. For the reasons given above, I conclude that the appeal should be dismissed.

N Bromley

INSPECTOR