



Appeal Decision

Hearing held on 17 May 2022

Site visit made on 17 May 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2022

Appeal Ref: APP/B9506/W/21/3278440

Little Meadow, Newbridge Road, Newbridge, Cadnam SO40 2NW

- 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 Ms Oliveira of Pack Buddies against the decision of New Forest National Park Authority.
 - The application Ref 20/00901, dated 4 December 2020, was refused by notice dated 16 February 2021.
 - The development proposed is continued use of land and building for dog day care.
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Decision

1. The appeal is allowed and planning permission is granted for the continued use of land and building for dog day care at Little Meadow, Newbridge Road, Newbridge, Cadnam SO40 2NW, in accordance with the terms of the application, Ref 20/00901, dated 4 December 2020, subject to the conditions in the attached schedule.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application was determined by the Council. I have had regard to the revised Framework in reaching my decision.

Main Issues

3. The main issues raised in respect of the appeal are: -
 - a) The effect of the proposed development upon the character and appearance of the area;
 - b) Location and the development's employment benefit to the community; and
 - c) Highway safety.

Reasons

4. The appellant operates a bespoke day care service and facility for dogs. The business was set up in 2019 and has expanded despite the pandemic. The site is operated by the appellant, her partner and three staff. The day care activity at the site takes place on weekdays only between 10:00 and 15:00 with the dogs having a rest period midway through the day. Two air-conditioned vans containing dog cages depart the site to pick up dogs within a catchment area of the New Forest and further into Totton and Southampton city centre. This van taxi service collects dogs from their homes and brings them to the site. The

dogs are returned by the same taxi service at the end of each day. There is one handler per six dogs and there would be a maximum of 18 dogs at the site. The dogs remain on site for the duration of their stay and are not taken out for walks.

5. Two wire fence enclosures within the site provide natural and sensory environments for dog recreation activity and training. The existing stable building has been repurposed to provide rooms for dogs to relax with staff or sleep rooms that host cages. There is also a staff room that I saw stores food and dog related paraphernalia. A parking area has been created just within the site entrance, where is also a portaloo type toilet for staff and a small shed.
6. This former equestrian site has been chosen from other potential sites as it hosts electricity and water supplies, as well as a secure outdoor environment for the dogs. The site has been licenced by the Council's Environmental Health section for hosting up to a maximum of 18 dogs at the site. The appellant advised at the hearing that the business is at a point where she wants it to be and is operating within at the limits of DEFRA welfare standards that apply to her business for both the number of dogs at the site and dogs transported by van.

Character and appearance

7. Policy SP7 of the New Forest National Park Local Plan 2019 (the Local Plan) requires great weight to be given to conserving the landscape and scenic beauty of the National Parks and to their wildlife and cultural heritage. The Framework reflects this and in relation to these issues recognises they have the highest status of protection. Policy SP7 indicates that development will be permitted if it conserves and enhances the character of the New Forest's landscapes by ensuring that the character and largely open and undeveloped landscapes between and within settlements are not eroded or have their setting harmed. The Framework requires the scale and extent of development within National Parks to be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated area.
8. The site lies within the Forest Central (North) Conservation Area. Policy SP16 of the Local Plan seeks development not to harm the special interests, character and appearance of a conservation area. The site forms part of the historic pastoral landscape of the wider New Forest landscape. Despite the conservation area covering an extensive area, the pastoral landscape within it gives the conservation area its significance. In its former use as an equestrian site with stable, that use would have had little visual impact in terms of the use and visual impact upon the landscape. The largely undeveloped nature of the site within the pastoral landscape makes a contribution as to how the conservation area is experienced.
9. Policy SP15 of the Local Plan seeks to avoid proposals that would lead to noise, visual intrusion, nuisance and other unacceptable environmental impacts on the National Park and its special qualities. Policy SP17 of the Local Plan sets out that built development and changes of use which would individually or cumulatively erode the Park's local character or result in a gradual suburbanising effect within the National Park will not be permitted.

10. The site lies within a strip of linear development along Newbridge Road. The dog care operation has made use of the existing stables. A parking area and enclosures have been created, and metal entrance gates and portaloo have been installed. Some piping has been introduced to provide exercise obstacles for the dogs, but these are relatively small features within the site. The site has not undergone significant change to its landscape character and appearance. The site remains open and substantially undeveloped. For this reason, it would not erode the historic pastoral landscape as the site retains an appearance of a small paddock.
11. Day care activity at the site would take place over five hours a day during the working week. Whilst this could be argued to be a more intensive use of the land during this period to that of the equestrian use, the activity has a limited duration compared to that of the former equestrian use. The site, being situated on the edge of Newbridge and close to Cadnam, is not located in a remote part of the New Forest and this parcel of land is sandwiched between residential properties along Newbridge Road. With regard to loss of tranquillity, within the context of the character and appearance of the New Forest landscape, the use would not be appreciably greater as a result of the change of use.
12. Taking these matters collectively, the proposed use would not be at odds with the prevailing landscape that is part of the New Forest. For those reasons set out above, I conclude that the proposed development would not harm the character and appearance of the area, the conservation area or the wider New Forest landscape. As such, the proposal would comply with Policies SP7, SP15, SP16 and SP17 of the Local Plan and the provisions of the Framework.

Location and employment benefits

13. Policy SP1 of the Local Plan supports sustainable development. Whilst this policy seeks to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and its special qualities, it also seeks to foster the social and economic well-being of local communities. Outside of defined villages Policy SP42 of the Local Plan permits small scale employment development that helps the well-being of local communities through the re-use or extension of existing buildings, the redevelopment of existing business use employment sites, farm diversification schemes and through home-working.
14. These policies support small scale businesses although the preference is for these to be sited within villages. At the hearing the Council advised that its research showed that dog care facilities in the area are provided within industrial units or run from private homes. This research indicated that whilst there are a small number of these types of business operating within the National Park, most are on its margins or beyond. The appellant explained that the dog day care that she seeks to provide is very different to that of other dog care facilities as it requires a sensory outdoor natural environment for the dogs. That was a fundamental reason for choosing this site.
15. Finding an appropriate location for the use has clearly been a difficult one. Whilst the site would fall within the countryside, the site is located on the edge of Newbridge and is close to Cadnam. Given the specific dog day care requirements of the business, such a site is more likely to be found in a rural location than within a village or an industrial estate.

16. In terms of numbers of dogs and staff, alongside the operational hours and days, the day care activity at the site is modest in its intensity. Furthermore, the taxi van system for collection and return of dogs would obviate individual dog owners visiting the site each day. The re-use of the existing stable building would comply with Policy SP42. I find that given the specific requirements of this dog day care business this rural site offers appropriate facilities for the enterprise. Whilst some customers will come from outside the National Park, this would not be unexpected given that Newbridge is close to the Park's boundary.
17. Given its location the use would not fit squarely within Policy SP42. The supporting text to this policy explains that the priority to locate business and employment within defined villages is to take advantage of existing facilities and transport links within villages. However, this policy preceded the revised Framework. The revised Framework offers support for a prosperous rural economy. It indicates that planning policies and 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.
18. On the evidence before me this would be a small-scale business that makes use of an existing building, for which Policy SP42 would offer support. Whilst some customers may come from outside of the National Park, it would offer employment and dog care to the local community that could contribute to the sustainability of the rural community. The proposal supports the employment of three staff. Interested parties, and some of whose dogs attend day care, are very supportive of this day care facility and the outdoor facility that it provides. I note that the day care has achieved a local award in the relatively short period that it has been operating. There is clearly demand for this bespoke dog day care facility and the location and nature of the site facilitates this business. The proposal would contribute to supporting a prosperous rural economy.
19. For these reasons, I conclude that the proposed development would be in an appropriate location and would bring about employment benefit to the community. As such, the proposal would not significantly materially conflict with Policies SP1 and SP42 of the Local Plan and would comply with the provisions of the revised Framework.

Highway safety

20. The Highway Authority recorded a maximum visibility splay of 35m due to the bend in the highway in the primary direction, that is to the right on exiting the site. This falls short of the required distance of 43m as required by Hampshire County Council's adopted Technical Guidance TG3, for a road with a speed limit of 30mph.
21. I saw that there is visibility over the grass verge to where trees within the verge obscure views of the highway. Newbridge Lane is of narrow width within the vicinity of the site and at the bend in the highway. Due to the restrictive nature of the highway vehicles would be unlikely to travel at speed or at the top end of the speed limit as an assessment of oncoming traffic is required, particularly around the bend when approaching the site entrance.

22. The use generates a total of 12 movement by staff and vans per day, 6 movement to and 6 from the site. Given the nature of the highway and the limited number of departures from the site, I do not consider the restricted visibility on leaving the site is so substantial that it might compromise highway safety or inconvenience users of the highway. I, therefore, conclude that the proposed development would comply with Policy SP55 of the Local Plan that requires improvements to paths, tracks and roads to make them safer and more user-friendly.

Other Considerations

23. I have found the proposal to be acceptable, for those reasons set out above, albeit my considerations relate to those specific operations of the appellant's dog day care business. However, a grant of planning permission would run with the land and another operator may not run the business in the same way as that of the appellant. This could have a negative impact upon the character and appearance of the site that could result in harm to the visual and historic interests of the New Forest landscape and the conservation area. Furthermore, I have found the traffic movements generated by the appellant's business to be acceptable. An alternative operator may run the business in a different way with higher numbers of staff and/or dogs with their owners delivering and picking up their dogs. Permitting the proposed development on an unconstrained basis could lead to policy objection as the use may have an unacceptable impact.

24. The Planning Policy Guidance advises that, since planning permission runs with the land, it is rarely appropriate to provide otherwise, but sometimes development that would not normally be permitted may be justified because of who would benefit from the planning permission. In this case the appellant has a clear business model for the dog day care enterprise that has been implemented at the site. The use is providing employment and a bespoke service that is clearly in demand. I have found that this proposed development to be acceptable in terms of its visual and highway impacts. In this particular case I consider that the appellant's specific use of the site makes the proposed use acceptable in planning terms.

25. I acknowledge that a personal planning permission would not prevent the appellant's business model from changing. However, it is clear that the type of service and facilities the dog day care enterprise provides is important to the appellant. The business is operating at the limits of DEFRA welfare standards that apply to her business with respect to the number of dogs at the site, van transport and in respect of the size of the site. The business is at a point where the appellant wants it to be. She has created a successful business in a relatively short period of time under her business model and I see no clear indication why that business model might change given the success of the business as operated presently. In this case it would be necessary and justified to restrict the enjoyment of the use of the site to that of the appellant.

Other Matters

26. Local concern has been expressed to noise and disturbance from dog's barking, shouting and blowing of whistles when the dogs are in training due to the number of dogs in one place over a period of time. Concern is also expressed to the potential for this to increase in summer when both dogs and neighbouring occupiers are outdoors more. There is a public right of way

running adjacent the site and it has been highlighted that dogs bark when walkers pass by the site. Also, existing noise pollution is already experienced by residents from M27 motorway nearby. Neighbours use their gardens for enjoyment and for mental health/well-being and noise nuisance from barking dogs could be detrimental to the living conditions the neighbouring occupiers should reasonably expect to enjoy.

27. The Council's Environmental Health Officer comments that the site is close to a number of residential properties, and therefore if noise is not suitably controlled, the use could have an adverse impact upon neighbouring occupiers. A 'noise management plan' condition has been requested to be imposed upon any forthcoming planning permission. This would require details of all measures to be put in place to control noise from the site. I consider such a condition would be appropriate to ensure the living conditions of neighbouring occupiers are not significantly detrimentally harmed as a result of the dog day care use of the site.
28. Concern is also expressed to the potential for the business to expand that might set precedent for other such commercial enterprises in area. As noted previously, the site is operating at its capacity and would not be likely to expand. With regard to precedent, each proposal is required to be considered on its own individual merits, as is the case with this proposal.

Conditions

29. I have considered the planning conditions suggested by the Authority and the appellant in light of paragraph 56 of the Framework. As the development has already taken place, there is no requirement to impose a timeframe in which to implement the development. In the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. As discussed in the other considerations section above, it is necessary in this case to make this a personal planning permission that benefits solely for the appellant.
30. In the interests of the living conditions of nearby residents it is necessary to impose conditions limiting the number of dogs and the use of the dog day care facilities to working weekdays only and to a five-hour period within those days. The appellant has put forward a condition restricting the installation of lighting. This would be beneficial to the character and appearance of the area. There is difference between the appellant and the Highway Authority as to the extent of visibility splay that is achievable in the primary (northerly) direction. Nonetheless, in the interests of highway safety, it would be necessary to ensure that the existing grass verge is retained unobstructed. A noise management plan condition is also required in the interests of the living conditions of existing neighbour occupiers.
31. The Highway Authority has requested a condition restricting the use of the access to employees only so the traffic movements at the access are kept at a minimum level. The appellant has created a successful business under her current business model with the taxi service it provides. I have found that highway safety would not be significantly compromised given the limited number of departures from the site. I have also concluded that there is no clear indication that the business model might change given the success of the business as operated presently. In restricting the use of the site to the applicant only, this would limit the traffic movements to those under the

existing business model. Also, a condition requiring the existing grass verge be retained unobstructed would assist visibility along the highway when leaving the site. I therefore do not consider the condition put forward by the Highway Authority is justified in this case.

Conclusion

32. For the reasons set out above, the appeal should be allowed.

Nicola Davies

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Bob Hull Bob Hull Planning
Sandra Oliveira Appellant
Charlie Barton

FOR THE AUTHORITY:

Ann Braid New Forest National Park Authority

INTERESTED PERSONS:

Jon Street
Linsey Rogers
Martin Rogers

DOCUMENTS SUBMITTED AT THE HEARING

List of suggested planning conditions by the appellant

SCHEDULE OF CONDITIONS

1. The development shall be implemented/maintained in accordance with drawing numbers DR1, Plan 1 and Plan2.
2. The use hereby permitted shall be carried out only by Sandra Oliveira under the permission hereby granted and shall not enure for any other person. In the event that the use should cease, all structures (temporary or otherwise except for the former stable structure) shall be removed from the land and the land shall revert to its former use or for agricultural purposes.
3. There shall be no more than 18 dogs at the site at any one time.
4. The dog day care use hereby permitted shall not be operated other than between the hours of 10:00 and 15:00 Mondays to Fridays and at no time on Saturdays, Sundays and Bank/Public Holidays.
5. No lighting shall be installed on the site.
6. The existing grass verge in the primary (northern) direction shall be retained as existing and be maintained with no obstructions or vegetation growth above 0.6m in height within the verge.
7. Within two months of the grant of planning permission, a Noise Management Plan shall be submitted to the local planning authority detailing all measures in place/to be put in place to control noise from the dog day care use of the site. This Noise Management Plan shall be agreed in writing by the local planning authority and all measures set out within the agreed Noise Management Plan shall be implemented in full and retained throughout the operation of the site by the site occupier/operator, as named within Condition 2 above.

End of schedule