



## Appeal Decision

Site visit made on 12 March 2024

**by R Gee BA (Hons) Dip TP PGCert UD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 April 2024**

**Appeal Ref: APP/A2525/W/23/3332150**

**Land on Gubboles Drove, Gubboles Drove, Surfleet PE11 4AU**

- 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 Mrs Hayley Laches against the decision of South Holland District Council.
- The application Ref is H17-0478-23.
- The development proposed is described as "grass field. change of use from agricultural use to private use. I am an agility competitor and need somewhere to train my dogs for competition".

### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. In my banner heading I have used the description from the original planning application form. However, in their Decision Notice the Council have described the proposal as: Change of use of agricultural land to leisure use to include dog training/walking/exercise for private use. I have determined the appeal on this basis.
3. My attention has been drawn to a previous appeal at the site<sup>1</sup>, which was dismissed. The primary difference between the proposal and the previous scheme is that the appeal proposal is for private use rather than a dog training centre. In determining this appeal, I have reached my own findings based on the circumstances of the present case.
4. It is understood that the land has been used for dog training under the temporary use of land provisions of the Town & Country Planning (General Permitted development)(England) Order 2015. Although the site was not in use for dog training at the time of my site visit, I was, however, able to see some equipment, that I understand to be used for the purpose of dog training, in the field.
5. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no parties interests have been prejudiced by taking this approach.

<sup>1</sup> APP/A2525/W/22/3309635 issued 18 May 2023

## **Main Issues**

6. The main issue is the effect of the proposal upon the living conditions of residential occupiers in the locality, having particular regard to the potential for noise, disturbance and odour.

## **Reasons**

7. The appeal site comprises a grassed field, accessed from a gated access off Gubboles Drove. The perimeter of the field is bound by dykes on all sides and Beach Bank, a narrow rural road, runs along its western boundary. The appeal site is located in a rural area that sits amongst a largely flat and open landscape of agricultural fields. There are sporadic residential properties within the locality. Although only a snapshot of time, during my visit I observed the immediate roads to be lightly trafficked and background noise levels to be low and characteristic of a rural location.
8. Whilst the number of dogs owned by the appellant is high, nevertheless, the application form and supporting documentation, states that the use of the field would be for private use. I have therefore assessed the proposal on this basis.
9. A residential property known as Drove Farm is located a short distance to the north of the appeal site. It has numerous windows facing the direction of the appeal site and an open aspect due to the presence of low boundary treatments. Other properties are nearby including Gatehouse to the west on Gubboles Drove and The New Gatehouse and The Cottage to the south-west on Beach Bank.
10. Whilst it is likely that the dog training activity would be limited to a small number of hours per week, the evidence before me indicates that this is likely to include evenings and weekends to fit around existing work commitments.
11. There is potential for additional noise and disturbance arising from the proposed use. I note that there have been noise complaints from local residents, however, I do not have the details of the complaints and the properties affected. Despite the appellant's assurances, regarding the dogs currently owned, different breeds of dogs have contrasting temperaments with some dogs being more susceptible to barking. These behavioural effects are not entirely within the control of the handler. Furthermore, where a number of dogs are gathered together it is very likely that there will be some barking and from the nature of the proposed use there are also likely to be raised voices from the handler, which will carry over some distance.
12. The Acoustic Report (AR) is limited and fails to establish the existing background noise levels or undertake an assessment in accordance with industry standard methodology to measure the impact of the general activity and associated noise from dogs and the handler. Whilst the appellant states that dog training itself would take place further down the field the red-line application boundary encapsulates the entirety of the field. The AR does not indicate what the noise levels would be at various receptors or whether factors such as tonality, intermittency and landscaping have been considered. Furthermore, the AR assesses the average noise level of 1 no dog. However, the information before me indicates that the appellant has 13no dogs and that in the past has trained 8no dogs at a time. The AR is therefore not representative of the proposed use. Even on a temporary basis, without an

assessment of the proposal on the basis it intended to be used for, I cannot be satisfied that the proposed development would not adversely affect the living conditions of the occupiers of nearby residential dwellings.

13. I note that agricultural use in itself entails potential for noise and disturbance and there is no evidence before me indicating there are any restrictions on the present use of the land in that regard. The appellant has also referred to the noise of moving trains. However, during the course of my site visit I did not witness any train movement. In any event, I do not consider the noise arising from a passing train to be comparable to that of noise from dogs and their handler and so is of limited relevance to my considerations.
14. I have no reason to doubt that the appellant has operated dog training facilities elsewhere without an adverse effect upon neighbouring living conditions. Reference has been made to a dog training centre being granted planning permission. However, I have not been provided with full details of the case and so cannot be certain that either represent a direct parallel to the appeal before me, which I have determined on its individual merits.
15. As a private facility the vehicular movements at the site would be limited. I am therefore satisfied that the vehicle movements associated with the proposal would not result in material harm to noise and disturbance.
16. Further to concerns regarding odour from dog faeces I am satisfied that a suitably worded condition would address waste management at the site should I be minded to allow the appeal.
17. For the reasons stated above, I do not find harm upon the living conditions of residential occupiers in the locality, having particular regard to the potential for noise and disturbance arising from vehicular movements. Nor do I find harm with respect to odour, subject to the imposition of a suitably worded condition. However, owing to the intensity of the use, albeit for private use, I cannot be satisfied that the proposal would not cause harm to the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance. In this regard I find conflict with Policies 2, 3, and 30 of the South East Lincolnshire Local Plan 2019 and the Framework, which seek to prevent harm to the living conditions of nearby residential properties and to prevent noise pollution.

### **Other Matters**

18. Whilst the grass verges along Gubboles Drove may be used for people walking and exercising their dogs this transient activity differs from the appeal proposal and is not comparable.
19. Concerns regarding trespassing of land are a civil issue not forming part of the consideration of the appeal before me.
20. At the time of my visit, I observed equipment neatly stored in one small area of the site and it otherwise had the appearance of a grassed field. Accordingly, I do not find that the proposal would be harmful to the character and appearance of the area.
21. The proposed use would utilise an established access. Based on the evidence before me, and my own observations, as a private facility the number of traffic

movements generated by the proposal would be limited. It would not have an unacceptable impact on highway safety.

22. I have considered all other matters raised by interested parties. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.
23. Any concerns regarding due process during the processing of the planning application fall outside of the remit of this decision.
24. The lack of harm in relation to Other Matters are neutral factors, which neither weigh for or against the proposal.
25. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity. However, it does not follow though from the PSED that the appeal should succeed. Any economic or social benefit would be limited and whilst I note the personal benefits of training and exercising the appellant's own dogs, I am unable to conclude that the appeal scheme would be the only solution to meeting the appellant's requirements for dog training and this lessens the benefit arising from the proposal. I have identified harm in respect of living conditions that outweighs these personal matters, and it is proportionate and justifiable to dismiss the appeal.

### **Conclusion**

26. For the above reasons, I conclude the proposal conflicts with the development plan as a whole. There are no other material considerations, including the Framework, to outweigh that conflict. For these reasons, I conclude the appeal should be dismissed.

*R Gee*

INSPECTOR