



Appeal Decision

Hearing Held on 20 October 2020

Site visit made on 21 October 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

Appeal Ref: APP/X0415/W/20/3248146

Meadow Croft Farm, Amersham Road, Chesham HP5 1NE

- 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 Mr & Mrs Randall against the decision of Chiltern District Council.
 - The application Ref PL/19/1799/FA, dated 23 May 2019, was refused by notice dated 28 November 2019.
 - The development proposed is the conversion of an existing agricultural building into a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the Hearing the appellants sought to introduce new evidence to support their case. This concerned accounts and other information relating to their farm operation, particularly the sale of produce; and, the operation of a dog training service on land within the farm. Following a discussion and with reference to the Procedural Guide Planning Appeals - England, July 2020, I was not satisfied that this evidence could not have been provided when the appeal was made, or that there were any exceptional reasons for allowing its late submission.
3. A further piece of evidence concerning the location of historic accidents along this stretch of road was introduced. However, following a discussion I was satisfied that this did not directly relate to the matters of dispute, and in light of this and its confidential nature, I did not allow its submission either.
4. There is no dispute between the main parties regarding the proposal's status within the Green Belt, its effect upon the openness of the Green Belt, the setting of a nearby Grade II listed building¹, or on the Chilterns Area of Outstanding Natural Beauty (AONB). The proposal has also been screened out as Environmental Impact Assessment development².
5. Planning permission for the proposal was refused by Chiltern District Council, which at the time was the Local Planning Authority (LPA) for the area. In 2020, Buckinghamshire Council was created and is now the LPA for the area previously covered by Chiltern District Council. In my Decision I do not differentiate between the two Councils, given their respective functions as LPA.

¹ Chesham Bois Manor

² Town and Country Planning (Environmental Impact Assessment) Regulations 2017

Main Issue

6. The main issue is the effect of the proposal on highway safety.

Reasons

7. The appeal site is located a short distance to the south of Chesham, on land to the west of the A416 Amersham Road, a single carriageway road which connects Amersham and Chesham.
8. The site comprises a vehicular access from Amersham Road leading, via a set-back gated drive, to a barn and associated area of hardstanding, with a small area of grassland to its east. The appeal site is located within a larger area of land to the west of Amersham Road³, which has been owned by the appellants since 2002.
9. The land owned by the appellants to the north of the site contains a small apple orchard. Their remaining land is mostly grass fields containing the occasional mature tree and various buildings, including a chicken coop in one of the fields near to the barn. This land is separated from Amersham Road by a hedge and some further trees, with a larger area of mature woodland by the western boundary. Together with the appeal site, this is the land which formed Meadow Croft Farm.
10. The appeal concerns a barn that was granted planning permission in 2008⁴ and was used for equipment storage and for lambing at the farm. Meadow Croft Farm is said to have ceased operations shortly after 2016, although the barn was used for agricultural storage purposes at the time of my visit.
11. The appeal development would entail the conversion of the barn to a 4-bedroom dwelling, with associated parking spaces on the area of existing hardstanding. Access to the proposed dwelling would be from Amersham Road, via the same access which served the farm.
12. There is no dispute between the parties regarding the adequacy of the access for vehicles entering the site from either direction along Amersham Road; for vehicles exiting the site in a northerly direction towards Chesham; the width of the access; and, the capacity of the highway network in this area.
13. However, the visibility splay to the north of the access, which would be used by vehicles exiting the site in a southerly direction towards Amersham, is very limited. The Council states it would offer some 5.0metres of unrestricted visibility, very substantially below the 151metres said to be contained in the Manual for Streets (MfS) guidance⁵ for a road such as Amersham Road, with a speed limit of 60mph.
14. Whilst it was possible to see traffic travelling south from Chesham along Amersham Road for some distance beyond the (approximately) 5.0metres visibility splay at the time of my visit, this was an obstructed view. Beyond the 5.0metres, visibility is currently disrupted by a chain link fence with concrete support posts, next to Amersham Road; by a tree stump and branches within the adjacent land to the north; and, by a timber and wire fence which marks the boundary between the appeal site and the adjacent land to the north.

³ As shown on the Location Plan: Ref. AR PA 03 A

⁴ LPA Ref. CH/2008/0061/FA

⁵ The MfS requires a visibility splay to be assessed central to the access and some 2.4 metres from the edge of the carriageway and is calculated with reference to the Safe Stopping Distances (SSDs) for vehicles which vary with speed.

15. Furthermore, irrespective of the current visibility, the adjacent land to the north is not in the control of the appellants or the Highway Authority. As such, the limited visibility currently afforded may be further reduced, such as by additional planting, without recourse to the appellants or the Highway Authority.
16. I note the comments made regarding congestion and slow speeds during the morning and evening peak periods. However, no evidence has been provided to show the speed or quantum of traffic along Amersham Road. When I visited the appeal site in the early afternoon on a weekday, traffic on Amersham Road was free-flowing and comprised a range of different vehicles.
17. On this basis, I am satisfied that the current visibility splay to the north is substantially below what would be required for a vehicular access at a road such as this and represents a significant risk to highway safety.
18. There is no dispute between the parties that the proposed development would generate up to 42 two-way journeys per week. The current use of the appeal site and the adjacent land, which has not been farmed for several years, is said to generate some 15 two-way journeys per week. The proposed development would, therefore, generate considerably more journeys and so would result in the intensification of use of a sub-standard access, causing an unacceptable risk to highway safety.
19. Only one recorded accident has occurred along this busy stretch of Amersham Road over the past five years. However, and relying on the appellants' evidence, for much of that time the appeal access has been used for only 15 two-way journeys per week, considerably less than would be the case for the proposed use.
20. Nevertheless, the appellants' claim that the proposed development would generate fewer two-way journeys than occurred when the farm was operating at its peak, between 2011 – 2016. Furthermore, given that the lawful use of the appellants' land is for farming, such levels of activity could occur again at the access and so the proposed development should be assessed against this, rather than the current levels of activity.
21. Between 2011 - 2016, Meadow Croft Farm is said to have produced around 600 free range eggs per week, as well as a more limited supply of meat from chickens, pigs and lambs, reared on site. In addition, around 400 bales of hay per year were said to be generated from the farm.
22. However, there is very limited evidence to support this, other than an Appraisal of Need and Farm Business Plan (AONFBP) from 2010. This was produced to support the need for residential accommodation at the farm and to support the farm's future growth. Whilst the occurrence of some of this activity is supported by photographs in the AONFBP, there are no details of the numbers of animals or the amount of produce.
23. Whilst I am satisfied that the appellants' land was used for farming in the past, and that ancillary retail uses as described would be lawful, there is no compelling evidence of such retail activities before me.
24. At the Hearing the appellants stated that the operation of the farm between 2011 - 2016 generated around 80 two-way journeys, on average, per week. This included the appellants' visits, the visits of customers purchasing produce,

visits of people to see the farm animals, deliveries of animal feed etc. and the transportation of animals for slaughter.

- 25.If the farm activities as described by the appellants occurred then this number of journeys would not seem to be unreasonable. However, as set out above, there is no substantive evidence to support this level of activity and so the number of journeys claimed by the appellants.
- 26.The appellants state that the adjacent land has not been farmed for several years and they do not intend to farm it in the future. However, there is nothing that would prevent the appellants from changing their mind in this regard, once the conversion had taken place. In any event, the farmland could be passed on to others in the future who may use it in this way.
- 27.The conversion of the barn would mean that there would be nowhere for the storage of equipment or for lambing associated with such a use. Whilst this would make farming the remainder of the appellants' land in the way described between 2011 - 2016 more difficult, it would not prevent much of it from occurring.
- 28.At the Hearing it was agreed that a farming use could be re-established on the adjacent land without much difficulty. Furthermore, there is a wooden chicken coop in a field on the farm which, whilst currently unoccupied, was one of the principal trip generators of the farm use according to the appellants.
- 29.The appellants state that the commercial activities at the farm, particularly the sale of eggs and meat to visiting members of the public, attracted customers through local advertising and word-of-mouth. Again, it would not be difficult for such measures to be replicated and so attract customers back to the land, as previously occurred.
- 30.Consequently, there would be nothing to prevent the use of the chicken coop in the way previously described, even after the conversion of the barn. Furthermore, from the description of the activities at the farm between 2011 - 2016, there would seem scope for more of these activities to recommence, with a consequent increase in the use of the access.
- 31.The appellants' evidence regarding the farm activities is not compelling or even consistent⁶. If I were to accept that the sale of free range eggs alone generated 50 two-way journeys per week, then together with the 42 two-way journeys generated by the proposed development, this would result in up to 92 two-way journeys per week. This would intensify the use of a sub-standard highway access over both the stated current use and the stated peak farm use between 2011 - 2016.
- 32.The appellants submitted a draft condition during the Hearing which would restrict the access so as it would *...only be used in association with the use of the site as a residential dwelling and...not...for any other purposes*.
- 33.Such a condition is intended to prevent the intensification of use of the access in the way set out above. The condition was discussed at the Hearing with regards to whether it would meet the six tests for conditions⁷; the enforceability

⁶ ADL Technical Note 1 conservatively estimates a much greater number of journeys per week than was stated at the Hearing and in the Statement of Case.

⁷ Listed at paragraph 55 of the National Planning Policy Framework 2019 (the Framework).

of other conditions, including the Council's suggested Condition 2, was also raised by the appellant.

34. Setting aside whether the sale of eggs, for example, would be separate from or ancillary to the residential use, such a condition would require extensive monitoring and even then, proving a contravention would pose severe difficulties, given the past informal arrangements for retail elements, including the sale of eggs.
35. I am not, therefore, satisfied that the appellants' suggested condition would be enforceable or reasonable, or could be redrafted so as to be so whilst still fulfilling its intended purpose. Whilst the Council's suggested Condition 2 would be onerous, given its intended purpose it would be reasonable and enforceable.
36. The proposed development would intensify the use of a sub-standard highway access. There is very limited evidence to support the level of activities at the farm claimed by the appellants. Even if I were to accept the appellant's statements regarding the farm activities, there is a significant likelihood that the proposal could still result in the intensified use of a sub-standard access. I am not content that this could be satisfactorily controlled by a suitably worded condition.
37. For these reasons, the proposed development would adversely affect highway safety. It would, therefore, conflict with Policy TR2 (Highway aspects of planning applications) of the Chiltern District Local Plan adopted 1 September 1997 (as subsequently altered and amended), Policies CS25 (Dealing with the highway impacts of new development on the transport network) and CS26 (Requirements of new development) of the Core Strategy for Chiltern District adopted November 2011, and with the Framework.

Other Matters

38. There was some discussion regarding an alternative access to the appellants' land further south along Amersham Road. As I indicated at the Hearing, this access has no bearing on my determination of this appeal.
39. In the Council's written evidence, reliance has been placed on the views of the Highway Authority as to the lawfulness of a retail use at the farm and the consequent discounting of any further trips generated as a result. The lawful planning use of a site is not a matter on which I would give weight to the views of the Highway Authority. Furthermore, the Council's position in this regard was reversed at the Hearing, without any substantive explanation.
40. This is unhelpful and potentially confusing behaviour and does not reflect well upon the Council as Highway Authority or LPA. However, it does not affect my determination of this appeal, as set out above.

Conclusion

41. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

APPEARANCES – 20 October 2020

FOR THE APPELLANT:

- Mr Sam Dodd – Agent
- Mr & Mrs Randall - Appellants

FOR THE LOCAL PLANNING AUTHORITY:

- Melanie Beech MRTPI – Principal Planning Officer
- Tristan Higgs - Senior Highways Development Management Officer

DOCUMENTS SUBMITTED WHILE THE HEARING SAT

Appellants' suggested condition to restrict the use of the appeal site access.