



Appeal Decision

Site Visit made on 10 February 2021

by Rory MacLeod BA(Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Appeal Ref: APP/W0340/W/20/3258432

Land to east of Chapel House, Sulhamstead Road, Sulhamstead Abbots, RG7 4EE

- 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 Nick Jones & Mrs Samantha Clifford against the decision of West Berkshire District Council.
 - The application Ref 19/02384/FUL, dated 19 September 2019, was refused by notice dated 28 February 2020.
 - The development proposed is change of use from horse/pony grazing to a recreational/walking area for dog owners/carers.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development is taken from the appeal form. The Council claims not to have records about a previous equestrian use of the site and states that it has an agricultural or a nil use.
3. The proposal is retrospective, and permission is sought to retain the development which includes a small shed, 2m high wire stock fencing around the perimeter, dog agility apparatus, parking hard standing and an entry gate.

Main Issues

4. The main issues are (a) whether this would be an appropriate use for the site, having regard to relevant planning policies, its effect on the rural character of the area and traffic generated and (b) the adequacy of access arrangements to the site.

Reasons

Use, character and traffic

5. The appeal site comprises an open grass field about 0.5 hectare in area on the corner of Sulhamstead Road and Ash Lane. It is located to the north of the settlement of Burghfield Common. The area surrounding the site is rural in character comprising open fields, woodlands and a scattering of dwellings and other buildings.
 6. As the site is located outside any settlement boundary it is within the open countryside for planning policy purposes. Whilst the proposal provides a source of employment for the appellant it is essentially a recreational use enabling dog owners to hire the field on an hourly basis.
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7. Policies ADPP1 and ADPP6 of the West Berkshire Core Strategy (2012) (WBCS) provide a spatial strategy which directs most development to be within or adjacent to identified settlements; but the policies do not limit development exclusively to these areas. Within the countryside it enables appropriate limited development focused on addressing identified needs and maintaining a strong rural economy. The success of the present enterprise indicates a demand for the proposal and this now contributes to the local rural economy. There would not be conflict with these strategic policies.
8. Policy CS10 of the WBCS states that "*Proposals to diversify the rural economy will be encouraged, particularly where they are located in or adjacent to Rural Service Centres and Service Villages*". The site is clearly not within a service centre or village, but the use of the word "particularly" does not expressly exclude proposals in other locations. The supporting statement recognises the need to support the development of start-up businesses throughout the District. The policy supports appropriate farm diversification, but the policy is broader in scope than just relating to agricultural enterprises; this is not a necessary requirement. The proposal is not contrary to Policy CS10. Moreover, Paragraph 83 of the National Planning Policy Framework (the Framework) supports the development and diversification of agricultural and other land-based rural businesses and also leisure developments which respect the character of the countryside.
9. The proposal has not fundamentally changed the character or appearance of the site which remains as an open field. The shed is a modest feature screened from Ash Road by a hedgerow. The post and wire fence is unobtrusive and not dissimilar to other enclosures in rural areas. The hardstanding is not extensive and provides an area to park off the highway. At the time of my visit there was some equipment to support dog training and agility exercises; this was modest in extent, moveable and not dissimilar to equestrian equipment in its visual impact. The combination of changes does not amount to urban features that would be harmful to the rural landscape character of the area. The proposal would not be contrary to Policies CS14 and CS19 of the WBCS in relation to design issues and landscape character.
10. Although previous equestrian or agricultural uses of the site would have involved service vehicles visiting the site, the regular hiring of the field for dog recreation has resulted in increased traffic levels. But the hourly interval between hiring slots indicates that traffic levels overall would not be high. The appellant's records indicate on average 37 visits per week. The site is not on a bus route and fronts rural roads where cycling may be difficult, but access via such modes would not be especially suited to the proposed use. The site is only about 150m from the edge of Burghfield Common and whilst Ash Lane linking it to the site does not have dedicated footpaths and requires crossing a ford, it was evident from my site visit that Ash Lane is used by pedestrians. The use requires a secure open area and such sites are not likely to be as available in built up areas. Proximity to the sizeable settlement of Burghfield Common indicates that many journeys by car to the site may not be long in length. The relatively low traffic volumes would not be likely to significantly increase greenhouse gas emissions in relation to climate change concerns.
11. Having regard to these considerations my findings are that any conflict with those parts of Policy CS13 of the WBCS that seek to reduce the need to travel, to improve travel choices and to facilitate sustainable travel would not be

significant. Paragraph 84 of the Framework states that planning decisions should recognise *"that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport"*. Increased traffic levels arising from the proposal would not be so great as to preclude the flexibility in the location of community needs, advocated by the Framework, from applying to the proposal at this site. The use is appropriate for the site, having regard to relevant local and national planning policies concerning rural uses, rural character and traffic generation.

Site access

12. Historically, the field would appear to have had an alternative access via Chapel House immediately to the west of the site, but that access has not been made available to the appellant. The proposal submitted to the Council sought to retain vehicular access to the site through the present access on to Ash Lane close to its junction with Sulhamstead Road. The appellant claims the access has been in operation since November 2018 and has been marginally reangled towards the corner to improve visibility for site users. From the evidence before me, the changes would not appear to be substantial. This access can therefore be regarded as an existing lawful access and permission should only be refused if the proposal would result in a material change in circumstances.
13. The gate across the entrance is set about 4m back from the carriageway to Ash Lane. When drivers use the keycode access post their vehicle would be likely to protrude into the highway. This could be hazardous for other road users, particularly on Ash Lane, which is narrow close to the site, wide enough for only single direction travel. Visibility along Ash Lane is poor for vehicles exiting the site and could only be improved by further modifications to the access and reductions to boundary hedgerows. There is reasonable visibility to the north-east along Sulhamstead Road, but the access is largely concealed for traffic travelling from the west along Sulhamstead Road turning right into Ash Lane.
14. A further consideration is possible conflict between vehicles entering and exiting the site at end of an hourly hire slot. It would be unfortunate in relation to highway safety for a vehicle to reverse on to Ash Lane to allow another to leave the site, yet there is little room on site to manoeuvre vehicles. A planning condition to guide the timing of vehicle movements in relation to hire times would be difficult to enforce. Such a conflict of movements would be unlikely to have occurred with the former use of the site. Although traffic levels generated by the use would not appear to be high there has been a material increase and a change in the nature of that traffic with potential conflicts between leaving and arriving vehicles. There would not appear to be a record of any traffic accident near to the existing access, but this alone is an inadequate indicator of its safety in respect to recent changes. A planning condition could be imposed to require the submission of alterations to the existing access, such as providing new positions for the gate, keycode access post and the parking and turning area, but this would still involve the more intense use of an access with poor visibility near to the road junction.
15. Notwithstanding that the new use relates to an existing site access, the proposal would be contrary to the clause within Policy CS13 that seeks to improve and promote opportunities for healthy and safe travel. There would also be conflict with Paragraph 108 of the Framework which requires

- development proposals to ensure that “*safe and suitable access to the site can be achieved for all users*”. Furthermore, Paragraph 109 of the Framework confirms that an unacceptable impact on highway safety is a reason for which development can be prevented or refused on highway grounds.
16. Three alternative options have been submitted with the appeal in the event that the existing access is found to be unsatisfactory. Option 1 relocates the access around the corner on to Sulhamstead Road enabling much of the present parking hard stand to be retained. A new access farther west along Sulhamstead Road for ‘in’ and ‘out’ movements is the subject of option 2 whilst option 3 would involve ‘in’ only movements through the new access in option 2 and for vehicles to exit through the existing access on to Ash Lane.
17. Procedural guidance on appeals is that the process should not ordinarily be used to evolve a scheme. The acceptability of revised plans submitted with an appeal should be judged by the Wheatcroft principles¹ which established that “*the main, but not the only, criterion on which that judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation*”.
18. I note that there were no objections from residents or other interested parties at the planning application stage and that there has been opportunity for the Council’s Highway Officer to comment on the suggested alternative access options. Yet all three options would involve a new access on to a different road, even in option 1 which would be close to the existing access. This would change the description of the development to include ‘formation of new access’. Acceptance of a position for an alternative access at the appeal stage would deprive those who would have been notified of the new access opportunity to comment on it.
19. A further consideration in relation to option 3 would be the formation of a track within the site to connect the new and existing accesses. Even option 2 would involve the creation of a new parking and turning area within the site. The implication for removal of boundary trees and hedgerows to provide visibility would need to be considered for all options. It would not be appropriate to leave approval of such matters to the discharge of planning conditions when the revised plan options all involve new development. The revised plans should not therefore be accepted. The appeal should be decided in relation to the existing access as set out in the proposal submitted to the Council.

Conclusion

20. Whilst I have found the proposed use to be appropriate for the site, having regard to relevant local and national planning policies relating to rural uses, rural character and traffic generation, there would be a material change in the use of the existing access which would be detrimental to highway safety. The appeal should therefore be dismissed.

Rory MacLeod BA(Hons), MRTPI

INSPECTOR

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]