



Appeal Decision

Site visit made on 5 November 2019

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2019

Appeal Ref: APP/G5180/W/19/3235343

Land north of Maypole Cottages, Jubilee Road, Orpington BR6 7QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr David Walker against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/01293/FLXAG, dated 3 April 2019, was refused by notice dated 21 May 2019.
 - The development proposed is conversion of a barn into a 2 bed, 3 persons dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. This appeal is in respect of the right arising from Schedule 2, Part 3, Class Q of the Town and Country Planning Act (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). Subject to a prior approval process, Class Q of the GPDO grants permission for the change of use from agricultural buildings to dwelling houses.
3. In the interests of precision, I have removed the words "*Please see enclosed drawings and planning statement*" from the description of development in the above banner heading as it does not form part of the substantive detail of the proposal.

Main Issue

4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and, if so, whether the proposal would be acceptable in respect of the conditions of Q2 (1) (a-f) of the said Order.

Reasons

5. Located within the Green Belt, the appeal property consists of two timber framed buildings sitting side by side. The first is a narrow building accessed from the front via partially glazed timber garage doors. The second, which is set forward by approximately 2 metres, is slightly taller than the first building

- and is accessed via a timber ply door. Both structures are largely clad in timber boarding with tile and corrugated metal roofing.
6. The buildings sit in the western corner of a relatively small triangular parcel of land to the north of Jubilee Road. There are a number of existing residential dwellings set within generous plots to the west and south of the appeal site and to the north, on the far side of the boundary hedgerow, are open fields currently in equestrian use. The site is bounded on all sides by thick hedgerow and there is dense tree cover on the western boundary.
 7. The appeal proposal seeks to convert the buildings for residential use. Externally this would include the installation of fenestration on three elevations and the re-cladding of the building with cedar boarding. The submitted drawings show the roofing materials to be tile and corrugated metal.
 8. Class Q of the GPDO grants permission for the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses). Paragraph Q.1 states that development is not permitted by Class Q if, amongst other things, (a) the site was not used solely for an agricultural use as part of an established agricultural unit: (i) on the 20 March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.
 9. The appellant contends that the last use of the buildings was for the storage of agricultural machinery and animal feed and says that they were last used for this purpose in 1997. He says that they have been vacant since this time, except for an undisclosed period of time when the buildings were used for the storage of personal possessions. Consequently, the main parties do not dispute that the requirements of both Q.1 (a) (i) and (iii) are not met as the building has not been used for agricultural purposes on or since 20 March 2013.
 10. The Council has provided some photographic evidence which indicates that the larger of the two buildings was not in situ in 2010. Whilst I acknowledge the appellant's assertion that Google imagery is not always reliable, the photographs do nonetheless suggest that one of the appeal buildings could not have been in sole agricultural use in 1997.
 11. Even if the above were not the case, I have not been provided with any substantive evidence from the appellant in the form of say photographs, statutory declarations and invoices relating to delivery of animal feed or machinery and use of the buildings that would corroborate the appellant's claim that the buildings were last used for agricultural purposes. Indeed, there has been no submissions relating to the type of machinery stored, the number of animals kept or any other information provided that would persuade me of the actual last use of the buildings prior to 20 March 2013. Furthermore, I am not certain of the amount of personal storage use of the buildings since 1997 and indeed whether this has altered the lawful use status of the buildings in question.
 12. In making this appeal, the onus of proof rests with the appellant in terms of demonstrating whether or not the building has been used solely for agricultural purposes as part of an established agricultural unit. Whilst the appellant's

evidence does not have to be corroborated by independent evidence to be accepted, it nonetheless has to be sufficiently precise and unambiguous.

13. In conclusion, in order to benefit from the provisions of Schedule 2, Part 3, Class Q of the GPDO the appeal buildings must have been in agricultural use on 20 March 2013 or, if not on this date, when it was last used. In this case, inconclusive evidence is before me to reach a certain conclusion on this matter. Therefore, I conclude that the proposal before me is not permitted by the Order.
14. As I have concluded that the proposal is not permitted development for the purposes of the GPDO, it does not now fall on me to assess the proposal against the conditions of Q2 (1) (a-f) of the GPDO.

Conclusion

15. For the reasons given above, and taking into account all other matters raised, I conclude the appeal should be dismissed.

J Hunter

INSPECTOR