



Appeal Decision

Site Visit made on 16 October 2020

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2020

Appeal Ref: APP/N4205/W/20/3256405

Land at 340 Ringley Road West, Stoneclough, Radcliffe, BOLTON M26 1EP

- 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 (as amended).
 - The appeal is made by Cityview Estates Ltd against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 07850/20, dated 5 February 2020, was refused by notice dated 15 April 2020.
 - The development proposed is the change of use of agricultural building to a dwellinghouse (Class C3) and associated operational development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided additional information as part of their appeal statement, to supplement their case. I note the Council's reference to paragraph M.2.1 of the Planning Appeals Procedural Guide, but the information provided does not seek to alter or evolve the proposed scheme, which remains the same as that considered by the Council. Rather it provides further evidence relating to the reasons for refusal and to changes in circumstances following the Council's decision. Paragraph 1.10 of the Procedural Guide says that the decision on an appeal must be made under the circumstances existing at the time of that decision. I have therefore taken full account of the information provided at the appeal stage in my decision.

Main Issue

3. Schedule 2, Part 3, Class Q of the General Permitted Development Order 2015 (as amended) (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a dwellinghouse (Class C3). However, there are a number of circumstances where such development is not permitted, which are listed in paragraph Q.1. The Council's reasons for refusal refer to two of these limitations.
4. The main issue is therefore whether the proposal would be permitted development under Class Q having particular regard to:

- i) Whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013; and
- ii) whether the development would involve building operations other than those reasonably necessary for the building to function as a dwellinghouse.

Reasons

Whether the site was in agricultural use on 20 March 2013

- 5. The appeal building, which is now in a poor state of repair, is of a simple form, with rendered clay brick walling and a solid floor. The original pitched roof is missing. Attached to the main part of the building is a brick stable with a mono pitch roof. The land around the building is overgrown, and it is clear that the site has not been in use for some time, but regardless of its current state, it is necessary for me to consider whether the site was in agricultural use in March 2013.
- 6. The appellant's position is that on the relevant date, and up until 2015, the site was used for grazing horses. The definition of agriculture in the Town and Country Planning Act 1990 includes the breeding and keeping of livestock, and the use of land for grazing. The Courts have held that if land is used for grazing horses it will be regarded as agricultural use, but only if the horses are on the land for the primary purpose of grazing. If the horses are given supplemental feed and kept in the field for exercise and provided shelter, then the predominant use of the land is not regarded as agricultural.
- 7. Although the main part of the appeal building is in a very poor condition, the element to the rear is clearly a stable block with three doors. Stabling generally includes horses being fed hay while indoors, which is supplementary feeding. The presence of a stable block on the site, as opposed to an open field shelter to provide protection from the weather whilst grazing, suggests that horses may have been living on the site and being kept, rather than grazed, which would not be an agricultural use.
- 8. The appellant has provided a photograph from Google Streetview dating back to 2009. This shows horses on the field adjacent to the appeal buildings, which appear to be eating hay, further suggesting that they may have been provided with supplemental feed. Imagery from that time also appears to show a yard area in front of the stable with a horse box, which also indicates that the site was not being used purely for grazing.
- 9. Paragraph X of Schedule 2 Part 3 of the GDPO explains that for the purposes of Part 3, an 'agricultural building' means a building used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses. The proposal contains no information about any trade or business taking place on the site, or associated with the use of the site. In the absence of any explanation as to why the animals were being grazed, or how this activity formed part of any farming business, further doubt is cast over the suggested agricultural use of the site.

10. In support of their case the appellant has provided four statutory declarations, signed by three people who have all lived near to the appeal site for a considerable period of time. These documents state that, up until 2015, the barns were used exclusively for agriculture. The initial two declarations, provided as part of the planning application, provided no further detail but the subsequent declarations clarify that the site and buildings were used for grazing horses and not for equestrian or recreational use.
11. I note the comments made by the Council's legal team that the statutory declarations carry substantial weight due to their legal standing, but that they lack detail. It is unclear whether the signatories, as local residents, were using the site, or the extent to which they would have had access to it. They may not have been able to see what was happening, particularly since the stable is at the rear of the building, on private land, facing away from the road frontage. Furthermore, two of the declarations state that the horses stayed on the site all the time, which suggests that they may have been provided with additional feed and therefore kept, rather than grazed. These uncertainties raise questions about the extent to which the statutory declarations can be relied upon to confirm the agricultural use of the site.
12. From the evidence provided it seems likely that, whilst horses were present on the site on the prescribed date, they were being kept, rather than grazed, which is not an agricultural use. Paragraph W of Schedule 2, Part 3 of the GPDO says that an application may be refused where insufficient information has been provided to establish whether the proposal complies with the limitations which apply to the development in question. In this case, no convincing evidence has been provided to demonstrate that the site was in sole agricultural use as part of a wider agricultural unit on 20 March 2013. As such, the appeal proposal fails to meet the requirements of paragraph Q.1a), and therefore does not constitute permitted development.

Extent of building operations necessary

13. Paragraph Q.1b) allows for building operations where these are reasonably necessary to convert the building. Criterion i)i)aa) provides further detail, specifying that such works may include the installation or replacement of windows, doors, roofs, or exterior walls, to the extent reasonably necessary for the building to function as a dwellinghouse.
14. In the period following the Council's decision on the application, the building was found to be unsafe by the Council's Building Control officer, and work was subsequently undertaken to repair the external walls of the property. The updated structural report, submitted as part of the appeal, noted the recent repairs and concluded that, when the new roof structure and floors were in place, the building would be expected to be structurally sound and ready for cosmetic works to be carried out. In light of this, the proposed works would be reasonably necessary to convert the buildings, and would fall within the provisions of criterion i)i)aa).

Conclusion

15. Although the building operations now needed to convert the building fall within the provisions of Class Q, for the reasons given above the proposal

does not meet the requirements of paragraph Q.1a). The proposal does not constitute permitted development under Class Q. I must therefore dismiss the appeal.

R Morgan

INSPECTOR