



Appeal Decision

Site visit made on 17 August 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2021

Appeal Ref: APP/P4225/W/21/3273877

Land East of Birchinley Manor, Wildhouse Lane, Milnrow, Rochdale OL16 3TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Stirling Properties Ltd against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 20/01394/VRCON, dated 3 November 2020, was refused by notice dated 8 January 2021.
 - The application sought planning permission for erection of stable block and formation of new access track without complying with a condition attached to planning permission Ref 19/00565/FUL, dated 19 February 2020.
 - The condition in dispute is No 4 which states that: The stables hereby permitted shall not be used for livery or other commercial business use.
 - The reason given for the condition is: To protect the openness of the Green Belt in accordance with policies P3 and G4 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. There is a planning approval in existence via application 19/00565/FUL which allows for a block of 4 stables and an access track, subject to conditions, one of which was that the stable block should not be used for livery or other commercial purposes. This was added to protect the openness of the Green Belt and in accordance with National and Local Plan policy. The appellants seek to vary this condition in order to use the stables as a livery, which is defined as a stable where horse owners pay a fee to keep their horses. In light of this, the main issue is whether the livery would be an inappropriate use in the Green Belt.

Reasons

3. Paragraph 56 of the National Planning Policy Framework (the Framework) states that 'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.' The Planning Practice Guidance (PPG) states that the 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.

4. In accordance with the PPG a key question in respect of whether a condition is necessary, is that it must not be imposed unless there is a definite planning reason for it, i.e. it is needed to make the development acceptable in planning terms.
5. The stables were previously approved, and it appears from the evidence I have in front of me, that their use was related to the residents of Birchinley Manor and this use was found to be acceptable. It has now transpired that the appellants wish to use the stables for livery use.
6. The appellants state that the livery use would not be a commercial business, but I find the use as a livery is commercial, as such uses do not operate free gratis, but charge a fee for the rent of the stable; whether this is DIY livery or a managed livery, a fee is still paid. It would now be separate commercial business and no longer related to serving the needs of a resident or residents of Birchinley Manor as a private facility.
7. I have noted the comments of the Council with regard to the interpretation of Paragraph 149 of the National Planning Policy Framework (the Framework) as to what is considered an exemption to Green Belt policy. Stables can be considered as an appropriate facility, but the key point is highlighted by the Council and omitted by the Appellant:

'In connection with the existing use of land or a change of use'

A commercial venture, which a livery would be, would no longer be connected to the land and Birchinley Manor, and would no longer be considered as an exception to Green Belt policy.

8. As the stables were to be for private use originally, they were correctly interpreted as an exception to Green Belt policy. To ensure that the stables remained lawfully as an exception, the Condition was correctly added to the approval. To remove that Condition would remove the exception criteria and make the development an inappropriate use in the Green Belt. The only way to overcome this would be to forward very special circumstances to justify the exception to National Green Belt policy. I find that the evidence provided by the appellants does not constitute the very special circumstances required for this exception.
9. I therefore conclude that Condition 4 is reasonable and necessary in its current form in order to protect the Green Belt, in accord with National Policy.
10. As a result, I find that the proposals would contrary to policies G4, P3 and DM1 of the Rochdale Adopted Core Strategy (2016), which amongst other matters, protects the Green Belt from inappropriate development, enhance the Borough's identity and sense of place and are compatible with surrounding land uses, as well as the Green Belt policy set out in the Framework.
11. It is also drafted in a precise manner and is enforceable. The condition was reasonably imposed and is consistent in respect of guidance in the Framework.

Conclusion

12. For the reasons given, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR