
Appeal Decision

Site visit made on 22 March 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 March 2021

Appeal Ref: APP/F0114/W/20/3264085

The Nursery, Folly Lane, Stowey, Bristol BS39 4DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant approval under Article 3(1) and Schedule 2, Part 3, Class Q of The Town & Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Andrew Hay of AJP Growers Ltd against the decision of Bath and North East Somerset Council.
 - The application Ref 20/01265/ADCOU, dated 31 March 2020, was refused by notice dated 2 June 2020.
 - The development proposed is described as conversion of two thirds of the existing greenhouse to make one residential dwelling. The remaining one third of the existing greenhouse will remain in agricultural and/or horticultural use.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Class Q of the GPDO (Class Q) contains 2 parts: Class Q(a) and Class Q(b). Class Q(a) relates to change of use only, whilst Class Q(b) relates to change of use together with building operations reasonably necessary to convert the building. In this case the intention is to carry out a change of use together with building operations, and this is the basis upon which the Council assessed the application. I have done likewise.
3. Paragraph W of Schedule 2, Part 3 of the GPDO sets out the requirement for a local planning authority to notify an applicant of their decision within 56 days of their application having been made. After this time prior approval is deemed to be granted. In this regard the appellant claims that the Council issued its notice on day 63, having submitted the application on 1 April 2020.
4. Paragraph W however also sets out requirements in relation to the content of applications. In this regard the 56 day period is measured from the point at which these requirements are met, and thus the application is valid. One of these requirements is for a plan indicating the site and showing the proposed development.
5. The application was submitted with a location plan. This was an extract from an Ordnance Survey (OS) map. The building subject of the application was marked with a label and arrow, but partially obscured by the latter. As such, its form is not fully intelligible. The label itself contains the phrase '@Save', whose meaning is unclear. In this regard, whether or not the Council or any other

party could have sought to interpret the plan with reference to other plans or maps, the plan itself is not fit for purpose. Thus, insofar as the site is not properly indicated, the plan does not fulfil the requirement set out in Paragraph W.

6. A plan clearly indicating the building was not submitted until 8 April 2020. This was an enlarged version of the same OS map, but this time the building was clearly indicated. A plan identifying both the building and dedicated outdoor space was not however submitted until 12 May 2020. Nonetheless, the Council counted 56 days from the 8 April 2020. This period ended on 2 June 2020 when the Council's decision was issued.
7. I acknowledge that the Council's decision notice states that it is based on the site plan dated as received on 1 April 2020. However, given that this plan was rejected in writing by the Council on 6 April 2020, reference to it on the decision notice is an obvious error. As such, and in view of my findings above, this does not demonstrate that the Council's decision was issued out of time.
8. I therefore conclude that the Council issued its notice within the required 56 day period, and will therefore determine the appeal on its merits.

Main Issue

9. The main issue is whether the development is permitted development.

Reasons

10. Amongst other things, development is not permitted by Class Q if, as set out in relation to paragraph Q.1.(i)(i)(aa), development under Class Q(b) would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, to the extent reasonably necessary for the building to function as a dwelling house.
11. In this context the Planning Practice Guidance (the PPG) explains that the right set out in Class Q assumes that an agricultural building is capable of functioning as a dwelling. Therefore, it is only where an existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
12. The existing building is a commercial greenhouse. In this regard the scheme would involve the construction within it of what the appellant describes as a hermetically sealed box. This would contain the accommodation, which would be reliant on mechanical heat and air exchange systems in order to be habitable. The box would occupy two thirds of the greenhouse, but it would otherwise be separate from it. The simple fact that the box would stand inside the greenhouse means that the walls and roof of the latter would provide the box with a degree of shelter. They would likewise continue to serve this function in relation to the remainder of the internal space within the greenhouse, from which the box would also be sealed. In this regard, I am unconvinced that the shelter provided by the greenhouse would be fundamental to the existence of the box or the accommodation that it would contain. These points together indicate that the box rather the greenhouse would function as the dwelling.
13. Internal works are not generally development, and within the context of Class Q schemes, it may be appropriate to undertake internal structural works,

including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls in order for a building to function as a dwelling. Indeed, such works would typically feature within a scheme of conversion. However, in view of my findings above, the works in this case would not enable the greenhouse to function as a dwelling, or thus constitute conversion, instead they would involve the construction of a dwelling within the greenhouse. Consequently, the scheme would entail operations extending beyond the scope of those set out in Class Q(b), as further specified by paragraph Q.1.(i)(i)(aa), and as envisaged by the PPG.

14. In this regard a previous Class Q scheme advanced for the site would have involved the erection of external walls and a roof supported off the existing steel frame of the greenhouse. This was however dismissed in appeal APP/F0114/W/19/3220503, within which the Inspector found that such works would have gone beyond the extent of those reasonably necessary for the building to function as a dwelling house. Both this decision, and my findings above, lead me to the view that the greenhouse is incapable of functioning as a dwelling. As such, it cannot benefit from Class Q.
15. I have nonetheless been provided with a number of photographs, and an article, both showing and describing residential structures contained within external greenhouse-like, or other glazed shells. Almost all are located abroad, and appear to have been purpose-built, with the glazed shell either incorporated from the outset, or added later. They are not therefore conversions, or past subjects of Class Q schemes, and too little evidence has otherwise been provided to show how the appeal scheme would directly compare. The only domestic example provided does not show a dwelling within a greenhouse, but items of furniture, much as could be expected within a conservatory, garden room or similar. These examples do not therefore alter my findings above.
16. For the reasons outlined above I conclude that the proposed development would not comply with the restrictions applicable to development permitted by Schedule 2, Part 3, Class Q of the GPDO, and that as such it would not be permitted development. That being so, there no need for me to consider or to make a determination on the prior approval matters otherwise subject of dispute.

Other Matters

17. Class Q does not address ecological matters. However, this does not mean that they are irrelevant within the broader statutory context. In this regard the Council indicates that the site lies near to the Bath and Bradford on Avon Bats Special Area of Conservation, and that a likely significant effect on the protected species of bat for which it is designated cannot be ruled out. Neither party has however provided any detailed evidence on the matter. In any case, Article 3(1) of the GPDO grants planning permission for the classes of development within Schedule 2 subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017. Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017 that development which (a) is likely to have a significant effect on a European site alone or in combination with other plans or projects, and (b) is not directly connected with or necessary to the management of the site, must not be begun until the

developer has received written notification of the approval of the local planning authority under Regulation 77. For this reason, and given that I am otherwise dismissing the appeal, this is not a matter I need to address further.

Conclusion

18. For the reasons set out above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR