



Appeal Decision

Site visit made on 22 February 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/R3325/W/21/3283979

Woodentop Farm, Ridge Lane, West Coker, Yeovil BA22 9DG

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Mr P Richards against the decision of South Somerset District Council.
 - The application Ref 21/02357/PAMB, dated 26 July 2021, was refused by notice dated 9 September 2021.
 - The development proposed is the conversion of an agricultural building into a larger dwellinghouse.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have summarised the description of development given on the application form.

Main Issue

3. The main issue is whether the proposal would constitute permitted development under Article 3 and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the Order).

Reasons

4. In broad terms Article 3 and Schedule 2, Part 3, Class Q of the Order permit the change of use of agricultural buildings to dwellinghouses together with building operations reasonably necessary to convert the building in question. However, Class Q is subject to specified limitations and in addition, requires the developer to first apply to the local planning authority for a determination as to whether prior approval would be required as to the matters set out in Paragraph Q.2(1) of the Order.
5. In relation to applications made under Part 3 of the Order, paragraph W(3) stipulates that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with any conditions, limitations or restrictions specified as being applicable to the development in question. The refusal reason on the Council's decision notice relates to the

limitation specified in paragraph Q.1(g)(i) of the Order. Paragraph Q.1(g) stipulates that development is not permitted by Class Q if –

'(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit— (i) since 20th March 2013; or (ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins'. Essentially, the parties dispute whether the proposal would conflict with this limitation.

6. It is highly relevant to my determination that a previous prior approval application for a similar proposal was made fairly recently at the appeal site. This was dismissed on appeal¹ in 2017 as the Inspector concluded that the proposal would not be permitted development under Class Q by virtue of its failure to comply with a similarly worded restriction to paragraph Q.1(g)². He found that development under Part 6 of the Order had been carried out since 20th March 2013 and hence, the proposal did not qualify as permitted development under Class Q.
7. The Inspector further found that it was not necessary for the works permitted under Part 6 to be completed. The works in question were groundworks and two steel stanchions with a steel beam connecting them. They were found to be sufficient to constitute a material operation such that development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) had been carried out on the established agricultural unit (hereafter referred to as Part 6 development).
8. The appellant did not, and still does not dispute that the works described took place after 20th March 2013. However, following the receipt of the appeal decision he has removed the two stanchions and beam and states that no part of the building constructed under Part 6 now exists. He asserts that as no part of the structure existed at the time of the current application, development under Part 6 had not been carried out. He concludes that therefore, the proposal before me would not be contrary to paragraph Q.1(g)(i) of the Order.
9. However, I am unable to agree with the appellant's interpretation for the following reasons. Firstly, there is no dispute as to the fact that works did take place under the requisite sections of Part 6 on the established agricultural unit since 20th March 2013. The occurrence that they were subsequently removed is an additional fact but does not negate the first fact that the development happened. Therefore, on a straightforward interpretation of the wording of paragraph Q.1(g)(i), and consistent with the findings of the previous Inspector, despite subsequent events, it remains the case that development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit since 20th March 2013.
10. There is no exception or further qualification made in this wording to restore rights permitted under Class Q should the disqualifying development under Part 6 be subsequently removed. Nor am I aware that I have any discretion to read additional meaning into the specific wording of the Order.

¹ Reference APP/R3325/W/17/3173237

² At that point the relevant section was Paragraph Q.1(f)

11. My approach is reinforced when the remainder of paragraph Q.1(g) is read. Paragraph Q.1(g)(ii) indicates that provision is made for development under Class Q where development under Part 6 has been carried out but only with the passage of considerable time.
12. Furthermore, I find nothing to support the appellant's approach in the Planning Practice Guidance³ that explains the limitations to the change to residential use permitted by Class Q. It states that the Class Q rights cannot be exercised where works to erect, extend or alter a building for the purposes of agriculture under the existing agricultural permitted development rights have been carried out on the established agricultural unit since 20 March 2013, or within 10 years before exercising the change to residential use, whichever is the lesser.
13. The deemed permission granted by Class Q of the Order is subject to the criteria listed in paragraph Q.1. Notwithstanding that the proposal may meet other criteria in paragraph Q.1, it is necessary to meet all of the applicable requirements for the proposal to qualify as permitted development. Accordingly, I find that the circumstances presented would mean that the proposal would fall outside of the scope of the development permitted under Class Q of the Order by virtue of the terms of paragraph Q.1(g)(i).

Conclusion

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

Helen O'Connor

Inspector

³ Paragraph: 106 Reference ID: 13-106-20180615