



Appeal Decision

Site visit made on 4 September 2017

by **Robert Parker BSc (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 September 2017

Appeal Ref: APP/R3325/W/17/3173237

Bison house, Woodentop Farm, Ridge Lane, West Coker, Yeovil, Somerset 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 Paul Richards against the decision of South Somerset District Council.
 - The application Ref 16/05323/PAMB, dated 2 December 2016, was refused by notice dated 26 January 2017.
 - The development proposed is change of use from agriculture to 3 bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made under Article 3 and Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (hereafter referred to as Class Q). This permits development consisting of: (a) a 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) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building.
3. The application form and plans indicate that approval is being sought under Class Q(a) and Class Q(b). The Council dealt with the application on this understanding and I shall determine the appeal on the same basis.
4. Permission under Class Q is conditional upon the developer first applying to the local planning authority for a determination as to whether its prior approval would be required as to the matters set out in Paragraph Q.2(1)¹. However, Paragraph W(3) explains 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.
5. The submitted plans identify an area of proposed curtilage. This would be immediately beside the building and no larger than the land area occupied by it. It would therefore meet the definition of 'curtilage' set out in Paragraph X.

¹ All paragraph references hereafter relate to paragraphs within Schedule 2, Part 3 of the Order.

Main Issue

6. 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.

Reasons

7. The deemed permission granted by Class Q is subject to the criteria set out in Paragraph Q.1. The proposal must meet all of these requirements in order to qualify as permitted development. Paragraph Q.1(f) states that development is not permitted by Class Q if development under Class A(a) or Class B(a) of Part 6 of Schedule 2 (agricultural buildings and operations) has been carried out on the established agricultural unit since 20th March 2013.
8. The Council contends that works for the construction of a new agricultural barn commenced at some point after 20th March 2013, pursuant to an application under Part 6 which was determined by the authority in December 2011. The appellant does not contest this, but points out that the building cannot now be completed, due to a period of five years having elapsed since the application was originally made².
9. Thus it is argued that the purpose of Paragraph Q.1(f) – to prevent the creation of new agricultural buildings as substitutes for buildings proposed to be taken out of agriculture for residential use – has not been transgressed. Be that as it may, the interpretation of Class Q wording is an objective matter. Whether development has been carried out is a question of fact to be established based on the evidence. There is no dispute that the groundworks for the building were commenced after the relevant date. The incomplete structure was in situ at the time of my inspection, comprising a steel frame bolted to concrete pads in the ground. These works constitute a 'material operation' under S56(4) of the Act and therefore development is deemed in law to have begun.
10. The appellant is effectively suggesting that the development must be substantially complete in order for it to be 'carried out' under Paragraph Q.1(f). I do not share the same interpretation. The carrying out of development is a process between the points of commencement and completion. On the evidence before me it is clear that development under Part 6 has been carried out in this particular case and therefore it follows that the appeal proposal would be in conflict with Paragraph Q.1(f). For this reason, it would not qualify as permitted development.
11. The application was also refused on the grounds that the works necessary to change the use of the building would not fall within the scope of that permissible under Class Q(b) and Paragraph Q.1(i). The latter permits the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out the aforementioned building operations. The Planning Practice Guidance clarifies that it is not the intention of the permitted development right to include the construction of new structural elements for the building.

² Paragraph A.2(2)(vi) of Schedule 2, Part 6, Class A of The Town and Country Planning (General Permitted Development) Order 1995, as amended.

12. Formerly used as a bison shed, the agricultural building in question comprises one half of a portal frame structure which is constructed off a concrete slab. Between the metal uprights is dense concrete blockwork up to a height of approximately 1.8 m, above which the walls consist of plastic coated cladding or vertical timber boarding, depending upon the side. The profile sheet roof is supported by timber purlins which span the metal rafters.
13. A structural engineer commissioned by the appellant identified no obvious signs of distress in the steel frame and no signs of settlement cracking on the dense block walls. This would suggest that the foundations have been cast into reasonably substantial sub soil. The Council provides no counter evidence of its own and based on my observations at the site inspection I have no reason to disagree with the structural engineer's finding that the building has enough structural integrity to be adapted to residential use.
14. The proposal is to extend the existing blockwork walls upwards to meet the roof, with windows inserted into these upper sections. There would almost certainly be a requirement under the Building Regulations to install insulation on the inner face of the walls and above the new ceiling. Services would be located beneath a raised timber floor. However, these internal works would be contained within the building envelope and they would be reliant upon the pre-existing structure for support.
15. The Council cites a High Court judgment and a pair of appeal decisions in support of its case on the extent of building works being proposed. I have not been provided with copies of the relevant documents and therefore cannot determine whether there are any direct parallels between these cases and the appeal scheme.
16. On the evidence presented, I am satisfied that the building is capable of conversion to residential use without amounting to complete or substantial reconstruction of the structure. The proposed works would be within the scope of that permissible under Class Q(b) and Paragraph Q.1(i). However, this finding does not alter the fact that the proposal would not be permitted development under Class Q by virtue of its failure to comply with Paragraph Q.1(f).

Other Matters

17. The Council raises further questions over whether the location of the building within the farm complex makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling. Since I have already determined that the proposal would not be permitted development, there is no need for me to consider the matters for which prior approval is required.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR