

Case Name: *Warren Farm (Wokingham) Ltd, R (On the Application Of) v Wokingham Borough Council* [2019] EWHC 2007 (Admin) (31 July 2019)

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Commentary: A challenge to the decision of Wokingham Borough Council to refuse the Claimant's prior approval application to change the use of Warren Gran Barn to use as a dwellinghouse was successful.

Article 7 of the Town and Country Planning (England) (General Permitted Development) Order 2015 (the "GDPO") sets out the time periods for a decision on prior approval applications, in relation to development permitted by any class in Schedule 2 of the GDPO. It states that a decision in relation to the application must be made by the authority:

- (a) within the period specified in Schedule 2,
- (b) where no period is specified, within 8 weeks; or
- (c) within such longer period as may be agreed.

The question raised by these proceedings is whether paragraph (c) is an alternative to both paragraphs (a) and (b) or only to paragraph (b).

Within Schedule 2 of the GDPO Class Q sets out the permitted development of a change of use of a building and land within its curtilage from use as an agricultural building to use as a dwellinghouse. It also states that the prior approval provisions of paragraph W apply which, among other conditions, states that the development must not be begun before the occurrence of the expiry of 56 days.

The Claimant submitted its application in line with paragraph W but before the end of the 56-day period the Defendant Council requested an extension of time citing Article 7(c) and 20 days later refused the application.

C. M. G. Ockelton quashed this decision to refuse and held that the deemed grant of planning permission had taken place after 56 days, in line with paragraph W.

It was held that Article 7(c) is to be read as an alternative to Article 7(b) only, in order to promote certainty. Where a positive effect can be the result of inaction, it is better if the period of inaction that will have the effect is subject to as little variation as possible.

Case summary prepared by Amy Bennett