



Appeal Decision

Site visit made on 28 May 2019

by C Beeby BA (Hons)

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/F2605/W/18/3218417

Cold Harbour Barn, Foulton, Thetford, Norfolk IP26 5AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr R Johns against the decision of Breckland District Council.
 - The application Ref 3PN/2018/0024/UC, dated 23 April 2018, was refused by notice dated 15 October 2018.
 - The development proposed is the conversion of an agricultural building to a single dwelling.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of an agricultural building to a single dwelling at Cold Harbour Barn, Foulton, Thetford, Norfolk IP26 5AS in accordance with the application 3PN/2018/0024/UC made on 23 April 2018, and the details submitted with it, including plan numbers 985-01, 985-02B and 985-03B, pursuant to Article 3(1) and Schedule 2, Part 3, Class W.

Preliminary Matters

2. The appellant submitted revised plans 985-02B and 985-03B to the Council following the making of the application. The first drawing shows minor alterations to the appeal site area, and dimensions are added to the other.
3. The alterations shown are therefore not substantial. Furthermore, the plans were submitted to the Council some months before it reached its decision. The development is therefore not so changed that to accept the revised drawings would deprive those who should have been consulted of the opportunity of such consultation. Accordingly, I have formally considered the amended drawings in my determination of this appeal.
4. Article 7 of the General Permitted Development Order 2015 (as amended) ("the GPDO") provides that where, in relation to an application for prior approval for development which is permitted by any Class in Schedule 2, the decision must be made by the Council within the period specified in the relevant provision of Schedule 2 or within such longer period as may be agreed by the applicant in writing.

Main Issue

5. In view of the above, the main issue is whether prior approval is deemed to be granted by reason of the timing of the Council's decision.

Reasons

6. The statutory period in which a Council's decision must be made in respect of development under Part 3 is 56 days. The date of the application for notification for prior approval was 23 April 2018. Each of the necessary elements required according to Schedule 2, Part 3, Class W accompanied the application on that date.
7. The 56-day period from that date ended on 18 June 2018. Whilst the Council requested an extension of the period on 20 June 2018, any agreement by the appellant to such an extension was not received within the 56-day period.
8. Be that as it may, an additional extension of the period to 24 September 2018 was subsequently agreed by the appellant in writing. However, the date of the Council's decision is 15 October 2018. The evidence before me therefore indicates that the Council's decision was made neither within the statutory period nor within the longer period which was agreed by the applicant in writing.
9. Accordingly, I cannot address whether the development is permitted development as a result of the Council's failure to refuse within the statutory period. The period prescribed in the GPDO expired without the Council having given or refused prior approval, so that prior approval is deemed to have been granted on the expiry of the 56-day period on 18 June 2018. The development may lawfully proceed if constructed or carried out in accordance with the submitted plans, and with the conditions and limitations imposed on the planning permission granted by the GPDO.

Other Matter

10. The application site lies adjacent to the Breckland Forest Site of Special Scientific Interest ("SSSI"), and close to the Breckland Farmland SSSI. These are nationally designated sites which are notified and managed by Natural England ("NE"). NE was allowed 28 days in which to comment on the development. No comments were received. As NE is the Statutory Nature Conservation Organisation for SSSIs and I have no substantive evidence to the contrary, I am satisfied that the development would not be likely to have an adverse effect on the special interest features of the sites. Notwithstanding this, I draw the appellant's attention to the statutory and planning guidance protection¹ which is afforded to SSSIs.

Conditions

11. Any planning permission granted for the conversion of an agricultural building to a single dwelling under Article 3(1) and Schedule 2, Part 3, Class Q is subject to the condition Q.2(3), which specifies that the development shall be completed within a period of 3 years starting with the prior approval date.

¹ Under the Wildlife and Countryside Act 1981, the Countryside and Rights of Way Act 2000, the Natural Environment and Rural Communities Act 2006, ODPM Circular 06/2005 and the National Planning Policy Framework.

Paragraph W.12(b) provides that the development must be carried out in accordance with the details provided in the application, unless the Council and the developer agree otherwise in writing.

12. The Council has suggested conditions, but since the finding of this Decision is that planning permission is deemed to have been granted, there is no facility to attach further conditions in addition to the standard ones.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed and prior approval is deemed to be granted.

C Beeby

INSPECTOR