The Planning Inspectorate

Appeal Decision

Site visit made on 21 September 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/H0520/W/20/3253722
Land West of Harbins Lane, Abbotsley, Cambridgeshire PE19 6UF

- 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 and Mrs C Wisson against the decision of Huntingdonshire District Council.
- The application Ref 19/01696/PMBPA, dated 14 August 2019, was refused by notice dated 18 December 2019.
- The development proposed is the change of use of an agricultural outbuilding to 2 residential dwellings.

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) (GPDO) for the change of use of an agricultural outbuilding to 2 residential dwellings at Land West of Harbins Lane, Abbotsley, Cambridgeshire PE19 6UF, in accordance with the application 19/01696/PMBPA made on 14 August 2019, and the details submitted with it, including the drawing numbers 01 and 002, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, paragraph Q.2(1).

Main Issue

2. The main issue is whether prior approval is deemed to have been granted by reason of the timing of the Council's decision.

Reasons

3. The Council has confirmed that it did not notify the appellant as to whether prior approval is given or refused within the statutory 56 day period set out in Schedule 2, Part 3 paragraph W (11)(c) of the GDPO. As a result of this, prior approval is deemed to have been granted for the development which is proposed.

4. Furthermore, the Council's failure to determine the application within the statutory period means that I cannot address whether the proposed development is in fact permitted by the GPDO. In other words, I cannot determine whether it complies with the limitations and conditions imposed on permitted development under Class Q.

5. Although the question of whether the proposal is permitted development or not is not before me, I note the Council have queried the use of the building in 2013. I should advise that my decision only affects the question of prior approval. If it subsequently turns out the development was not permitted development for whatever reason, then my decision does not confer any immunity against the issue of an enforcement notice. The only way to definitively deal with this issue is to make a Lawful Development Certificate application to confirm whether the proposal is permitted development.

Conditions

6. Development under Schedule 2, Part 3, Class Q is permitted subject to the condition that the development must be completed within a period of 3 years starting with the prior approval date.

7. The Council has suggested that additional conditions be imposed, however since I have found that prior approval is deemed to have been granted it is not possible to impose such conditions.

Conclusion

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

Graham Wraight

INSPECTOR