



Appeal Decision

Site visit made on 22 October 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal Ref: APP/J1915/W/20/3256369

Mill Studio Business Centre, Crane Mead, Ware, Hertfordshire SG12 9PY

- 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, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Paul Dixon of Robert Dixon Limited against the decision of East Hertfordshire District Council (LPA).
 - The application Ref 3/20/0461/ODPN, dated 28 February 2020, was refused by notice dated 12 May 2020.
 - The development proposed is for the change of use from offices (Class B1(a)) to 45no. residential apartments (Class C3).
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3, Schedule 2, Part 3, Class O of the GPDO for the change of use from offices (Class B1(a)) to 45no. residential apartments (Class C3): 33 x 1-bed and 12 x 2-bed at Mill Studio Business Centre, Crane Mead, Ware, Hertfordshire SG12 9PY in accordance with the terms of the application Ref 3/20/0461/ODPN, dated 28 February 2020, and the plans submitted with it.

Procedural Matters

2. For clarity, the description in the banner heading above is taken from the appeal form as one is not listed on the application form. However, in my decision I have used the Council's description on its decision notice as it is more precise.
3. The Council have confirmed in writing that they do not wish to contest the appeal submission¹. I have dealt with the appeal on this basis.

Background and Main Issue

4. Development permitted by Class O is subject to the conditions in paragraph O.2(1). One of these conditions requires that, before beginning the development, the developer must apply to the LPA for a determination as to whether prior approval is required as to certain specified impacts.
5. Paragraph W of the GPDO sets out the procedure for applications for prior approval under Schedule 2, Part 3. Paragraph W.(11)(c) says that development must not begin before the expiry of 56 days following the date on which the application was received by the LPA without the authority notifying the

¹ Development Management Letter dated 30 September 2020

applicant as to whether prior approval is given or refused. The appellant asserts that the 56 days had expired before the notification or refusal was issued.

6. Therefore, the main issue of this appeal is whether planning permission is deemed to have been granted by reason of the timing of the LPA's decision

Reasons

7. The application for prior approval was submitted to the LPA on 28 February 2020. The LPA's acknowledgement letter dated 19 March 2020 confirmed receipt and stated that, if a decision was not made by 12 May 2020, the applicant would have a right to appeal. The LPA's decision notice refusing the application was dated 12 May 2020. The appellant has quoted various Judgments in his submission, including the *Murrell*² case, which I find to be a material consideration in the determination of this appeal.
8. This being the case, it is argued that the 56-day determination period would have expired in advance of 12 May 2020 due to a valid application being received on 28 February 2020. I also note that additional documents were submitted to the Council on 11 March 2020. However, even if I used this date, the 56-day determination period would have still expired before the Council issued its decision. Additionally, the confirmation from the Council stating that they do not contest the appeal is a matter that I attach significant weight.
9. Consequently, I conclude that the Council failed to provide a decision within the required 56-day determination period and prior approval is deemed to have been given under the provisions of paragraph W(11)(c) of Schedule 2 Part 3 of the GPDO on 24 April 2020. Given my findings above, it is not necessary for me to consider whether prior approval should be granted as to those specified in paragraph O.2, specifically, the transport and highways impacts of the development on the site.

Conditions

10. The GPDO attaches standard conditions to this type of development, including that development must be completed within a period of 3 years, starting from the prior approval date. The GPDO also requires that the development must be carried out in accordance with the details provided in the application. There is no reason therefore for specific conditions on timescales or plans.

Conclusion

11. Taking all matters into consideration, I conclude the appeal is allowed and prior approval is granted.

W Johnson

INSPECTOR

² Murrell v Secretary of State for Communities and Local Government [2011] 1 P.& C.R. 6