



Appeal Decision

Site visit made on 7 December 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2021

Appeal Ref: APP/D0840/W/20/3259556

Newton Farm, Access to Newton Farm, Boyton, Launceston PL15 9RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Bradley Ellacott against the decision of Cornwall Council.
 - The application Ref PA19/10648, dated 5 December 2019, was refused by notice dated 17 March 2020.
 - The development proposed is an application to determine if prior approval is required for internal works for the creation of 5 dwelling houses and exterior alterations for the inclusion of windows and doors.
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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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for internal works for the creation of 5 dwelling houses and exterior alterations for the inclusion of windows and doors at Newton Farm, Access to Newton Farm, Boyton, Launceston PL15 9RL in accordance with the terms of the application Ref PA19/10648, dated 5 December 2019, and the plans submitted with it. The approval is subject to the condition that the development must be completed within a period of 3 years from the date when the application was deemed to be granted in accordance with paragraph Q.2.(3) of the GPDO.

Application for costs

2. An application for costs was made by Mr Bradley Ellacott against Cornwall Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted on 6 December 2019, together with the relevant fee and the information requirements as set out in Schedule 2, Part 3, Paragraph W.(2) of the GPDO. The 56 day statutory time period therefore commenced on 7 December 2019.
4. However, the Council wrote to the appellant on 24 December 2019 seeking a structural survey, indicating that once received the application would be registered. However, this was not a registration requirement and the application, for the reasons explained above, was already valid.
5. Paragraph W.(11) sets out the circumstances in terms of times periods and the options available to the local planning authority before which development can

- take place. This includes, in summary, the expiry of the 56 days without the authority notifying the applicant as to whether prior approval is given or refused.
6. It was open to the Council to refuse the application within the 56 day period, in accordance with Paragraph W.(3), if, in summary, the Council considered that the proposed development did not comply with or the developer had provided insufficient information to enable the authority to establish whether the proposed development complied with any conditions, limitations or restrictions specified in the applicable sections of the GPDO. However, the Council did not do so within the 56 day period.
 7. At the appeal stage, the Council has accepted that it did not make a decision within the 56 day period and that the request for the structural survey was not a registration requirement. The application was therefore deemed to be granted after the 56 day period lapsed, which the appellant has calculated as 31 January 2020.
 8. However, the Council proceeded to issue a decision on 17 March 2020 to refuse prior notification. Because this was after the 56 day period, which had not been extended by agreement, the application had already been deemed to be granted.
 9. The Council raise concerns that in any case, regardless of the 56 day period, the works would not fall to be considered as permitted development. It is argued that the proposal would not meet with the relevant conditions and limitations of the GPDO because of the issues regarding the lawfulness of the building and whether the works are so extensive that they go beyond a conversion. However, these are not matters which I can consider as part of this appeal because the decision has already been deemed to be granted. Whether the works fall to be permitted development in the respects raised by the Council are, therefore, matters for the main parties to resolve.
 10. I note the contents of the various appeal decisions which have been submitted in respect of these matters and what can be examined in such appeals after the statutory period has passed and a proposal is deemed to be granted. My conclusions concur with the approach in the decisions that the appellant has submitted and, for the reasons explained above, in terms of the determination process, I differ from the approach to the Inspector who considered the appeal at Valelands Farm¹.
 11. As the application has been deemed to be granted there are no conditions, other than the standard time period for completion from the GDPO, that can be attached to the decision.

Conclusion

12. I conclude that the appeal should succeed on the basis that permission has been deemed to be granted.

David Wyborn

INSPECTOR

¹ APP/C1435/W/17/3291024