

Appeal Decision

Site visit made on 14 December 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2021

Appeal Ref: APP/Z3825/W/21/3271103

Barnards Nursery, Rock Road, Washington, West Sussex, RH20 3BH

- 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 Simon Smith against the decision of Horsham District Council.
 - The application Ref DC/20/1363, dated 17 July 2020, was refused by notice dated 23 September 2020.
 - The development proposed is the change of use of agricultural building to dwellings (C3 Use Class).
-

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 (a) or (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use of agricultural building to residential (C3) to form 4no dwellings at Barnards Nursery, Rock Road, Washington, West Sussex RH20 3BH in accordance with the application Ref DC/20/1363, dated 17 July 2020, and the details submitted with it, including Drawing 200513_A_100 Approved: Plans & Elevations and Drawing 200513-A_200 Proposed: Plans & Elevations, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO.

Procedural Matters

2. The description of the proposed development in the banner heading above is taken from the application form. However, I have used the description from the Council's decision notice and the appeal form in my formal decision as more precisely describing the development proposed.
3. The Council accepts that it failed to notify the appellant as to whether prior approval was given or refused within 56 days of the date it received the application (17 July 2020) in accordance with Article 7(a) and paragraph W (11) of Schedule 2, Part 3 of the GPDO. The Council's decision notice indicates that had the Council been able to issue a decision within the prescribed 56 day period it would have refused prior approval for the following reason:

"It has not been demonstrated, to the satisfaction of the Local Planning Authority, that the proposed works to be undertaken would be of an extent reasonably necessary for the building to function as dwellinghouses, with the proposal going beyond a conversion of the existing buildings. The development would not therefore be permitted by Class Q (Q.1(i)) of Part 3 within Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended".

4. However, the Council's failure to refuse the application within the statutory period means that I cannot address any questions of lawfulness or about the prior approval matters in my decision.
5. In September 2021 Natural England (NE) published a Position Statement for Applications within the Sussex North Water Supply Zone, within which the appeal site is located. The Statement sets out an interim approach to such applications to ensure that proposed developments within the Supply Zone do not add to the impact of water abstraction on the integrity of the Arun Valley Special Protection Area, Special Area of Conservation and Ramsar Site. The main parties were given the opportunity to comment on the implications of this Statement for this appeal and I return to this matter below.

Reasons

6. The Council's failure to refuse the application for prior approval within the statutory period means that prior approval is deemed to have been granted. Given this, I do not have the power to impose any conditions as suggested by the Council and consultees.
7. Nevertheless, the appellant should note that the development can only lawfully proceed if carried out in accordance with the details provided in the application, unless otherwise agreed with the Council in writing, and the conditions and limitations imposed on the planning permission granted by the GPDO.
8. The appellant should also note that planning permission is granted by Article 3(1) of the GPDO for the classes of development described as permitted development in Schedule 2 subject to the provisions of the Order and Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended) relating to general development orders.
9. Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017 that development which (a) is likely to have a significant effect on a designated habitats site, alone or in combination with other plans or projects, and (b) is not directly connected with or necessary to the management of the site must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77. This is a matter between the appellant and the Council in the first instance and it is therefore not necessary for me to consider the implications of the proposal for the integrity of the Arun Valley designated habitats sites.

Other Matters

10. I note the representations from interested parties objecting to the proposal. However, for the reasons given above, I am unable to take these into account in my decision in this case.

Conclusion

11. For the reasons given above the appeal is allowed as prior approval is deemed to be granted.

Martin Small

INSPECTOR