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## Appeal Decision

Site visit made on 21 February 2023

**by Samuel Watson BA (Hons) MSc MRTPI**

**An Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 03 April 2023**

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**Appeal Ref: APP/Y3425/W/22/3307120**

**Yew Tree Farm, Lawnhead, Stafford ST20 0JQ**

- 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 S Cartmail against the decision of Stafford Borough Council.
  - The application Ref 21/35219/PAR, dated 10 November 2021, was refused by notice dated 2 September 2022.
  - The development proposed is the conversion of existing agricultural building to form dwelling house. The barn will be accessed via an existing gateway and track that will have a new visibility splay formed to meet the highways requirement. The barn sits back from the highway some 30+ metres. The proposed front elevation has a small paddock with hard standing to the rear for parking.
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### Decision

1. The appeal is allowed and prior approval is deemed to be granted.

### Reasons

2. Under Schedule 2, Part 3, Paragraph W(11) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) the section 'procedure for applications for prior approval under Part 3' states that the development must not begin before the occurrence of one of three scenarios. These are (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required; (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or (c) the expiry of 56 days following the date on which the application under sub-paragraph 2 was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
3. The application was submitted on the 10 November 2021 and the Council issued a decision refusing the application on the 2 September 2022. This notification was issued far outside of the 56-day timescale set out above. It is clear that communications were had between the parties before the issuing of this decision, and potentially within 56 days of the Council receiving the application. However, the emails I have been provided with are from after the 56-day period and do not demonstrate a decision having been made.
4. Lacking any evidence to the contrary, I find that the Council did not notify the appellant of the refusal of prior approval before the expiry of 56 days from the date of the receipt of the application. Prior approval is therefore deemed to

have been granted by virtue of Paragraph W(11) of Schedule 2, Part 3 of GPDO.

5. As a result, I cannot address whether the development is permitted under the GPDO, despite there being dispute between the parties as to whether the development meets the requirements of paragraph Q.1.
6. However, the development can only lawfully proceed if carried out in accordance with the submitted plans and with the conditions and limitations imposed by the GPDO. It is for the appellant to satisfy themselves that the development conforms to these limitations. If it does not conform to these provisions, the GPDO does not grant planning permission and the proposed development will be at risk of enforcement action by the Council.
7. For the reasons set out above, I conclude that the appeal should be allowed.

*Samuel Watson*

INSPECTOR