



Appeal Decision

Site visit made on 7 March 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2023

Appeal Ref: APP/P2935/W/22/3313444

The March Barn, B6309 Welton to Whittle Dene Reservoir, Welton, Northumberland NE18 0LJ

- 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 J Armstrong against the decision of Northumberland County Council.
 - The application Ref 22/03313/AGTRES, dated 9 September 2022, was refused by notice dated 9 November 2022.
 - The development proposed is prior notification - change of use and conversion of agricultural building to single dwelling house.
-

Decision

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

Procedural Matters

2. I sought clarification from both main parties on the plans originally submitted with the application on the 9 September 2022. The drawing entitled 'Existing Elevations and Floor Plans – Welton Barn-002-A' was subsequently submitted on 14 September. I have therefore proceeded to determine the appeal on this basis.
3. 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 GPDO), development is permitted for the change of use of a building and any land within its curtilage, from use as an agricultural building to a use falling within Class C3 (dwellinghouses) together with building operations reasonably necessary to convert that building, subject to limitations and conditions.
4. The Local Planning Authority (LPA) may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the LPA to establish whether the proposed development complies with the conditions, limitations or restrictions set out in paragraphs Q.1 and Q.2. The condition at paragraph Q.2(1) states that the provisions of paragraph W apply.
5. The procedure under Part 3 contained in Paragraph W.(11) explains that development must not begin until either a) the LPA provides a written notice that prior approval is not required, b) the LPA provides written notice that prior approval is given, and c) the expiry of 56 days following the date on which the prior approval application under sub paragraph W.(2) was received without the

LPA notifying the applicant as to whether the prior approval is given or refused. The appellant contends the LPA failed to provide written notice as to whether the prior approval was given or refused within 56 days.

6. Although the LPA does not agree it failed to make a determination within the prescribed time, which I return to below, there is a dispute between the main parties regarding whether the extent of the proposed works are reasonably necessary to carry out building operations allowed by paragraph Q.1(I) of Schedule 2, Part 3, Class Q of the GPDO. The LPA therefore contends that the proposal is not permitted development. However, where prior approval is deemed to have been granted by reason of the timing of the LPA's decision, whether or not the proposal is permitted development is not a matter for me to consider when determining this appeal which solely relates to the prior approval process.

Main Issue

7. Having regard to the relevant requirements of Class Q and paragraph W of the GPDO, the main issue is whether prior approval is deemed to be granted.

Reasons

8. The GPDO does not contain a requirement or provision for prior approval applications to be validated, but Paragraph W.(2) requires an application to include a range of information. This includes: (b) a plan indicating the site and showing the proposed development, and (bc) a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses.
9. The plans originally submitted with the prior approval application included a location plan. This shows the appeal building in relation to the wider site at a scale of 1:1250. The existing site plan submitted also shows the extent of the site and includes the appeal building and its curtilage at a scale of 1:500. The proposed plans and elevations are shown at a scale of 1:100; in being to scale, they show the dimensions. The plans also clearly show the proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouse. Whilst all these drawings had a scale bar, the existing elevations submitted on 9 September did not, although it did show a scale of 1:100. The officer report also confirms that a structural survey and covering letter were provided.
10. Thus, the appellant contends the above information was received by the LPA on 9 September 2022, and the LPA does not dispute this. However, on initial assessment, the LPA did not validate the application but requested an ecology checklist and updated elevation and floor plans, to show a scale. A revised plan of the existing, but not proposed building was provided and the application validated on 14 September 2022. Therefore, the LPA contends its decision dated 9 November 2022, was issued within the 56-day expiry period. The appellant accepts that decision was received.
11. Notwithstanding the LPA's validation requests were made to meet the LPA's internal validation guidance 'A guide to validation for Prior Approval' (2019) paragraph W.(2) does not require existing plans and elevations to be submitted nor to scale. Nor does it require a protected species risk assessment or

checklist. I acknowledge that an LPA may request additional information under the provisions of paragraph W.(9). However, such requests do not stop the statutory determination period.

12. There is no dispute that the appellant provided the remaining requisite accompanying information, including the fee. I have no evidence of the protected species risk assessment being submitted. It is also clear the appellant was willing to provide the amended existing floor plan and elevation drawings. Irrespective of this, based on the information in front of me, the prior approval application was accompanied by the requisite information for the requirements of paragraph W.(2) (b) and (bc) on 9 September 2022.
13. Having regard to the wording and requirements of the GPDO, the 56 days should be considered as running from the date of the LPA receipt of the application, 9 September 2022, and 'day 1' being the day following the date of receipt (10 September 2022). The prior approval application period (56 -day) therefore expired before the LPA decision dated 9 November 2022. Accordingly, in the absence of the LPA providing a written notice under paragraph W.(11) within the application period, planning permission is deemed to have been granted.

Other Matters

14. I appreciate that the LPA contends that the building works in this respect would go beyond the scope of being reasonably necessary. However, notwithstanding my findings in respect of the timing of the LPA's decision, the development could only lawfully proceed if it is in accordance with the submitted plans and is in fact permitted development having regard to the relevant conditions and limitations imposed on the planning permission granted by the GPDO. The nature of the appeal means that this is not a matter to be considered by me in its determination and would be for the LPA and appellant to resolve.

Conditions

15. Paragraph W.(12) of the GPDO sets out standard conditions requiring that when Paragraph W.(11)(c) applies development must be carried out in accordance with the details provided in the application unless the local planning authority and the developer agree otherwise in writing. Also, Paragraph W.(13) provides for additional conditions to be attached that are reasonably related to the subject matter of the prior approval. However, since finding that prior approval is deemed to have been granted, there is no facility to attach further conditions in addition to the standard ones.

Conclusion

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

K Williams

INSPECTOR