



Appeal Decision

Site visit made on 4 January 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/D2510/W/23/3321771

Grove Farm, Burgh Lane, Bratoft, Lincolnshire PE24 5AR

- 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) 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 and Mrs G Everard against the decision of East Lindsey District Council.
 - The application Ref S/020/01944/22, dated 4 October 2022, was refused by notice dated 12 December 2022.
 - The development proposed is change of one no. agricultural building to form one no. residential dwelling, including creation of new window and door openings.
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Decision

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

Application for Costs

2. An application for costs has been made by Mr and Mrs G Everard against East Lindsey District Council. This is the subject of a separate decision.

Procedural Matter

3. The appeal form indicates this is an appeal against the failure of the Council to issue a decision within the appropriate period. The original application to the Council was made under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). This has specific provisions with respect to the issuing of decisions for prior approval. As the Council did issue a decision notice, I have dealt with the appeal as against the decision to refuse prior approval.

Reasons

4. Article 2(9) of the GPDO is unequivocal that 'where the electronic communication is received by the recipient outside the recipient's business hours, it is taken to have been received on the next working day'. The Council accepts the electronic version of the decision notice was sent outside of the normal business hours of the appellant's agent on day 56. It therefore must have been received outside of their business hours. Consequently, the decision was not received within the prescribed timescale. Prior approval is therefore deemed to have been granted by virtue of Paragraph W(11) of the GPDO.

5. The Council has referred me to another appeal decision¹. It is not specified whether that decision was issued electronically or by post. As different provisions are in force for each method of delivery, this decision would not alter my finding above.
6. 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 falls within the scope of Class Q and consideration of matters related to protected species.
7. 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 it planning permission and the proposed development will be at risk of enforcement action by the Council.

Conclusion

8. For the reasons set out above, I conclude the appeal should be allowed.

J Downs

INSPECTOR

¹ APP/U1240/W/15/3121547 allowed 11 September 2015