



Appeal Decision

Site visit made on 30 January 2024

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2024

Appeal Ref: APP/L3625/W/23/3326043

Saxley Fruit Farm, Meath Green Lane, Horley, Surrey RH6 8JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Stuart Hobbs against the decision of Reigate and Banstead Borough Council.
 - The application Ref 23/00527/PAP3Q, dated 14 March 2023, was refused by notice dated 5 June 2023.
 - The development proposed is change of use from an agricultural building to 1 dwelling (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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use from an agricultural building to 1 dwelling (C3 Use class) at Saxley Fruit Farm, Meath Green Lane, Horley, Surrey RH6 8JA in accordance with the application 23/00527/PAP3Q made on 14 March 2023, and the details submitted with it including plan nos Ground Floor Plan & Roof As Existing EFP1 Rev A, Elevations & Section As Existing EEV1 Rev A, Block Plan EFP1 Rev A, Ground Floor Plan & Roof As Proposed PFP1 Rev A, Elevations & Section As Proposed, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q.

Main Issue

2. The main issue is whether, having regard to the relevant requirements of Part 3, Class Q of the GPDO, prior approval is deemed to be granted.

Reasons

3. Under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the change of use of agricultural buildings to dwellinghouses subject to limitations and conditions. In these circumstances Paragraph Q2 requires that the developer must apply to the LPA for a determination as to whether prior approval will be required for certain matters. The decision must be made by the LPA within a period of 56 days. If that notification has not occurred in time then prior approval is deemed to be granted.
4. The validation date for this application appears to have been between 14th and 17th March 2023, and the application was determined on 5th June 2023. I

therefore agree with the main parties that the decision was issued beyond the 56 day period. Consequently, on the expiry of the statutory period, prior approval was deemed to be granted.

5. Whether or not the proposed development would be permitted by the GPDO under the limitations of Class Q is a matter in dispute between the main parties. However, the LPA's failure to refuse the application within the statutory period means that I cannot address any questions of lawfulness. This approach appears to differ from another Inspector (Appeal ref: APP/D2510/W/22/3300279). However, I must consider this application against the relevant requirements on its own merits. This therefore does not alter my decision.
6. Consequently, I have not reached any conclusion on whether the works fall within the limitations of Class Q in this respect and whether they would therefore be lawful if they were to take place. If the works are not permitted development then a grant of prior approval in such a case would not in itself make those works permitted development so as to be able to benefit from the provisions of Class Q of the GPDO.

Conclusion

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

H Miles

INSPECTOR