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## Appeal Decisions

Site visit made on 16 January 2024

**by Ryan Cowley MPlan (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 March 2024**

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**Appeal Ref: APP/T2215/W/23/3318535**

**26 Lowfield Street, Dartford, Kent DA1 1HD**

- 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 O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Mark Gold against the decision of Dartford Borough Council.
  - The application Ref is DA/21/01227/P30.
  - The development proposed is change of use from office (use class B1a) to residential (use class C3) to create five self-contained flats.
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### Decision

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

### Preliminary Matter

2. This appeal was submitted alongside another appeal<sup>1</sup> for this site, and these were identified as linked cases. However, the main issues in each case are materially different. The cases have therefore been considered independently with a separate decision for each.

### Reasons

3. The prior approval application to which the appeal relates is dated 30 July 2021. The Council's decision notice indicates that it was received by the Council on 2 August 2021, and the submitted officer report indicates a target date of 26 September 2021. However, the decision notice confirms it was not issued by the Council until 21 September 2022, over a year after its submission.
4. Paragraph W(11) of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) indicates that development must not begin before the occurrence of one of three scenarios, including the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
5. The Council acknowledge the fact that they did not respond within 56 days. Consequently, the appellant was not notified by the Council within the prescribed timescale. Prior approval is therefore deemed to have been granted by virtue of Paragraph W(11) of Schedule 2, Part 3 of the GPDO.
6. I recognise there is a dispute between the parties as to whether the development would conflict with the limitations in Article 3(4). However, as

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<sup>1</sup> Appeal Ref: APP/T2215/W/23/3318539

prior approval is already deemed to be granted, it is not necessary to consider as part of this appeal whether the development is permitted under the terms of the GPDO.

7. Nevertheless, 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 conditions and limitations. If it does not, then the GPDO does not grant it planning permission (irrespective of the outcome of this appeal) and it would be at risk of enforcement action by the Council.

### **Conclusion**

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

*Ryan Cowley*

INSPECTOR