



Appeal Decision

Site visit made on 24 April 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/W2845/W/23/3327830

Hall Farm, Main Street, East Haddon, West Northamptonshire NN6 8BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for prior approval under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015, as amended.
 - The appeal is made by Mrs, Mrs, Mrs & Ms C, E, D & G Holt, Collins, Cotton & Wrathall against West Northamptonshire Council.
 - The application Ref is WNDPD/2023/0013.
 - The development proposed is change of use of agricultural building and land within its curtilage to two no. dwellinghouses and for associated building operations in respect of the provision of natural light in all habitable rooms of the dwellinghouses.
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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 of agricultural building and land within its curtilage to two no. dwellinghouses and for associated building operations in respect of the provision of natural light in all habitable rooms of the dwellinghouses at Hall Farm, Main Street, East Haddon, West Northamptonshire NN6 8BU, in accordance with the details provided in application ref WNDPD/2023/0013.

Procedural Matters

2. The Council failed to determine the application for prior approval. The Council's appeal statement indicates that, had it been in a position to determine the application, it would have made a recommendation to refuse prior approval for reasons relating to transport and highways, and the extent of building operations necessary for the buildings to function as dwellinghouses. However, the failure of the Council to issue its decision within the statutory determination period means that I cannot address any questions of lawfulness or the prior approval matters. This is because prior approval is deemed to be granted on the expiry of the 56 day period.
3. Article 7 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) provides that where, in relation to development permitted by any Class in Schedule 2 which is expressed to be subject to prior approval, an application has to be made to the local planning authority (LPA) for such approval or determination as to whether approval is required, the decision must be made by the LPA within the period specified in the relevant provision of Schedule 2 (Article 7(a)). Under the

provisions set out under Part 3, Paragraph W(11)(c) of the GPDO it states that development must not begin before (criterion (c)) the expiry of 56 days following the date on which the application was received by the LPA without the authority notifying the applicant as to whether prior approval is given or refused.

4. According to the Council's statement, the application was made valid on 8 March 2023. The appellant's evidence furthermore indicates that this was also the date the Council received the application. Therefore, taking into account that the 8 March 2023 was the date the application was received by the LPA, the expiry of 56 days would have occurred on 4 May 2023. There is no dispute between the parties that the Council did not determine the application within the statutory determination period. It follows that the decision on the need for prior approval was not issued within the statutory determination period as required by the GPDO.
5. As the Council, in this instance, did not make determination or notify the appellants of its decision within the statutory period, the permitted development can proceed as prior approval is deemed to be granted. I therefore have no option but to allow the appeal.
6. Accordingly, the development can begin, provided it is carried out in accordance with the submitted plans and conditions and procedures for applications for prior approval imposed by the GPDO.

Conditions

7. The Council provided a list of suggested conditions in the event the appeal is allowed. However, as prior approval is deemed to be granted, the applicants can proceed with the development which is permitted development.
8. Condition Q2.(4) of the GPDO indicates that the development permitted under Class Q is subject to the condition that the development must be completed within a period of 3 years starting with the prior approval date, in other words by the 4 May 2026. The procedure at Paragraph W(12)(b) of the GPDO indicates that where sub-paragraph (11)(c) applies, as in this case, the development must be carried out in accordance with the details provided in the application.

Conclusion

9. In view of the above, the appeal is allowed and prior approval is deemed to be granted.

C Billings

INSPECTOR