



Appeal Decision

Site visit made on 7 May 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2024

Appeal Ref: APP/W2845/W/23/3328651

Barn off the A413, Near Linshire Farm

Grid Reference Easting: 469774, Grid Reference Northing: 242271

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Whittlebury Settlement against the decision of West Northamptonshire Council.
 - The application Ref is 2023/5230/PA.
 - The development proposed is Conversion of agricultural barns to single 4-bed House.
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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 Conversion of agricultural barns to single 4-bed House at Barn off the A413, Near Linshire Farm (Grid Reference Easting: 469774, Grid Reference Northing: 242271 in accordance with the application Ref 2023/5230/PA and the details submitted with it including Site Location Plan (dated May 24 2023) and plan nos 113119-002 and 113119-004.

Preliminary Matters

2. It is common ground between the parties that the Council failed to determine the application within the time period specified in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The Council's failure to refuse the application within that time period means that matters of lawfulness and the prior approval matters fall outside of the scope of this appeal.
3. The site location plan submitted with the original application was subsequently updated, within the lifetime of the application, to include a curtilage around the host building. Therefore, I have considered the appeal on the basis of the updated site location plan, which is referenced in the decision above. However, whether or not permitted development rights apply to the curtilage shown on the approved plan is a matter of lawfulness that I am unable to consider as part of this appeal.
4. The Town and Country Planning (General Permitted Development) England (Amendment) Order 2024 (2024 Amendment) came into force on 21 May 2024. However, the 2024 Amendment does not alter the statutory period for the determination of the application, and, in any event, transitional arrangements apply to applications submitted under the previous iteration of

the Order. Therefore, the changes do not affect my consideration of this appeal. Consequently, I have not invited further comments from the parties.

Main Issue

5. 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

6. Schedule 2, Part 3, Class Q of the GPDO grants planning permission for the change of use of a building and any land within its curtilage from a use as an agricultural building to a dwellinghouse, subject to limitations and conditions. In that regard, paragraph Q.2. of the GPDO requires that the developer must apply to the local planning authority for a determination as to whether prior approval will be required for certain matters. The decision must be made by the Council within a period of 56 days. If that notification has not occurred in time, then prior approval is deemed to be granted.
7. The application was validated by the Council on 10 May 2023 and was not determined within 56 days. The Council does not dispute that it failed to determine the application within the specified time period. Therefore, on the expiry of the statutory period, prior approval was deemed to be granted.
8. I note that the Council considers the proposed development does not constitute development permitted under Class Q of the GPDO. I have also had regard to concerns raised by third parties about the prior approval matters. However, because these matters fall beyond the scope of this appeal, I have not considered them further.
9. Consequently, I have not reached any conclusion as to whether the proposed change of use falls within the limitations of Schedule 2, Part 3, Class Q of the GPDO and whether or not it would be lawful if it were to be carried out. The deemed grant of prior approval does not in and of itself render the proposal permitted development, such that it would benefit from the provisions of Class Q of the GPDO.

Conclusion

10. For the reasons given above the appeal should be allowed and prior approval is deemed to be granted.

E Catchside

INSPECTOR