

# Appeal Decision

Site visit made on 10 September 2024

**by L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19 September 2024**

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**Appeal Ref: APP/Y3425/W/24/3338559**

**Barn 5, Burston Cottage Farm, Lichfield Road, Burston, Stafford,  
Staffordshire ST18 0DP**

- 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 approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
  - The appeal is made by Harrowby Estates against Stafford Borough Council.
  - The application Ref is 23/37560/PAR.
  - The development proposed is Change of Use of Agricultural Building to a Dwellinghouse (Class C3), and for building operations reasonably necessary for the conversion.
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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 to a Dwellinghouse (Class C3), and for building operations reasonably necessary for the conversion at Barn 5, Burston Cottage Farm, Lichfield Road, Burston, Stafford, Staffordshire ST18 0DP in accordance with the application 23/37560/PAR and the details submitted with it including plans no: Site Location Plan and Existing Site Plan YBD09240-P-501 Rev A; Proposed Site Plan YBD09240-P-502 Rev A; Proposed Floor and Roof Plans YBD09240-P-510 Rev B; and Proposed Elevations YBD09240-P-511 Rev A.

## Applications for costs

2. An application of costs was made by Harrowby Estates against Stafford Borough Council. That application is the subject of a separate decision.

## Preliminary Matters

3. The Town and Country Planning (General Permitted Development) England (Amendment) Order 2024 (2024 Amendment) came into force on 21 May 2024. Due to the transitional arrangements, I have proceeded to determine the appeal in accordance with the GPDO provisions that were in force at the time that the original application was submitted. All references to the GPDO in this decision therefore relate to the version that was in force at that time. The

2024 Amendment does not alter the statutory period for the determination of the application.

4. 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 Council's failure to refuse the application within the specified time period means that I cannot address any questions of lawfulness.

### **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. Subject to various conditions and limitations, Schedule 2, Part 3, Class Q of the GPDO permits the change of use of a building from use as an agricultural building to use as a dwelling, together with building operations reasonably necessary to convert the building to a dwelling. Paragraph Q.2 requires that before beginning the development, the developer must apply to the Local Planning Authority (the LPA) for a determination as to whether the prior approval of the authority will be required.
7. Under paragraph W.(11)(c) of Part 3 of Schedule 2, development that is permitted by Class Q, may begin after the expiry of 56 days following the date on which an application was made for prior approval, if the LPA has not notified the applicant as to whether prior approval is given or refused.
8. Article 7 of the GPDO requires the LPA to make a decision on the prior approval application within a period specified in the relevant provision of Schedule 2, or within any longer period agreed by the applicant and LPA in writing.
9. The evidence before me indicates that the application was confirmed to be valid on 23 May 2023. The 56-day period from that date ended on 18 July 2023. On 14 June 2023 the appellant requested an extension of time until 21 July 2023, in order to submit a Transport Statement. The LPA agreed to the extension of time in an email dated 22 June 2023.
10. An additional extension of the period to 10 August 2023 was subsequently agreed between the appellant and the LPA on 20 July 2023. However, the LPA did not determine the application by 10 August 2023.
11. The evidence before me therefore indicates that the LPA did not come to a decision within the time period which was agreed by the applicant and the LPA in writing. Therefore, on the expiry of that time period, prior approval was deemed to be granted.
12. As stated above, 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 Council's failure to refuse the application within the specified time period means that I cannot address any questions of lawfulness.

13. 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 itself render the proposal permitted development, such that it would benefit from the provisions of Class Q of the GPDO.
14. The appellant should also note that planning permission is granted by Article 3(1) of the GPDO for the classes of development described as permitted development in Schedule 2 subject to the provisions of the Order and Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended) relating to general development orders.
15. Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017 that development which (a) is likely to have a significant effect on a European site, alone or in combination with other plans or projects, and (b) is not directly connected with or necessary to the management of the site must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77. This is a matter between the appellant and the Council in the first instance and it is therefore not necessary for me to consider the implications of the proposal for the integrity of the Cannock Chase Special Area of Conservation.

### **Conditions**

16. Paragraph W.(12) of the GPDO sets out standard conditions requiring that when Paragraph W.(11)(c) applies development must be carried out in accordance with the details provided in the application unless the local planning authority and the developer agree otherwise in writing. I have listed the relevant plans which were submitted with the application, for certainty.

### **Conclusion**

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

*L C Hughes*

INSPECTOR