



Appeal Decision

Site visit made on 30 September 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Appeal Ref: APP/M5450/W/24/3338037

220 Headstone Lane, Harrow HA2 6LY

- 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 on an application for prior approval required under Article 3(1) and Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Ketan Patel of MK Build Ltd against the Council of the London Borough of Harrow.
 - The application Ref is PL/0180/23 dated 2 October 2023.
 - The development proposed is installation of PV panels on existing pitched roof.
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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 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of PV panels on an existing pitched roof of 220 Headstone Lane, Harrow HA2 6LY in accordance with the application ref: PL/0180/23 and the details submitted with it, including Location Plan and Roof Plan.

Procedural Matters

2. For clarity and consistency, I have taken the date of the application above, as the date set out in both the appellant's and Council's statement, rather than the date on the appellant's application form of 30 September 2023.
3. It is common ground between parties that the Council failed to determine the application within the time period specified within the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 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.

Main Issue

4. Given the above, the main issue is whether having regard to the relevant requirements of Part 14, Class J of the GPDO, prior approval is deemed to be granted.

Reasons

5. Schedule 2, Part 14, Class J of the GPDO grants planning permission for the installation, alteration or replacement of solar equipment on non-domestic premises, subject to limitations and conditions. In that regard, paragraph J.4 (9)

requires the developer to 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 local planning authority within a period of 56 days. If that notification has not occurred in time, then prior approval is deemed to be granted.

6. The application was received by the Council on 2 October 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.

Other Matters

7. The Council is concerned that the proposal would not meet the limitations and restrictions of Class J, notably in relation to the distance between the photovoltaic panels and the edges of the roof and the projection of the panels from the roof. However, given that the local planning authority failed to determine the application within the statutory period, permission is deemed to be granted and I am therefore unable to address questions of lawfulness or prior approval matters.
8. Given the above, it is therefore incumbent that the appellant satisfy themselves that all relevant GPDO limitations and restrictions are met as they would not be entitled to proceed with development, which is not in fact, permitted development. In other words, development cannot become permitted development by default if the Council does not determine a prior approval application within the statutory period.

Conditions

9. 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. Paragraph W.(13) also provides for additional conditions to be attached that are reasonably related to the subject matter of the prior approval. However, since finding that prior approval is deemed to have been granted, there is no facility to attach further conditions in addition to the standard ones.

Conclusion

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

L Clark

INSPECTOR