



Appeal Decision

Site visit made on 18 February 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2025

Appeal Ref: APP/P1045/W/24/3352146

Winney Hill Farm, Hob Lane, Kirk Ireton, Derbyshire DE6 3LG

- 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 Mr & Mrs Wheeldon against the decision of Derbyshire Dales District Council.
 - The application Ref is 24/00320/PDA.
 - The development proposed is described as: The Class Q conversion of an agricultural building to form 2 dwellings, Barn at Winney Hill Farm, Hob Lane, Kirk Ireton, Derbyshire, DE6 3LG (Re-submission). For details of the proposed lighting levels to serve the dwelling units proposed please see the submitted drawings.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 for the Class Q conversion of an agricultural building to form 2 dwellings at Winney Hill Farm, Hob Lane, Kirk Ireton, Derbyshire DE6 3LG

Application for costs

2. An application for costs is made by Mr & Mrs Wheeldon against Derbyshire Dales District Council in relation to the appeal. This application is the subject of a separate Decision.

Preliminary Matters

3. The description in the banner heading above is taken from the application form. However, in allowing the appeal I have removed the address and words 're-submission' and those in respect of lighting from the description as these are superfluous.

Background and Main Issue

4. Subject to various conditions and limitations, Schedule 2, Part 3, Class Q of the General Permitted Development Order (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.

5. In so far as it is relevant to the development subject of this appeal, 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.
6. 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.

Reasons

7. There is no dispute that the Council did not notify the appellant of their decision on the prior approval application within the 56-day period. Furthermore, the parties made no agreement in writing that the 56-day period could be extended. It therefore follows, that prior approval is deemed to be granted.
8. I recognise that the LPA sought an extension of time from the applicant and raised concern regarding the size of the curtilage, with amended plans submitted to the LPA. However, correspondence in these regards occurred after the 56-day period had lapsed.
9. Notwithstanding the submission of a revised plan there remained dispute between the parties over the size of the proposed curtilage. Whilst it may be frustrating to the parties, it follows that as prior notification has been deemed to be granted that I have no scope to consider the merits of the prior approval application or whether the development complies with other applicable limitations and conditions imposed on the planning permission granted via Article 3 and Class Q.
10. 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 limitations. If it does not conform to these provisions, the GPDO does not grant it planning permission and the proposed development will be at risk of enforcement action by the Council.

Conclusion

11. I conclude that the appeal should be allowed on the basis that permission has been deemed to be granted.

R Gee

INSPECTOR