

**BURNLEY BOROUGH COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**

Date: 25<sup>th</sup> July 2019

**PART III**

Town and Country Planning Act 1990

**NOT/2018/0596**      Appeal against refusal to grant prior approval for a change of use of agricultural building to 2no. dwellings with associated parking at the Barn, Manchester Road, Habergham Eaves, Burnley

Appeal by: Mr Marc Karoo  
Date of appeal decision: 1<sup>st</sup> July 2019

**Background**

An appeal was made to the Secretary of State against the Council's decision to refuse prior approval for the above proposal for the following reason:-

“The proposal fails to amount to Permitted Development under Class Q (b) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) on the grounds that the proposed works would be so extensive as to amount to substantial re-building of the existing structure rather than a conversion and would not therefore fall within the scope of permitted development under this Class.”

The appeal relates to an agricultural building constructed approximately 25 years ago, comprising a dwarf brick cavity wall to approximately 1.6m with corrugated vertical sheet cladding above with a duo pitched corrugated sheet clad roof and a concrete slab floor.

**Appeal Decision**

The appeal is DISMISSED.

**Inspector's Considerations**

The Inspector determined that the main issue was whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), with particular regard to the building operations reasonably necessary to convert the building to residential use.

The Inspector refers to the Planning Practice Guidance (PPG) which provides advice on the interpretation of Class Q of the GPDO. It clarifies that Class Q assumes that the agricultural building is capable of functioning as a dwelling. Whereas Class Q permits building operations that are reasonable necessary for the conversion of the building to residential use, it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. It is only

therefore where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

In this case, the Inspector noted that the appellant's Structural Investigation report advised that the proposed building fabric should be designed/built independently of the steel frame of the existing agricultural building. The new external walls would not be supported off the existing walls but by a lightweight timber frame that would be constructed internally. Whilst internal works are not generally development, it would appear in this case that the lightweight timber framed would perform a function beyond that of an internal wall – it would support the upper part of the external wall construction. As a consequence, the Inspector found that there was reasonable doubt that the existing frame would not be strong enough to take the loading associated with external works reasonably necessary to provide for residential use. Having regard to the Hibbert case (Hibbert v SSCLG and Rushcliffe BC, 2016), these works would exceed what could be reasonably be described as conversion and would comprise an element of rebuilding.

In conclusion, the Inspector stated that the extent of the works proposed would go beyond what could be described as conversion and would fall outside the scope of permitted development rights under Class Q(b). As such, the proposal would not be permitted development.

### **Procedures**

Appeal dealt with by Written Representations

Approximate cost of appeal: £300

### Background Papers

Planning application and appeal file NOT/2018/0596

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