
Appeal Decision

Site visit made on 5 September 2025

by **R Gravett BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 October 2025

Appeal Ref: APP/Z2315/W/25/3367703

Barn to east of Manchester Road, Manchester Road, Burnley BB11 5NS

- 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 C Karoo against the decision of Burnley Borough Council.
 - The application Ref is PAR/2025/0246.
 - The development proposed is change of use of agricultural building (sui generis) to dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Chris Karoo against Burnley Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development on the application form refers to the plans and planning statement submitted with the application. I have therefore taken the description of development in the banner heading above from the decision notice as it more accurately and fully describes the proposal, and this is the description used on the appeal form.
4. The appellant has submitted a revised plan which omits a pair of proposed windows shown on the east and west elevation, which were not shown on the proposed floorplan. The Council has had an opportunity to comment on the amended plan. The planning appeals procedural guidance¹ advises that the appeal process should not be used to evolve a scheme. However, the amended plan would not involve a substantial difference or fundamental change to the proposal. Further, given the number of windows would be reduced, it would not deprive those who were entitled to be consulted on the application of the opportunity to make any representations that they may have wanted to make on the application as amended. I have therefore based my decision on the amended plan (0525_MAN_104 Rev B).
5. The development permitted under Class Q and the limitations to such permitted development were significantly amended on 21 May 2024, when the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024/579 came into force. Given the transitional arrangements set out under Article

¹ Procedural Guide: Planning Appeals – England (June 2025)

10 of the amending Order, prior approval applications could be made in respect of the old Class Q up until the end of 20 May 2025. As the application was made in April 2025, I have duly considered Class Q as it was before 21 May 2024.

6. Class Q(a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above. This is subject to the limitations of Class Q1, which includes under Q1(i) that the development would consist of building operations other than the installation or replacement of such things as windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse.
7. Where development is proposed under Class Q(a) together with Class Q(b), and the proposed works are found to be permitted development, it is subject to the condition under paragraph Q.2(1) that before beginning the development, an application must be made to the Local Planning Authority (LPA) for determination as to whether prior approval is required with regards to (a) transport and highways impacts, (b) noise impacts, (c) contamination risks, (d) flooding risks, (e) location and siting, (f) the design or external appearance and (g) the provision of adequate natural light in all habitable rooms.
8. Paragraph W(3) of the GPDO states that the LPA may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question.
9. Although the decision notice refers to a conflict with Q.1(j), it is clear from the evidence that the Council considers that the appellant has failed to demonstrate that the building works to facilitate the residential use would comply with Class Q(b) and the limitation in Q.1(i). However, the reason for refusal makes clear that, had permitted development rights applied, the design and external appearance of the building, as well as location and siting, would have been deemed unacceptable.

Main Issues

10. In light of the above, the main issues are:

- whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO; and
- if the proposal does constitute permitted development, whether the design and external appearance and location and siting of the building would be acceptable.

Reasons

11. The Planning Practice Guidance (PPG) states that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right also includes the carrying out of building operations which are reasonably necessary to convert the building. However, the PPG states that 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.
12. In terms of what is 'reasonably necessary', the Hibbitt² judgment establishes that the scale of the proposed building works is key. To be permitted under Class Q the building works would, among other things, need to be of a scale which would fall within the scope of a 'conversion' rather than go beyond that so as to amount to a rebuild or fresh build. Whether or not the proposed works go beyond the scope of conversion is a matter of planning judgement with reference to the circumstances of the case.
 13. The appellant has sought to address the concern raised by the Inspector in respect of the previous appeal proposal for the conversion of the building to 2no dwellings, which was dismissed in 2019³. On the evidence in that case, which included a construction methodology statement as well as a structural investigation report, the Inspector was not persuaded that the existing frame of the portal building would be strong enough to take the load associated with external works reasonably necessary to provide for residential use. I acknowledge that some work has been undertaken to the building since this appeal decision, but I have very little evidence before me in respect of the scope of these works or whether they would improve the structural integrity of the building. Nevertheless, this would have formed part of the assessment in the 'Part Structural Report' by JME Consultants dated 31 March 2025 ('the JMEC Report').
 14. The agricultural barn that is the subject of this appeal is a wide duo-pitched steel portal frame building, with metal and fibre cement cladding to the roof and walls above a low-level twin skin masonry wall. The JMEC Report identifies the steelwork of the portal frame, including within the columns of the cavity walls, to be generally in good condition with some surface rusting but no lamination present. However, it identifies bowing to the masonry wall in the corner of the northern gable, and I observed that several sections of wall have significant diagonal cracks, and the masonry does not appear fixed or tied to the steel frame. The JMEC Report further identifies that the horizontal steelwork to the head of the masonry wall is sagging in locations, and I observed this to be particularly prevalent on both long elevations of the building, where sections of steelwork have dropped behind the outer skin.
 15. Despite these defects, the JMEC Report concludes that 'the steelwork to the building is in reasonable condition throughout' and that the portal frame section sizes are adequate to resist the anticipated loads which will be applied as a result of the appeal proposal, subject to a requirement for 'additional stiffeners.' I acknowledge that structural calculations have been provided in support of this, and the appellant has clarified that these were carried out for appropriate weights and deflection limits for materials specified on the architect's plans. However, there is no analysis or commentary within the evidence before me which adequately explains how these calculations relate to a proposed method of construction, the weight or deflection tolerances which have been allowed for, or indeed what the calculations show.
 16. The Proposed Plans and Elevations plan shows very little information or a full specification for the proposed materials. For the south elevation, a 'profile

² Hibbitt and another v Secretary of State for Communities and Local Government, Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

³ APP/Z2315/W/19/3223915

aluminium composite sheet' cladding is proposed with 'PPC grey aluminium curtain walling glazing' within the opening in this gable. It is assumed the composite sheet cladding would also be used on the other elevations, although this is not shown on the plans. Further, although the Planning Statement refers to the use of 'plastic-coated corrugated sheeting' for the roof, no detailed specification is provided and the architect's plans do not identify a roof material, or indeed whether the existing metal and fibre cement cladding to the roof would even be replaced.

17. Moreover, I do not have any substantive information before me in respect of the method of construction or a programme of works which would indicate the main structural elements of the proposal. Consequently, it is unclear whether the new external walls would be entirely supported by the steel frame, or how the different elements would be affixed or tied-together.
18. The PPG advises that internal works are not generally development. It states that for the building to function as a dwelling, it may be appropriate to undertake internal structural works, such as the insertion of internal walls, which are not prohibited by Class Q. Clearly, the introduction of partitions to create the internal layout and subdivision between the individual rooms would be permitted by Class Q.
19. However, although the Planning Statement states that the existing steel frame and masonry walls would take the load of the internal works, the structural calculation diagrams do not appear to show any loads associated with partition walls or ceilings. It is not therefore clear what effect (if any) these would have on the structural integrity of the building. It is also not possible to ascertain from the information before me whether these walls would perform a function beyond that of an internal wall, or whether they would take some of the load associated with the external works.
20. I do not question the experience of the surveyor or the integrity of the JMEC Report. However, on the evidence that is before me, the concerns of the previous Inspector have not been adequately addressed. I am not satisfied that the extent of works required would not go beyond what could be reasonably be described as conversion and consequently fall outside the scope of permitted development rights under Class Q(b). Accordingly, I conclude that the proposal would not constitute permitted development.
21. Therefore, there is no requirement for me to consider the proposal against the paragraph Q.1(i) limitation, or those matters for which prior approval is required under paragraph Q.2(1).

Other Matters

22. The Council raised a conflict with the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) as a reason for refusal. This was on the basis that the proposed development would potentially have an adverse impact upon protected species, with particular regards to bats and barn owls. Regulation 9(1) requires an appropriate authority – including Inspectors – to exercise their functions (which are relevant to nature conservation) so as to secure compliance with the requirements of the Habitats and Wild Bird Directives. However, for the purposes of prior approval, Article 3(1) of the GPDO grants planning permission for the classes of development set out in Schedule 2, subject only to Regulations 75-78.

23. Regulation 75 provides that it is a condition of any planning permission granted by a general development order on or after 30 November 2017 that development which is (a) likely to have a significant effect on a European site, alone or in combination with other plans or projects and (b) not directly connected with or necessary to the management of the site must not be begun until the developer has received the local planning authority's written notification of approval of an application made under Regulation 77.
24. Regulation 8(1) defines 'European sites' as Special Areas of Conservation (SACs) and candidate Special Areas of Conservation (cSACs) designated pursuant to the Habitats Directive; and Special Protection Areas (SPAs), designated pursuant to the Wild Birds Directive. The 'Preliminary Bat Roost Assessment and Bird Nesting Survey Report' commissioned by the appellant identifies that there are no nationally or internationally designated sites within a 2km study area, and I have no substantive evidence before me that the proposed development would likely have any effect on a European site. These parts of the Regulations are not therefore determinative in this case.
25. In my consideration of this matter, I have taken into account the appeal decision referred to by the Council⁴, but I have reached a different conclusion to that Inspector in light of the addition of reference to Regulations 75-78 in Article 3(1) of the GPDO.
26. However, as referred to in CIEEM 'Biodiversity Advice Note,' protection would nonetheless be afforded by Regulation 43 which makes it an offence to deliberately capture, injure or kill a European Protected Species, which includes all UK species of bats. Further, Section 1, Part 1(b) of the Wildlife and Countryside Act 1981 (as amended) makes it an offence to intentionally damage or destroy the nest of any wild bird. This is consistent with the commentary in the consultation report referred to by the Council,⁵ in so far as it states that all changes under permitted development are required to meet necessary habitats and environmental legislation regulations.
27. Finally, I note that the appellant had actively sought to engage and maintain lines of communication with the Council during the course of the application. However, whilst I appreciate the appellant's frustration with the process, this is not a matter for me to consider as part of this appeal.

Conclusion

28. For the reasons given above, I conclude that the appeal is dismissed.

R Gravett

INSPECTOR

⁴ APP/L3245/W/15/3004467

⁵ Greater flexibilities for change of use - Report on responses to the consultation (DCLG, 2014)