

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Claim No. CO/489/2018

BETWEEN:

THE QUEEN
(on the application of SEMER PARISH COUNCIL) Claimant

And

BABERGH DISTRICT COUNCIL
Defendant

And

MR PIERS BULGIN
Interested Party

CONSENT ORDER

Before sitting in the at the Administrative Court, Queen's Bench Division, Planning Court, High Court of Justice, The Strand, London WC2A 2LL

UPON reading the Claimant's Statement of Facts and Grounds, as well as the supporting evidence

AND UPON reading the Statement of Reasons justifying the order as agreed

IT IS ORDERED:-

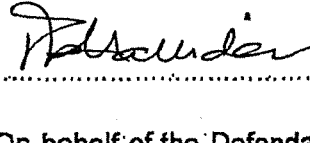
1. That permission for judicial review be granted and the claim allowed;
2. That the decision of the Defendant on 21st December 2017 to grant prior approval (Ref: DC/17/05559) for the change of use of an agricultural building to a dwellinghouse on land at Ash Street, Semer, Suffolk, IP7 6QZ be quashed;
3. That the Defendant do pay the reasonable costs of the Claimant in respect of this application on the standard basis, such costs to be subject to detailed assessment if not agreed.

We consent to an order in the above terms.



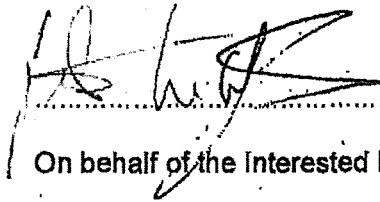
On behalf of the Claimant

Richard Buxton Environmental & Public Law
19B Victoria Street
Cambridge
CB1 1JP



On behalf of the Defendant

Shared Legal Service
West Suffolk House
Western Way
Bury St Edmunds
Suffolk
IP33 3YU



On behalf of the Interested Party

c/o The Livestock Market
Wyncolls Road
Severalls Industrial Park
Colchester
Essex
CO4 9HU

STATEMENT OF REASONS

1. These proceedings concern a claim for judicial review of a decision by Babergh District Council ("the Council") to the grant of prior approval on 21st December 2017 for conversion of an agricultural building to a dwellinghouse pursuant to Class Q of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("GDPO 2015"). The agricultural building in question is on land at Ash Street, Semer, Suffolk, IP7 6QZ.
2. The claim is brought on two grounds:
 - (1) That the Council failed to have regard to a material consideration, namely the lawfulness or otherwise of building works which had been undertaken to the agricultural building before to the application for prior approval and the effect this may have had on whether permitted development rights conferred by Class Q were applicable.
 - (2) That the Council misdirected itself in law as to the scope of the permitted development rights conferred by Class Q and, in particular, failed to consider whether or not the works proposed amounted to a conversion.
3. The Council has carefully considered the claim and accepts that the decision is vitiated by public law error. In particular it accepts:
 - (1) It failed to consider whether the building works which had been undertaken to the agricultural building prior to the application - adding structural bracing to the sides and a wall between the columns - amounted to development requiring planning permission. It accepts that, had it done so, and had it concluded that the works did amount to development requiring planning permission, then the permitted development rights conferred by Class Q may have been inapplicable; and,
 - (2) It failed to consider whether or not the proposed development to the agricultural building went beyond works of conversion, and amounted to

a rebuild. In *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853 the Court held that where the line is drawn between conversion and rebuild is a matter of legitimate planning judgement, but that where the works did amount to a rebuild they would fall outside development permitted by Class Q.

4. The Council accepts that the errors were material to the decision to grant prior approval. It follows that the decision falls to be quashed.