

**Comments on matters arising from the statement
submitted by Cherwell District Council**

Planning Inspectorate Reference: APP/C3105/W/19/3250685

LPA Reference: 20/00174/Q56

Appeal Site: Barn at Folly Farm, Grange Lane, Sibford Ferris, OX15 5EY

Appellant: Mr K Bishop

18th August 2020

St Nicholas Property Ltd
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Comment on Paragraph 2.4 of the Council’s response

“The Council notes that the structural survey submitted with the application indicated a new **roof** was not necessary”.

This is not what the engineers report states and I would respectfully refer the reader to the relevant paragraph in the Structural Report, which does in fact state:

3.1 Proposed Conversion Work

The structure of the existing building is to be retained. There is to be no alteration to the existing steel portal frames or the roof structure but some new doors and windows will be introduced into the walls.

The structural report does in fact state that “there is to be no alteration to the existing steel portal frames or the **roof structure**”.

At no point in the report does the structural report state that “a new roof was (sic) not necessary”.

Drawing reference PN-019-12-04 (Proposed elevations) shows a schedule of proposed materials including new insulated metal profile roofing sheets.

The council attempts to identify a discrepancy between the submitted documents where none exists.

The engineer simply reports that the **roof structure** requires no alteration, a quite separate matter to the proposal of a new roof cladding as indicated on the submitted drawing.

Roof: insulated metal profile roofing sheets
Walls: vertical timber rainscreen and smooth painted render on lightweight timber insulated panels
Windows: powder coated aluminium
Doors: powder coated aluminium
Rainwater goods: powder coated aluminium
Soffits & Fascia: powder coated aluminium

Extract from Submitted Drawing PN-019-12-04 Proposed Elevations

Comment on Paragraph 2.5

In paragraph 2.5 the council does not contest that they have confused a proposed replacement cladding with a structural element.

I would refer the reader back to paragraph 8.9 of the Planning Officer’s report which incorrectly states that the proposed building operation includes a **new roof structure**.

As outlined above, the structural report specifically states that there is to be no alteration to the roof structure.

It therefore carries that for the council to state in 8.9 that the proposal includes a new roof structure, they must consider the proposed new roof cladding to constitute a structural element.

It is submitted that the council has confused the proposed replacement cladding with a structural element.

Comment on Paragraph 2.6

In 2.6 the council submits that the planning officer has outlined in paragraphs 8.9 - 8.12 of his report those works which are deemed to be beyond what is reasonably necessary for the building to function as a dwelling house.

Looking at each paragraph in turn:

8.9 has already shown to be inaccurate since a new roof structure is neither required or proposed.

8.10 is reliant on 8.9 (which incorrectly asserts that a new roof structure is proposed). 8.10 attempts to show a discrepancy in the submitted documents where no such discrepancy exists.

8.11 attempts to show discrepancies in the structural report. The photo included in the reports shows elements of cladding on the eastern elevation, albeit in a different treatment to the other three sides.

The structural report states that the building is circa 50 years old and was relocated to the current location approximately 30 years ago.

animal use. Its original construction is estimated to have been approximately 50 years ago but it is understood that the building was relocated to its current position approximately 30 years ago.

The planning officer attempts to show a discrepancy but instead confuses the age of the building, as estimated in the structural report with the date when permission was granted which he states to be 1999/2000.

It is not contested that this may well be the date that the barn was permitted at this location, but this information is not available on the Cherwell Online register and therefore an approximation was reasonably made.

8.12 rests on a flawed understanding of the structural report and submitted plans, as well as the planning officers own flawed assertion (contrary to that of the Chartered Structural Engineer) that the building "is not capable of being converted".

In summary, it is contested that paragraphs 8.9 – 8.12 are, at best, flawed and do not detail those elements of the proposal that are deemed to be beyond what is reasonably necessary for the building to function as a dwellinghouse.

Comment on Paragraph 2.7

2.7 questions the design of the proposal and whether the building is reliant on the existing steel frame.

The structural engineers report paragraph 3.1 states the following:

A capacity check on the existing frame members has been carried out to establish that the frame will be adequate to support the proposed building envelope using an insulated profiled composite metal cladding system (Kingspan or similar). The calculations in Appendix B consider both strength and deflection requirements. This indicates that the frame is satisfactory. There is considerable spare capacity in the stanchions if a mezzanine floor is required.

It is clearly and explicitly stated that the existing steel frame will be adequate to “support” the proposed building envelope (a composite cladding system). The structural engineers report includes at Appendix B, 24 pages of calculations showing the ability of the steel frame to carry the composite panels that are proposed to make up the building envelope (roof and walls).

Comment on Paragraph 2.8

The council refer to the case of *Hibbitt and another v Secretary of State for Communities and Local Government and another* [2016] EWHC 2853 (Admin).

Whilst guidance provided by the case is helpful in the determination of such applications, it must also be noted that each application is different and should be determined as such.

There are notable differences between this appeal and the application determined in Hibbitt.

- The proposed conversion in Hibbitt was a cattle shed, open on three sides, with only a monopitch roof.
- By contrast, this appeal relates to a building, fully enclosed on three sides (the eastern elevation is only partially clad) with a dual pitched roof.
- The existing form of the building more closely resembles that of a dwelling than the monopitch cattle shed in Hibbitt

The proposal includes only those operations as set out in Class Q (i) to the extent, reasonably necessary for the building to function as a dwelling house.

The “suitability” for conversion is a matter of assessment to be determined by inspection. In this case, a chartered structural engineer has inspected the building and issued a report, including detailed calculations, demonstrating that the existing structure is capable of being converted.

In 2.8 the council refers to Government guidance on such proposals sighting Paragraph 105 of the NPPG. Indeed, the council's view that "the existing building is not capable of functioning as a dwelling" forms part of the Reasons for Refusal (1) in the notice of decision dated 20th March 2020.

The Hibbitt judgement as sighted by the Council makes specific reference to this paragraph.

The judge considered the meaning of "capable of functioning as a dwelling" and notes that the meaning can be construed either as "potential" or alternately "possessing some pre-existing feature redolent of a dwelling".

The judge concludes "ultimately I do not gain very much from these particular words in paragraph 105"

Comment on Paragraph 2.9 /2.10

In 2.9 the council clearly sets out their interpretation of the Hibbitt case:

"if all that is left of the existing building is the steel frame, then the proposals do not amount to a conversion"

This inflexible interpretation is at odds with the Hibbitt judgment which refers to the need for legitimate planning judgement.

In addition to the differences laid out above, it is to be considered that the applicant is already entitled to repair, maintain and re-clad the roof and walls as required, but has elected not to do so prior to the submission of the application.

Weight should be attributed to the structural report prepared by Wellan. The council submit that the applicant has not adequately demonstrated that the proposal "would not necessitate the dismantling and replacement of the steel portal frame " whereas the appellant contests that the structural report demonstrates that the existing frame requires neither dismantling or replacement.

Comment on Paragraph 2.11

No operations, other than those listed in Class Q (i) are proposed and no new structural elements are proposed.

Comment on Paragraph 2.12

The council refers back to paragraph 8.14 of the planning officer's report, however this paragraph is reliant upon paragraphs 8.9-8.12 which we contest to be flawed.

It is reasonable that those specific issues that of such importance as to go beyond what is reasonably necessary should be accurately laid out in the officer's report.

Comment on Paragraph 2.14

Drawing PN 19-012-05 clearly indicates that the proposed curtilage is less than the footprint of the proposed conversion. It is noted that there is a small difference (6.3m²) between the footprint on drawing PN-019-12-05 and the area referred to in the covering letter submitted with the original application. The proposed plans have been checked and the footprint of 222.7 m² is deemed to be accurate and as such the proposed curtilage of 219.5m² does not exceed the footprint.

18th August 2020

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