

**CHERWELL DISTRICT COUNCIL TOWN
AND COUNTRY PLANNING ACT 1990**

Appeal made by Mr Chadwick on the behalf of Mr Roger Yates against Cherwell District Council's refusal to grant a prior notification for the Prior Approval Notification under Class Q (b) for development referred to in paragraph (a) of Class Q for 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) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) (Council's Ref. 23/01339/Q56) APP/C3105/W/22/3306638

1. THE COUNCIL'S CASE

- 1.1. The Council's case in this appeal is principally as set out within the Officer's delegated report for the prior approval notification application, a copy of which was sent to the Inspectorate with the appeal questionnaire.
- 1.2. This Statement of Case does not intend to repeat or duplicate the arguments set out in that report, but instead focusses on responding to and clarifying the key issues that arise from the Appellant's Statement of Case.
- 1.3. This Statement of Case solely focuses on the reason for refusal and does not cover the aspects of the development which the Council considers to be acceptable as these matters are common ground between the parties and are assessed within the delegated Officer's report.

2. COMMENTS IN RESPONSE TO THE APPELLANT'S STATEMENT OF CASE

- 2.1. The basis of the refusal of the prior approval by the Council was that the proposed development failed to meet Q.1(i) under Part 3 Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- 2.2. Q.1(i) states the following: the development under Class Q(b) would consist of building operations other than—
 - (i) the installation or replacement of—
 - (aa) windows, doors, roofs, or exterior walls, or
 - (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations

allowed by paragraph Q.1(i).

- 2.3. There has been much debate on what is considered the 'extent reasonably necessary for the building to function as a dwellinghouse'. The PPG gives guidance to what is reasonably necessary, and further guidance can be seen in what is known as the 'Hibbitt case'. This gives a useful discussion of the difference between conversions and rebuilding. The Council submits that in this instance the work that is proposed goes substantially beyond what is reasonably necessary for the building to function as a dwelling.
- 2.4. The Council notes the Appellant's comments at paragraph 1.3 of the statement of case. However, the submitted structural report prepared by AB Design Solutions Limited states at section 4 on page 7 that, "There is no evidence to suggest there are any shortcomings to the existing structure to support linings to the existing external walls or roof", but then also states that, "there is some redundancy in the existing structure, this would need to be checked if heavier more traditional linings are used to the roof soffit/ceiling.". The evidence to support the application should be clear and convincing. With regards to the submitted structural report, there still seems to be doubts with regards to the existing structure which the report advises would need to be checked if heavier more traditional linings are used to the roof soffit/ceiling. The report does not determine the maximum weight permissible, or weight which would be acceptable with regards to the linings to the roof.
- 2.5. Notwithstanding the above, it is noted that whereas the submitted structural report states the structure is capable of conversion, the Council submits that it is the amount of work that is required for the conversion overall that is deemed to go beyond what is reasonably necessary as set out in the GPDO.
- 2.6. Paragraphs 4.2 and 5.15, and 5.32 of the Appellant's statement note the changes made from the previous appeal, (reference (APP/C3105/W/22/3306638) which was dismissed. This list includes "Incorporation of cladding and insulation inside the timber boarding". While insulation of the building may be permissible, the Council submits that the internal cladding of the building goes beyond what may be construable as a conversion of the existing building. As set out in the officer report, e.g. at paragraph 8.19, the Council submits that the proposal would result in a new structure within the barn rather than a conversion of the existing structure and that the proposed works do not rely on the existing structure alone.
- 2.7. The Council submits that it is not the intention of the permitted development right to allow for the building of a new building within an existing barn, but instead the conversion of that barn.
- 2.8. In relation to paragraph 5.11 of the Appellant's statement, the Council submits that the proposed works go beyond what can be classed as insulating the structure and would result in a significant level of alteration and rebuilding work through the creation of a new internal structure. This goes beyond what can be classed as a conversion. If new internal structures were permissible under Class

Q applications, this would allow for most agricultural buildings which otherwise could not be converted to be converted. A new internal structure would represent a fresh build and would include operations that would go beyond those reasonably necessary for the conversion of the building.

2.9. The previous appeal for building operations to this barn to facilitate its conversion under Class Q was dismissed (appeal ref. APP/C3105/W/22/3306638).

2.10. And in allowing the appeal for approval of the barn's change of use under Class Q(a) (appeal ref. APP/C3105/W/20/3264358), the Inspector stated,

6. ...The Council says this means that the building does not benefit from any 'permitted development' rights under Class Q.

7. Having seen the building, as described in paragraph 7 below, I understand the Council's concern. The building would not be fit for human habitation without significant changes to the form of the structure to make it, at least, weatherproof. However, the GPDO is quite clear that this class of permitted development can consist of either Part Q(a) or Part Q(b) independently. As the proposal is limited to a change of use of the building and land within its curtilage under Q(a) this will not prejudice a subsequent assessment of any building operations proposed under Q(b) if applied for.

2.11. The Council submits that this appeal history points clearly towards the appeal proposals being unacceptable.

3. CONCLUSION

3.1. For the reasons set out in the delegated Officer's report and in this statement, the Council submits that the proposal does not comply with the provisions of Class Q.1 (i) Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore would require planning permission.

3.2. The Council submits that the existing building is not capable of conversion in accordance with paragraph Q.1 (i) of Class Q, Part 3, and that the appeal building therefore does not have the permitted development right.

3.3. Accordingly, the Inspector is respectfully requested to uphold the decisions made by the Local Planning Authority and dismiss this appeal.

Without prejudice to the preceding letter, if the Inspector is minded to allow this appeal the Council would suggest the following conditions be included on the prior approval.

1. The development to which this permission relates shall be completed within a period of three years beginning with the prior approval date of this permission.

Reason - To comply with the provisions of Section Q.2 (3), Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form, drawing "21.03.03.100 REVISION B – Location Plan", "21.02.03.110 REVISION E – Proposed Site Plan", "21.02.03.111 REVISION F – Proposed Floor Plans & Elevations" and the AB Design Solutions Ltd, Report on STRUCTURAL ENGINEERS ASSESSMENT ON CONVERSION OF AGRICULTURAL BUILDING TO SINGLE STOREY RESIDENTIAL DWELLING - 4026-ABDS-XX-XX-RPT-S-0001 dated 03.05.2023.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority, to ensure that the development complies with the criteria of Class Q and is Class Q development and with Government guidance contained within the National Planning Policy Framework.

3. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the first occupation of the development hereby approved above slab level, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each

tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps

(d) details of all means of enclosure to the site.

The development shall be carried out in accordance with the approved details prior to the first occupation of the development, and the hard landscape elements shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.