

THE DIPPING BARN, HIGH ASH FARM, BULLSLAND LANE

OPINION

INTRODUCTION

1. I have been asked to advise MSC Planning as to how to respond to the decision of Three Rivers District Council (“the Council”), dated 25th January 2021, to refuse Application Ref: 20/2584/PDA, which was for prior approval, under Class Q of the GPDO, for the residential conversion of The Dipping Barn at High Ash Farm, Bullsland Lane, Farm, Chorley Wood.

2. Two reasons for refusal were given:

“1. In accordance with Paragraph W 3(b)(ii), the Local Planning Authority consider that insufficient evidence has been submitted in support of the application demonstrating the extent of works would represent a conversion rather than a rebuild of the existing structure. As such, insufficient evidence has been submitted clearly demonstrating that the works required to 'convert' the existing structure into a two-storey dwelling house would fall within the limitations or restrictions under Schedule 2, Part 3, Class Q (b) and Q.1 (i)(i).

2. The red line indicating the application site does not include any access or curtilage proposed to serve the development. Insufficient evidence has been submitted demonstrating that the proposed extent of curtilage serving the proposed dwellinghouse would meet the requirements of Q (a).”

PERMITTED DEVELOPMENT AND PRIOR APPROVAL: CLASS Q

3. Section 57 (1) of the Town and Country Planning Act 1990 (“TCPA 1990”) requires planning permission to be granted for any development of land. However, section 58(1)(a) TCPA 1990 provides that planning permission may be granted by a Development Order made by the Secretary of State. The GPDO is the principal Development Order made pursuant to that statutory power. Article 3 grants planning permission for those classes of development described as “permitted development” in Schedule 2 to the Order (subject to any relevant specified exception, limitation or condition). One such condition on certain classes of permitted development is the need to submit an application to the Local Planning Authority to determine if its 'Prior Approval' will be required. This allows the

Local Planning Authority to consider the proposals, their likely impacts in regard to certain factors, and how these may be mitigated.

4. Subject to obtaining prior approval, Class Q of the GPDO grants permitted development for the following development (unless one of the limitations within the GPDO applies, including those set out in paragraphs 5 and 7 below), embracing both the change of use of an agricultural building to Class C3 dwellinghouses and the building operations reasonably necessary to do the conversion:

“Q. Permitted development

Development consisting of—

- (a) a 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; or
- (b) development referred to in paragraph (a) together with *building operations reasonably necessary to convert the building* referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.”

5. It will be noted that the permitted development right extends to both the change of use of the building and “any land within its curtilage”. This is defined in paragraph X of the GPDO as follows:

“For the purposes of Part 3—

...

“curtilage” means, for the purposes of Class Q, R or S only—

- (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or
- (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser...”

6. As for the limitation that the building operations which are permitted extend only so far as those which are reasonably necessary to do the conversion, the GPDO provides as follows:

“(i) 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)(i)..."

7. Hence, development is not permitted by Class Q if the development would consist of:

"... building operations other than ... the installation or replacement of ... windows, doors, roofs, or exterior walls, or ... water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house ... and ... partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(1)(i)..."

8. Article 2 of the GPDO sets out various definitions, but there is no definition of the word "convert" (as in convert the building). There is, however, formal guidance on the issue in the Planning Practice Guidance ("the PPG").

9. When the topic first appeared in the PPG, [at Paragraph Reference ID: 13-105-20150305] issued on 5th March 2015, it said this:

"It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right."

10. It was in the light of the above that Councils started asking for structural reports and to assess the building works against the ability of the building to take the additional loads. However, the PPG was amended on 15th June 2018 and now states as follows [at Paragraph: 105 Reference ID: 13-105-20180615]:

"The right ... assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations.

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

For a discussion of the difference between conversions and rebuilding, see for instance the case of *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin).

Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q.”

11. The following points should be noted:

- a. First, the words: "Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works ..." and "only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right", have been deleted from the PPG.
- b. Second, the following new words replace them: "Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".
- c. Third, the case to which the PPG refers (*Hibbitt*) was decided before the above amendments were made (and that judgment relied upon some of those deleted words [at 31], and emphasised all of them [at 8], and must be read with that in mind.

12. Bearing in mind the caveat mentioned immediately above, Mr Justice Green held inter alia as follows in *Hibbitt*:

“23 ... The essence of the dispute concerns whether the proposed "conversion" amounts to a "rebuild" and, if it does, whether that is relevant.

24. The question boils down to (i) whether inherent in the concept of "conversion" in Class Q is a limit introduced by the concept of a "rebuild"; and (ii) whether even if there is that limit it is already incorporated into Class Q by virtue of the other limitations in the Order.

25. ... It seems to me that to resolve this issue it is important to stand back and analyse the issue from first principles of construction. On this basis, on balance, I prefer the submissions of the Secretary of State who endorses the logic and rationale of the Inspector. This is for the following reasons.
26. First, the concept of "conversion" is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that if a development does not amount to a "conversion" then it fails at the first hurdle and there is no need to delve into the exceptions in Q.1. It is thus a freestanding requirement that must be met irrespective of anything in Q.1...
27. Second, a conversion is conceptually different to a "rebuild" with (at the risk of being over simplistic) the latter starting where the former finishes. ... In my view whilst I accept that a development following a demolition is a rebuild, I do not accept that this is where the divide lies. In my view it is a matter of legitimate planning judgment as to where the line is drawn. The test is one of substance, and not form based upon a supposed but ultimately artificial clear bright line drawn at the point of demolition. ... There will be numerous instances where the starting point (the "agricultural building") might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild. In fact a more apt term than "rebuild", which also encapsulates what the Inspector had in mind, might be "fresh build" since rebuild seems to assume that the existing building is being "re" built in some way. In any event the nub of the point being made by the Inspector, in my view correctly, was that the works went a very long way beyond what might sensibly or reasonably be described as a conversion. The development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building. ...
28. Third, in relation to the argument that the conversion/rebuild distinction is flawed because it is not defined and, in any event, interpreted in its normal dictionary sense covers the works in issue, there is in my judgment no need for the concept formally to be defined and the lack of a definition is not an indication that the concept lacks substantive meaning or content. The Order is directed towards a professional audience and the persons who have to make an assessment of whether works amounted to a conversion are experts, such as Inspectors, who are well able to understand what the term means in a planning context ... It is not a term that can be plucked without more directly from a dictionary. ...
29. Fourth, I also accept the broader policy argument advanced by Mr Westmoreland Smith as providing at least some modest support for the conclusion reached above. Class Q as a category of permitted development defines cases where permission is automatically granted without there being any assessment or appraisal of the merits or otherwise of the proposed development against the guidance set out in the NPPF...
- [31. Fifth, the distinction between a conversion and a rebuild is implicit in paragraph 105 NPPG which states in relation to Class Q that it is not the "... intention of the permitted development right to include the construction of new structural

elements for a building". It can be said that one reason for this conclusion is that a development that includes "new structural elements" is one that involves a degree of rebuild and is not a conversion.]

32. Sixth, ... an "agricultural building" can, at one end of the extreme, be a very minimalist or skeletal structure indeed. To convert such a building into a dwelling might involve a very great deal of fundamental work which in terms of its nature and extent is much closer to a rebuild than a more traditional conversion. Unless it can be said that there is some compelling policy reason why permission should be accorded automatically to such skeletal structures (and none has been advanced) then a purposive construction would tend to stray away from using the concept of an "agricultural building" as an outer marker for conversion and as a proxy for the divide between a conversion and a rebuild."

13. The following points are therefore to be derived:

- a. A distinction is to be drawn between "new build" (or "fresh build") and "conversion" for the purposes of Class Q of the GPDO – see *Hibbitt* [at 27];
- b. The deletion from the PPG of the words "Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works ..." must mean that the structural strength of the original building is no longer a determinative factor;
- c. The question as to whether the works amount to "fresh build" is one of substance, looking at:
 - i. The nature of the original agricultural building (whether it is skeletal/minimalist etc.); and
 - ii. Whether the extent of works needed to alter the use of that building to a dwelling would be of such magnitude that, in practical reality, what is proposed to be undertaken is a rebuild – see *Hibbitt* [at 27 and 32].

FACTUAL BACKGROUND

The Proposed Conversion

14. The application sought Prior Approval under Class Q (a) and (b) of Part 3 of the GPDO for the conversion of an existing dipping barn, sited on a field within Bullsland Farm, into

a single dwellinghouse of approximately 195sq.m, constructed over two floors. The site is accessed via an access track which leads off Bullsland Lane which is also a public bridleway. The Dipping Barn itself is more fully described in paragraph 16 below.

15. The application was accompanied by a Planning Statement which considered the application against the GDPO criteria for the enjoyment of the permitted development right claimed; elevation drawings of extant barn and the proposed conversion; and a Structural Report by RWA Consulting (Civil and Structural Engineers), dated 18th November 2020.

16. The Structural Report detailed the nature and condition of The Dipping Barn in Sections 1 and 2, as follows:

“1.0 Description of Building

1.1 The Dipping Barn is a freestanding structure comprising of low-level cast in situ concrete walls measuring approximately 19 metres long by 5.5 metres wide, with intermediate timber support posts approximately every 4 metres that extend above the concrete walls which support the roof. Due to the tapering nature of the base of the concrete walls, the width of the structure at ground level is 4 metres.

1.2 The timber roof posts bear onto cast in situ concrete longitudinal walls forming the original dipping pen. The earth has been banked up on either side of the longitudinal walls, but much of the dipping pen is subterranean. However, at the northern end the dipping pen is approximately at natural ground level and at the southern end approximately 1.5 metres subterranean.

1.3 The pre-cast concrete wall height measures 2.1 metres and has been cast in two operations.

1.4 The concrete side walls measure approximately 150mm thick and have been cast in situ using wooden shuttering. There are intermediate buttress piers at every post position.

1.5 The predominant posts are a railway-sleepers measuring 310mm deep and 140mm wide.

1.6 Some of the original posts have been replaced with circular telegraph poles, no doubt when some of the original timbers have rotted or as a result of fire damage.

1.7 The longitudinal poles support the main roof timbers and purlins, which are clad in a metal profile sheets.

1.8 The side walls have timber purlins fixed to the timber poles and posts and form support to vertical timber cladding, with a small gap between the top of the concrete wall and the base of the timber cladding.

1.9 The height of the structure from ground level to roof level is 5.2 metres.

2.0 Structural Condition

2.1 The original timbers have been set onto large blocks of concrete that go down to the full depth of the wall, but some of the circular posts have independent pad foundations cast onto the flinty clays that are naturally forming.

2.2 The posts to the eastern flank elevation have rotated out from the vertical, largely because there is no cross bracing to the structure and the roof timbers are hung from the longitudinal eaves timbers. Without adequate cross bracing, either by timbers or internal wall structures, the structure is always going to be prone to wind damage and racking. In addition, the racking may have been caused by a lack of restraint at a time when there has been a previous fire. There is clear evidence of fire charred timbers spanning across the structure as well as to the longitudinal purlins, which have been repaired and supplemented by other timbers to help provide support to the roof.

2.3 The concrete wing walls are in sound condition with no evidence of any significant defect and are performing their function for support of the structure adequately.

2.4 There is some hollowness in some of the original timbers, possibly as a result of some long term rot or deterioration of the timbers, and these have been supplemented by newer timbers on the reverse side and coach bolted through.

2.5 In other areas there is evidence of fire degradation to the timbers and therefore there is reduced strength in these timbers. However, the size of the posts and the supplemented timber allow for the roof to be adequately supported.

2.6 The support of some of the cross timbers at roof level do not align with a notch-out on the side posts, particularly to the west elevation.

2.7 There is one diagonal member that has been placed on the western elevation to support the structure as the result of some racking issues, which may have helped to assist in preventing further movement.

2.8 All external cladding sheets are in good serviceable order and are well supported on the structural frame and secondary support rail timbers."

17. The Structural Report went on to conclude as follows in Section 3:

"3.0 Comments and Conclusions

3.1 The main concrete walls to the dipping barn are in adequate condition with no evidence of any structural issues. Whilst elements of the concrete show voids between the pads and the side wall, these are largely due to general deterioration over the years but have not affected the structural rigidity or capacity of the elements.

3.2 Historic fire damage has clearly had an influence on the integrity of some of the timbers, but these have been supplemented, therefore the structural strength of the posts is more than adequate to support the roof structure. The strength of the roof timbers, either major or secondary, are adequate to support the roof cladding, therefore overall, the structure is sufficient to take new wall cladding with the extra weight of insulation.

3.3 The external cladding need not be removed from the building in order to convert it. Insulation can be added internally, in the form of a manufactured cassette type, that is fixed entirely to the main structure and leaving an air gap to the cladding sheets. The cladding relies upon the main structure and secondary support rails for its support and will be unaffected by the insulation and internal finishes.

3.4 I propose the use of ply sheeting is adopted to create a diaphragmed wall, which will assist against racking in the future, otherwise the alternative would be to introduce diagonal members between the posts to create the same effect. Some of the posts can be moved back to the vertical very easily during this work.

3.4 Where some of the timbers have experienced voids as a result of damp or fire, then some further supplementary work would be desirable to ensure that the bases of the timbers offer adequate long-term durability.

3.5 The connections between the posts and the replaced roof timbers does not provide any resistance to sway. These connections should be made more rigid by the use of metal plates, whether or not the barn is converted.

3.6 In conclusion, from a structural perspective, there is no reason why the building could not function as a dwelling without any additional structural elements as permitted under Class Q Permitted Development Guidelines.

The Officer's Report

18. The Officer's Report set out the analysis underpinning the two reasons for refusal as follows:

7.1 Class Q of Schedule 2, Part 3 of the Town and Country (General Permitted Development) Order 2015 as amended sets out that 'Development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Order' or 'development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule' may be permitted development.

7.2 For the purposes of Class Q – “larger dwellinghouse” means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; “smaller dwellinghouse” means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

7.3 The first issue is whether the land identified as the agricultural building's “curtilage” would comply with the Order. In identifying a building's curtilage, paragraph X (“Interpretation of Part 3”) of the Order, set out:

“Curtilage” means, for the purposes of Class Q, R or S only, the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building or an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is lesser.

7.4 The amenity space provision as shown on the submitted plans has not been clearly defined. The Location Plan and Site Plan both include the red line surrounding the building only. No access arrangements or amenity space provision have been identified and the Site Plan does not clearly define the curtilage. However, the field in which the building is sited is clearly defined which makes the plan appear as though the field in which the building would be sited is proposed to form the curtilage of the site and be larger than what the provisions permit. The elevational plans also indicates that cars would be parked to the north of the building served by the existing access however again this is not within the red line or clearly shown on the Site Plan. The plans also include the construction of a path along the western side of the site and building to provide the pedestrian access serving the building. Again this is not within the red line forming the application site. In light of this the extent of the proposed curtilage serving the dwelling has not been clearly indicated and it cannot be clearly demonstrated that the proposed curtilage would be no larger than the land area occupied by the agricultural building.

7.5 Class Q requires the change of use to incorporate the building and curtilage, however the red line is just sited around the building and does not include any curtilage or access to the building.

7.6 It is also prudent to assess whether the works would constitute ‘conversion’. Taking into consideration the scale of the proposed development, the works are not considered to constitute ‘conversion’. This is discussed in greater detail as set out within the analysis of Paragraph i). Accordingly, the council is not satisfied that the development would consist of ‘building operations reasonably necessary to convert the building’ (Q.(b)).

7.7 Paragraph Q.1 of Class Q advises that development is not permitted by Class Q where –

...

- (i) 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)(i)*

Class Q b) refers to ‘building operations reasonably necessary to convert the building’, thus, allows a degree of development (which would usually require planning

permission) to be carried out to allow the conversion of a barn into a dwellinghouse. It is noted that the degree of development can be significant. In respect of this part of the order paragraph 105 (Reference ID: 13-105-20180615) of the National Planning Practice Guidance states that *'The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.'*

The application is supported by a Structural Condition report [which] goes into the detail of the existing structure demonstrating that there are areas of deterioration and pre-existing fire damage to the building. ...

...

The report concludes that the building could function as a dwelling without any additional structural elements as permitted under Class Q. The conclusion also briefly identifies that the structure could support additional insulation. It discusses that the external cladding need not be removed to accommodate the proposed development, however the external cladding does not cover the full height of the elevational details. No reference to the works as shown on the proposed plans have been stated in the Structural Condition report or how that the existing building is structurally sound enough to accommodate a two-storey structure as shown on the proposed plans. Although the contents of the Structural Condition report are a material consideration it is still considered that limited/insufficient evidence has been submitted demonstrating that the building is suitable for conversion for the extent of works proposed. For example, no details have been provided as to how the new roof and walls to serve the upper floor level would be affixed to the existing structure or how the two new walls sited at the end of the building would be fixed to the ground. Also, there are no details of the existing foundations serving the building and confirmation that these could support a two-storey building.

In accordance with paragraph W the onus is on the developer to provide sufficient information to establish whether the proposed development complies with any conditions, limitations or restrictions specified in this part as being applicable to the development in question in Part 3. Thus, the emphasis is on the applicant to submit the relevant information to demonstrate that the works would fall under Class Q and if this information is not submitted in support of the application then the LPA can refuse permission as set out in part W which states:

'The local planning authority may refuse an application where, in the opinion of the authority –
(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.'

No detailed information has been submitted setting out how the building would be 'converted' into a dwellinghouse. The LPA assumes from the plans that the following works would be required to facilitate the proposed development:

- Removal of existing roof and cladding;
- Installation of new walls to either end and cladding along both flanks;
- Installation of an internal floor level to create a two storey dwelling;
- Taking into consideration the state of the existing roof – new roofing would be implemented;
- Installation of full height fenestration along all elevations;
- No details of works to the existing base have been provided.

Unfortunately a list of the works proposed to create the dwellinghouse cannot be clearly detailed as these works have not been provided as part of the application. In light of this it is reasonable to assume that following these works and based on the limited information pertained to the report that all that would remain from the existing structure is potentially a few timber posts (a number of the existing posts are in a bad state of deterioration as evidenced on site) and the concrete walls.

Although Class Q allows for a significant degree of development to take place to convert an agricultural building into a dwellinghouse it is obvious that very little of the original structure would appear to form part of the dwellinghouse. The proposal would therefore pertain to represent a new build rather than a conversion of the existing building."

ANALYSIS

The First Reason for Refusal

19. The first reason for refusal raises issues related to the correct understanding of the PPG and *Hibbitt*, considered in paragraphs 6-13 above (both of which are later addressed in the Officer's Report in the section which follows the above quotation). In summary, however, I have advised in paragraph 13 above that the question as to whether the works amount to "fresh build" is one of substance, looking at:

- a. The nature of the original agricultural building (whether it is skeletal/minimalist etc.); and whether

- b. The extent of works needed to alter the use of that building to a dwelling would be of such magnitude that, in practical reality, what is proposed to be undertaken is a rebuild.

20. In these regards, the Structural Report by RWA Consulting has advised *inter alia* as follows:

- a. The main concrete walls to The Dipping Barn are in adequate condition with no evidence of any structural issues.
- b. Whilst elements of the concrete show voids between the pads and the side wall, these have not affected the structural rigidity or capacity of the elements.
- c. Whilst historic fire damage has clearly had an influence on the integrity of some of the timbers, these have been supplemented and the structural strength of the posts is more than adequate to support the roof structure.
- d. The strength of the roof timbers, either major or secondary, are adequate to support the roof cladding, and the structure is sufficient to take new wall cladding with the extra weight of insulation.
- e. The external cladding need not be removed from the building in order to convert it. Insulation can be added internally, would rely upon the main structure and secondary support rails for its support, and be unaffected by the insulation and internal finishes.
- f. The use of ply sheeting to create a diaphragmed wall will assist against racking in the future, as would the introduction diagonal members between the posts (some of the posts can be moved back to the vertical very easily during this work).
- g. Where some of the timbers have experienced voids as a result of damp or fire, then some further supplementary work would be desirable to ensure that the bases of the timbers offer adequate long-term durability.

- h. The connections between the posts and the replaced roof timbers should be made more rigid by the use of metal plates, whether or not the barn is converted.
 - i. In conclusion, from a structural perspective, there is no reason why the building could not function as a dwelling without any additional structural elements as permitted under Class Q Permitted Development Guidelines.
21. Judged against the tests set out in paragraphs 13 and 19 above, therefore, it seems clear that the structural engineer has expertly assessed the proposed conversion of The Dipping Barn and advised that:
- a. The original agricultural building is neither skeletal nor minimalist, but of sufficient structural integrity to support the roof and wall cladding of the proposed conversion.
 - b. The supporting structure of the existing barn (its main concrete walls, timber roof posts, intermediate buttress piers, longitudinal poles, main roof timbers and purlins, will be retained to afford that structural integrity.
 - c. The external cladding need not be removed from the building and can also be retained (albeit supplemented by internal insulation), relying upon the main structure and secondary support rails for its support and unaffected by the insulation and internal finishes.
22. In the light of the above, I share the structural engineer's conclusion that there is no reason why the building could not function as a dwelling permitted under Class Q.
23. Furthermore, whilst it is true that considerable additional works will be needed to complete the residential conversion, as noted in the Officer's Report, the degree of development work permitted to be carried out to allow the conversion of a barn into a dwellinghouse "can be significant". Indeed, the PPG states in terms that:
- "The right permits building operations which ... may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs,*

exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations."

24. Notably, moreover, the Council have not said otherwise in the first reason for refusal: rather than state that the proposed works necessarily fall outwith Class Q, the Council have been careful to state only that they:

"... consider that insufficient evidence has been submitted in support of the application demonstrating the extent of works would represent a conversion rather than a rebuild of the existing structure ... within the limitations or restrictions under Schedule 2, Part 3, Class Q (b) and Q.1 (i)(i).

25. Accordingly, whilst the Officer Report speculates that the works "pertain to represent a new build rather than a conversion of the existing building", that is not actually the reason given for refusal, which reason is simply (so they aver) that insufficient information has been submitted with the application.

26. The following matters in respect of which further information was said to be needed has, moreover, been specified in the Officer Report, as follows:

- a. How the new roof and walls to serve the upper floor level would be affixed to the existing structure.
- b. How the two new walls sited at the end of the building would be fixed to the ground.
- c. Details of the existing foundations serving the building and confirming that these could support a two-storey building.

27. It seems sensible, therefore, to provide that additional information to the Council.

The Second Reason for Refusal

28. As for the second reason for refusal, that appears to reflect the fact that, as submitted, the application drew the red line only around the extant barn itself and did not denote any curtilage. Such a practice is common in that a "two-tier" approach to securing Prior

Approval for a barn conversion is often followed (indeed advised), whereby the permission for the conversion is secured first and its garden and access secured thereafter¹. I can see no reason why following that course prevents the first prior approval application being permitted.

29. However, given that the Council have raised “curtilage” as a reason for refusal, it is sensible to clarify precisely what the permitted right extends to so far as curtilage is concerned. The relevant provisions are set out in paragraphs 4 and 5 above. In particular, the permitted development right extends to both the change of use of the building and “any land within its curtilage” and that is defined to mean the smaller of two possibilities:

- a. The piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building; or
- b. An area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building.

30. The following points need to be made:

- a. First, the redline can be drawn around the agricultural building itself – to do so plainly ensures that prior approval is not (at stage one) being sought beyond the permissible extent provided for by Part Q.
- b. Second, the definition of “curtilage” plainly embraces land beyond the existing building - both possibilities expressly refer to “land immediately beside or around the agricultural building”.

¹ See, for example: CLA Commentary at page 17 <https://www.cla.org.uk/sites/default/files/GN13-18%20PDR%20Class%20Q%20change%20of%20use%20of%20Ag.build%20to%20resid.pdf>; and Bidwell advice <https://www.bidwells.co.uk/case-studies/delivering-class-q-permitted-development-agricultural-to-residential-conversions/>

- c. Third, the first possibility embraces only that land which is “closely associated with and serving the purposes of the agricultural building” (in this case where the sheep would be gathered for dipping).
- d. Fourth, if that land is larger than the footprint of itself, however, the curtilage as (ultimately) applied for must be reduced so that it is no larger than the building.

31. So construed, the GPDO secures that all barn conversions permitted under the GPDO can have a residential garden, albeit carefully constrained. If a subsequent occupier wishes to extend that garden, he or she would need to secure express consent, which might be refused or granted subject to a condition preventing certain types of urbanising garden uses taking place noting that many subsequent occupiers, especially those who own some of the surrounding land, will be satisfied with a rather modest formal garden, in a wider rural setting.

CONCLUSIONS

32. For all the above reasons, I would seek to resolve the above matters with the Local Planning Authority through correspondence and with a view to securing Prior Approval without an appeal.
33. If I can be of any further assistance my Instructing Town Planners should not hesitate to contact me.

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17th February 2021