ALLEN PLANNING Ltd
Town Planning and Development Consultants

Wiltshire Council
Planning Department
FAO Jonathan Maidman
Via email

30th August 2023

Dear Mr Maidman

Prior Notification requirement – Class Q of the GPDO 2016 as amended
Change of use of existing agricultural building to form one "smaller" dwelling

Site at Stockbottom Farm, White Way, Pitton, Salisbury SP5 1SU
LPA ref PL/2023/05576

We refer to the above Prior Notification application which relates to the proposed conversion of an existing agricultural building, within this larger agriculture yard and holding, which was last lawfully used for agriculture purposes (a milking parlour) at the above site to form one "smaller" dwelling as described in Part Q of the GPDO.

In your most recent email, you sought further information in terms of your concerns raised in respect of:

"I would like to draw your attention to a very recent appeal decision which I consider specifically relevant, and comparisons can be made with this proposal. The decision is attached and in particular I would draw your attention to paragraphs 15-21.

The building at Stockbottom Farm proposed for conversion is clearly designed for agricultural purposes. On the basis of my observations and with reference to the legislation and the appeal decision attached, I consider that the building as it stands, is not suitable for conversion to a dwelling. The totality of works required to create a habitable building would be substantial and go beyond what is reasonably necessary to convert the building to a dwelling. I therefore conclude that the proposal would not be limited to building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b). Consequently, the proposal would not amount to permitted development under Schedule 2, Part 3, Class Q of the GPDO."

I have read through the attached appeal decision in Mere with interest but would submit that the merits of the structure and works required to that particular building when compared to that which forms this application are exceptionally different.

In addition, of course each case must be judged upon its individual merits and as I am sure you will note there are many appeal decisions on "both sies" of this "conversion" issue. Given that this central issue requires the exercise of planning judgment, it is perhaps not that surprising that appeal decisions involving other agricultural buildings illustrate judgements both for and against specific proposals. The example submitted by the LPA relates to a different building and therefore, necessitated an individual judgement to be made in the particular . In broad terms, my general approach accords with the relevant factors identified by those Inspectors.

On that basis given the differences in building type, construction and available structural information this decision is of individually of limited weight when exercising the judgement in this case and this application should be considered on its own merits.

I will however nonetheless assess this recent appeal decision referred to in your email in more detail within this letter. We note that to date the LPA have undertaken no "expert structural" assessment of the building the subject of this application.

NPPG Guidance

In terms of guidance Paragraph 105 of the NPPG as revised addresses all of the requirements of Part Q of the GPDO and states:

"The right allows either the change of use (a), or the change of use together with reasonably necessary building operations (b). Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, 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.

Paragraph: 105 Reference ID: 13-105-20180615
Revision date: 15 06 2018
(our emphasis)

The Case Of "Hibbitt"

Looking in overview at Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin) in conclusion the judge summarised:

"……. In my view she correctly recognised that the extent of the works was not dispositive. In many permitted developments the work might be extensive yet that does not thereby disqualify a development from automatic permission. I also accept her analysis that the extent of the works to be undertaken was one, amongst other, relevant consideration that could assist in forming a judgment whether the works were part of a conversion or were, instead, part of a rebuild or fresh build. I thus accept the analysis that the extent of the works is a relevant but not dispositive consideration."

It is submitted that the detailed circumstances in relation to this application proposal differ from those of the building considered in the *Hibbitt* case, in that the building in that case was largely open sided and involved the construction of four exterior walls which is in direct contrast to this application proposal which would retain a significantly greater degree of original building fabric.

Overview

Part Q permits building operations which are reasonably necessary to convert a building to a dwelling and the NPPG advises that such may *include "those which would affect the external appearance of the building and would otherwise require planning permission."*

Such works include, as set out in NPPG, 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 agreed that it is clearly 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 rights.

This proposal has been assessed on that basis.

Additional Information/Scope of Works

Class Q(a) in Part 3 of the Second Schedule to the GPDO permits the *change of use* of a building and any land within its [restrictively defined] curtilage from use as an agricultural building to a use falling within Use Class C3 (dwellinghouses). The wording of Class Q(a) does not refer to "conversion", but it is clearly be necessary in order to bring about the permitted change of use to carry out various physical works to the building in order to enable this change of use to be made.

In the case of the residential conversion of an agricultural building under Class Q, there can in our submission be no objection to internal alterations and re-arrangements given s55(2)(a) of the Act which identifies that such works do not constitute development.

In addition, Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it 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 the building operations allowed by paragraph Q.1(i)(i).

In light of the above we include with the letter, as **Appendix AP1**, a "Scope of Works" document produced by the Architect which clearly identifies the alterations necessary to make the building function as a home.

The Scope of Works identifies in its introduction that:

- *The construction is sound and requires no structural repair.*
- *Water and electrical services are supplied.*
- *The buildings are robust and show no signs of structural damage. The simple timber link is formed by the gable walls of the milking parlour and barn with timber framed infill to the sides and corrugated sheet roofing on timber roof rafters.*

Any internal works are not generally assessed as development (see s55(2)(a) of the Act) and the NPPG identifies that for a building to function as a dwelling it may be appropriate to undertake internal structural works.

Part Q of the Order also envisages matters such as the introduction of doors and windows and these have been introduced into the appeal proposals in a sympathetic manner.

Importantly this Scope of Works concludes:

"The basic requirements for the building are deemed to comply as the existing structure complies for loading, ground movement and disproportionate collapse i.e., the existing building and foundations are adequately robust."

The Scope of Works identifies how the building would comply with all of the required Building Regulation requirements and fundamentally its floor, all of its existing walls and indeed its roof would be retained as part of the conversion works as these are solid structural elements. An image of the building is shown in Figure 1 below



Figure 1 – Existing building

Permitted development in its wording and guidance clearly allows for the installation of windows and doors and other services which are reasonably necessary for the building to function as a dwellinghouse and therefore these matters could not constitute a breach of the requirements of Part Q.

Any internal works which are required to make the building habitable do not require substantial alteration to the external fabric of this building in any way and do not constitute development by virtue of section 55(2)(a) of the Act.

In light of all of the above it is concluded that this agricultural building is capable of conversion within the parameters set down within the Order, supported by the advice in the NPPG.

This application does not constitute a "rebuild" but is a conversion as set out unequivocally in the attached "Scope of Works" document.

The Mere Appeal Decision **(Appendix AP2)**

Reference is made by the case officer in terms of a recent appeal decision under Class Q under PINS reference APP/Y3940/W/23/3319335.

It is noted that the LPA advanced in that reference to the notable judgement in *Hibbitt* where it was held that development should not be so extensive as to amount to a 're-build' or 'fresh build', such as where the starting point is that a building is 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

The Inspector is clear that :
(15) Whether the proposal would amount to a conversion or a re-build, to use the language in Hibbitt, is ultimately a matter of planning judgement for the decision maker

In terms of this case the Inspector notes, with our emphasis:
"However, the building only comprises the steel portal frame and the cladding, with no solid walls or doors, and is therefore still quite skeletal in form. The cladding to the building, whilst enclosing the interior, does not have the structural integrity or permanence of a wall.

The cladding is also not a material that would typically be used for a residential dwelling, and its retention appears, at least in part, to be in support of the case that the building is not skeletal, as without it the structure would be reduced to just the steel portal frame and almost certainly would amount to a re-build

However, even with the cladding retained, its lightweight nature is such that the proposal would require full floor-to-ceiling walls to be constructed inside of it to all four sides of the building, and a ceiling underneath the roof to provide insulation and make the building weathertight

Although the windows and doors are indicated on the plans to fit within existing openings, they would in fact have to be fitted within the proposed walls as they could not be supported solely off the existing cladding or the steel portal frame."

In conclusion the Inspector states:

"Drawing matters together, I find that the existing building is a skeletal structure comprising a steel frame, floor slab and lightweight external cladding designed for agricultural purposes. For the reasons set out, it is my judgement that the building, as it stands, is not suitable for conversion to a dwelling as the totality of works required to create a habitable building would

be substantial and would go beyond what is reasonably necessary to convert the building to a dwelling."

As set out on the proposed plans and indeed within the Scope of Works which accompanies this letter, the building the subject of this application, is clearly most materially different to that in the "Mere appeal case" because of its structural integrity in terms of its floor, all of its walls and indeed its roof.

It is clearly not a "skeletal structure with cladding" but a solid structure where the roof, all walls and the floor would not need to be replaced in order create a dwelling it would simply require the insertion of appropriate doors and windows and internal upgrades to meet building regulations. This appeal case, save for setting out the "appropriate assessment" under Part Q has limited if any relevance in terms of the application currently before the LPA for determination.

Conclusions

It should not be lost on the LPA that a fundamental aim of planning policy and indeed legislation through the GPDO is the conversion of redundant agricultural buildings to form new housing within rural areas thereby avoiding the use of greenfield sites.

In this case the building is redundant and is a substantial structure in terms of its floor, all of its walls and its roof and it is submitted it would only require internal alterations and provision of windows and doors to allow for the existing building to be converted to residential it quite simply does not need to be rebuilt in order to achieve the new land use as proposed,

On that basis and given that this building would comply with all of the other requirements of part q it is submitted that it is the epitome of the government's aims and objectives to re-utilise redundant agricultural buildings within the rural areas to provide the new homes.

In light of the information contained within this letter and the Scope of Works Document we submit that the change of use and alterations of this agricultural building to form one "small" dwelling is wholly in accord with Class Q of the amended General Permitted Development Order 2018 and the Prior Notification Procedure.

If the Council require any further information, then please do not hesitate to contact us.

Yours sincerely

anthony allen

Mr A.M Allen
Managing Director

The Old Fire Station EC, Salt Lane Salisbury SP1 1DU
www.allenplanning.co.uk
Tel: 01722 503527 or 07827 446075
tony.allen@allenplanning.co.uk