



Appeal Decision

Site visit made on 10 March 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2020

Appeal Ref: APP/V3310/W/19/3243687

**Former Milking Parlour and Dairy at: Ashton Farm, Ashton, Wedmore
BS28 4QB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr A Cook against the decision of Sedgemoor District Council.
 - The application Ref 15/19/00011, dated 5 September 2019, was refused by notice dated 4 November 2019.
 - The development proposed is the 'change of use of the former milking parlour and dairy building to 5 residential units, including associated works. To be accessed via existing access track. Proposals also include the removal of adjacent agricultural buildings.'
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Decision

1. The appeal is dismissed.

Procedural matter

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order, as amended (GPDO) allows 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), and building operations reasonably necessary to convert the building to such use. The determination of this appeal has been made on the basis of both a proposed change of use and associated building operations. It was on the basis of the building operations proposed going beyond that reasonably necessary to convert the building, that the Council refused to grant prior approval.

Main issue

3. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

4. Paragraph Q.(b) of Class Q sets out that the permitted development right allows for the building operations reasonably necessary to convert the building. Paragraph Q.1(i) places restrictions on what constitutes building operations. For example, installation or replacement of windows, doors, roofs, or exterior walls to the extent reasonably necessary for the building to function as a

dwellinghouse. Furthermore, it may include partial demolition to the extent reasonably necessary to carry out such building operations.

5. My attention has been drawn to *Hibbitt v SSCLG [2016] EWHC 2853 (Hibbitt)* and advice in the Planning Practice Guidance (PPG)¹. *Hibbitt* held that the building must be capable of conversion to residential use without operations that would amount either to the complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. I have had careful regard to the principles set out within *Hibbitt* and the PPG. It is a matter of planning judgement based on fact and degree. Both parties provide examples of how to apply the principles within their evidence. However, none are identical to this appeal such as to set a precedent.
6. The south-east corner of the building, (annotated on the submitted plans as tank/storage) is enclosed by concrete blockwork and appears substantial. However, the remainder of the building is part of a row of large, steel-framed sheds. The sheds are partially enclosed by block work and metal gates to retain the animals within. Above this are open sections and hit-and miss timber boarding to allow through ventilation. As such, large sections of the building are open, including the entirety of the proposed north elevation which is currently part of the interior of the cattle sheds.
7. The proposal includes the demolition of the adjoining sheds to the north. The demolition far exceeds the cumulative footprint of the five proposed dwellings. It would be, at least in part, necessary in order to facilitate the proposed dwellinghouses to function. However, the extent of demolition would nonetheless be significant. The appellant's structural appraisal confirms that the existing steel framed structure is in good condition and can support the proposed works. I have no substantive evidence to reach a contrary conclusion. However, the proposal shows significant works to the walls of the building in order to facilitate the change of use. The proposal includes provision of walls where currently there are none. Furthermore, it provides openings that appear unrelated to those limited number of openings within the existing building, removing much of the existing blockwork.
8. Additionally, I note that the roof is covered with corrugated cement fibre sheeting, save for a large number of regularly spaced rooflights. The appellant's structural survey also records that this is generally in good condition. The appellant states that the roof coverings would be retained, except for omitting the translucent roof lights and the vented ridge. However, I have no evidence as to how practical such a proposition would be. The appellant has provided various examples of different Class Q conversions, including proposals to retain a fibre cement roof e.g. Crossways Farm. However, I do not have full details of whether these involved removing rooflights or a vented ridge, and each case will be different, so I have assessed the appeal on its own facts. Even if I were to accept that this can be achieved without effectively replacing the existing roof covering entirely, that does not alter my findings in relation to the extensive building operations considering the scheme as a whole. These amount to a substantial re-build of the pre-existing structure, in effect, the creation of a new building.

¹ Paragraph: 105 Reference ID: 13-105-20180615

9. Therefore, in conclusion, the proposal would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO. As such, for the reasons given above, I conclude that the appeal should be dismissed.

James Taylor

INSPECTOR