



Appeal Decision

Hearing Held on 9 October 2019

Site visit made on 9 October 2019

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2019

Appeal Ref: APP/V3310/W/19/3221047

**Agricultural Building, Wood Lane Farm, Wood Lane, Stawell, Bridgwater
TA7 9AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Miss Carol Easter against the decision of Sedgemoor District Council.
 - The application Ref 46/18/00010/DT, dated 9 August 2018, was refused by notice dated 20 September 2018.
 - The development proposed is the prior approval of the proposed change of use of an agricultural building to 4 no dwellings and associated operational development.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the hearing an application for costs was made by Miss Carol Easter against Sedgemoor District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this case is whether or not the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and, in particular,
 - whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or if the building was not in use on that date, when it was last in use, and
 - whether the works go beyond what could be reasonably described as conversion so as to be so extensive as to comprise rebuilding.

Reasons

Whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or if the site was not in use on that date, when it was last in use.

4. The appellant moved to Wood Lane Farm in 2006 and the holding consisted of a farm house, a grouping of barns and about 64 acres. The information

indicates that the holding was then used predominantly as an equestrian establishment and the letter of 14 September 2006¹ explains that, at that time, there were 36 equines on the holding.

5. In 2017, a Certificate of Lawful Use and Development application was granted on the basis that the farmhouse had not been occupied (by the appellant) solely or mainly by an agricultural worker and therefore the occupancy condition could not be enforced. The evidence submitted with this Certificate application explained the nature of the uses taking place since the appellant moved to the holding in 2006. The information indicated that the primary income had been derived from equestrian related work and from the sale of pedigree cats and dogs² (the Savills letter).
6. It is also clear from the information that there has been agricultural activity taking place on the holding. This consisted mainly of calve rearing and the information is that this took place in the appeal barn. However, the supporting information is that this activity was intermittent and the Savills letter explains that at no point does the calving activity represent a majority or primary income, equating to between 18%-29% of the total income in any given year and representing less than 18% of the overall income for the whole 11 year period. It appears that other farming activity, such as that concerning sheep and pigs, has operated on a minor scale and mainly for domestic consumption.
7. On 20 March 2013, (the date specified in Q.1.(a) of Class Q of Part 3 of Schedule 2 of the GPDO) there was no cattle on the holding and the evidence indicates that the appeal barn was in use for agricultural storage and fodder³. The barn had previously been in use for the housing of cattle and cattle were reintroduced in August 2013.
8. I noted at the site visit that the appeal barn lies in proximity to the non-agricultural buildings on the holding with the equestrian arena to the other side. The outside yards and circulation spaces appear to be jointly used to access the various buildings and land, including the appeal barn. I heard evidence at the hearing that, at times, the same equipment is used to scrape out the appeal barn and the equestrian turnout barn after their occupation by the various animals. This builds a picture for me that the holding is operated as a single entity.
9. The reasonably extensive acreage has mainly been used for the horses and, when they are being grazed, this can be considered to be an agricultural activity. I heard that during the winter months hay is brought into the fields to provide supplementary feed and therefore there is a likelihood that the horses are to some extent kept in the fields during this time rather than being entirely grazed as an agricultural animal. The horses on the holding are associated with the horse breeding enterprise and the commercial livery.
10. The appellant has described the use of Wood Lane Farm as being in a mixed use, including agriculture, equestrian and animal breeding⁴. The evidence also indicates that the present situation is broadly the same range and level of uses that have occurred during the period of occupation of the appellant, with the predominant use being equestrian, and I have no reason to believe that this

¹ Letter from Carol A Easter to Sedgemoor District Council dated 14 September 2006.

² Savills letter of 19 September 2017.

³ Carol Anne Easter statutory declaration dated 15 January 2019.

⁴ Planning Statement dated 7 August 2018.

was different on 20 March 2013. I heard evidence from the appellant that about 40-45 horses were present on the holding in March 2013.

11. In my view, based on all the evidence before me, the holding is occupied as a single unit with a mix of uses, with agriculture a minority part of the commercial activities, albeit for the majority of the time the land is grazed and this falls within an agricultural use. The relevant part of the GPDO requires the site was part of an established agricultural unit. This means, in this case, agricultural land occupied as a unit for the purposes of agriculture on or before 20 March 2013. I consider that there was no identifiable established agricultural unit at that time, or before, because the agricultural activities were a minority part of the trade or business on the holding and the agricultural use of the site was mixed in with the other uses across a single unit of occupation.
12. Notwithstanding that I am satisfied, on the balance of the information⁵, that the appeal barn has been used solely for agricultural purposes, I have not found that the site was part of an established agricultural unit on or before 20 March 2013. As a consequence, the proposal would not comply with the relevant limitation (Q.1.(a)) in this part of the GPDO.
13. In the light of the above analysis, I conclude that the site was not part of an established agricultural unit on or before 20 March 2013 and therefore the relevant limitation in Class Q in this respect would not been met. The proposal would therefore not be permitted development.

Whether the works go beyond what could be reasonably described as conversion so as to be so extensive as to comprise rebuilding.

14. Various appeal decisions⁶ on this issue have been drawn to my attention as well as the Hibbitt⁷ case. All these examples are instructive and I have had regard to the information and advice. However, it is a matter of judgement in each case, based on the evidence, as to whether the proposed works in respect of any building would constitute a conversion or be so extensive as to be a rebuilding.
15. In this case, the evidence indicates that the steel frame of the building is based on good foundations and would lend itself to the proposed conversion with the cross-walls and floors providing reciprocal stability⁸. I have also had regard to the cross sectional drawing and the accompanying details from the architect.
16. Based on this information, I am satisfied that the roof covering and existing external cladding would be able to be retained and the structure is suitable for conversion to residential use. The other works, including the installation of the full height windows and other openings would meet the GPDO requirements as they do not go beyond the extent reasonably necessary for the building to function as a dwellinghouse. The Planning Practice Guidance provides support to this approach and confirms that for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow

⁵ Including the evidence in the Certificate application, representations from local residents, photographs with the letter dated 23/7/2019 from David Davies, statutory declarations and appeal decision APP/X1545/W/18/3198348.

⁶ In particular APP/B3438/W/18/3202031, APP/J0405/X/17/3187267, APP/J0405/W/17/3187268, APP/V3310/W/17/3179249, APP/P3040/W/16/3165076 and APP/Y1138/W/19/3231918.

⁷ Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

⁸ Report on Structural Engineers Survey of a barn at Wood Lane Farm as at 27 March 2018.

for a floor, the insertion of a mezzanine or upper floors within the overall floorspace permitted, or internal walls, which are not prohibited by Class Q.

17. In the light of all the information before me, I conclude that the works would constitute a conversion and therefore, in this respect, comply with the relevant requirement of Class Q of the GPDO.

Conclusion

18. I have found that the works would constitute a conversion in terms of Class Q, however, it is necessary for a proposal to meet all the requirements to benefit from permitted development rights. I have also found that the site was not part of an established agricultural unit on or before 20 March 2013. In this respect the proposal would not comply with limitation Q.1.(a) and therefore would not be permitted development.
19. Paragraph W.(3)(a) of Part 3 of Schedule 2 of the GPDO states that the local planning authority may refuse an application, where in the opinion of the authority the proposed development does not comply with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question. In these circumstances, the proposal would not comply with the requirement in Q.1.(a) of Class Q of Part 3 of Schedule 2 of the GPDO and therefore the works would not be permitted development. In these circumstances, I am not able to go on to consider the prior approval matters.
20. For the above reasons, and having regard to all other matters raised, I conclude that the proposal would not be permitted development and, therefore, the appeal should be dismissed.

David Wyborn

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr David Davies	Clive Miller & Associates
Mr Huw Montgomery	Architect
Miss Carol Easter	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Dean Titchener	Sedgemoor District Council
Mr Stuart Houlet	Sedgemoor District Council

INTERESTED PERSONS

Mr Garry Saunders	Local Resident
Mrs Jan Stuart-Jones	Local Resident
Miss Christiane Birkenbeil	Vet to the appellant

Documents submitted at the hearing:

- 1) Photos, plans and appeal decision APP/Y1138/W/19/3231918 – Whipcott Heights, Lane past Higher Whipcott Farm, Holcombe Rogus, Devon TA21 0NA.
- 2) Letter from Carol A Easter to Sedgemoor District Council dated 14 September 2006.