



## Appeal Decision

Site visit made on 25 January 2021

**by Andrew Bremford BSc (Hons) MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 March 2021**

---

**Appeal Ref: APP/R3650/W/20/3262254**

**Tythe End Farm, Guildford Road, Cranleigh GU6 8QZ**

- 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.
  - The appeal is made by Mr and Mrs Tony Johnson against the decision of Waverley Borough Council.
  - The application Ref PRA/2020/0018, dated 19 August 2020, was refused by notice dated 9 October 2020.
  - The development proposed is for a change of use of agricultural building to 5 dwellinghouses (Class C3) and for building operations reasonably necessary for the conversion.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have used the description of the development given on the appeal form and the Council's decision notice as it more accurately describes the proposed development than that given on the application form.
3. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). Class Q permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a dwellinghouse (Class C3). However, there are a number of circumstances where such development is not permitted, which are listed in paragraph Q.1. The Council's reason for refusal refers to one of these limitations.

### Main Issue

4. The main issue is therefore whether the proposal would be permitted development under Class Q, having particular regard to whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.

### Reasons

*Whether the proposal would be permitted development*

5. The proposal relates to a large single storey building with a corrugated metal roof, located approximately 20 metres west of a bungalow. At the time of my

- visit I saw that the subject building was configured for use as storage and stables.
6. The appellants state that the site location plan, which labels the site as 'Tythe End Farm Stables', identifies the subject building and the deemed curtilage area. The plan shows the site boundary within which are labelled 'existing sand school', 'existing bungalow' and 'existing stables' (the subject building). Based on the information before me and my observations, I see no reason to disagree with the appellants that the curtilage area of the building is as delineated on the site location plan.
  7. Paragraph X of Schedule 2, Part 3 of the GPDO defines 'site' as the building and any land within its curtilage. The matter in dispute between the Council and the appellants is whether the appeal site (the building and the land within its curtilage) was used *solely* for an agricultural use as part of an established agricultural unit on 20 March 2013. Consequently, the outcome of the appeal rests on the evidence relating to this matter.
  8. Whilst it refers to an earlier refused application for prior approval<sup>1</sup>, in support of their case the appellants have provided a statement of oath which states that on 20 March 2013 the building in question was solely used for agriculture. It also states that the barn and land has always been used for agricultural purposes and refers to a supporting letter from Ruth and Richard Tilley. The letter is signed by Mr Richard Tilley and Ms Ruth Tilley and states that they have used Tythe End Farm for their sheep business from 1 March 2013 to the present day. Moreover, over this period they have used the farm buildings for lambing, shearing, storing feed and dry storing farm machinery, and used the land/fields for sheep grazing, lambing and making hay.
  9. Other letters from Mr Edward Tilley and Mr David Kleboe state that on 13 March 2013 the land and barn at Tythe End Farm was solely being used for agricultural purposes. In addition, a letter from Aubrey Wilson of 'ACW arborists' states that over a number of years when carrying out work around the perimeter of the fields he has only ever seen the barn, yard and land used for agricultural purposes.
  10. The Council contend that there is substantial documentary evidence, submitted by the appellants in support of previous applications, of equine and residential uses of at least part of the land to which the application relates.
  11. In this regard, the Council point out that in the 2019 withdrawn application<sup>2</sup> for development at the same site, the existing use of the site, which includes the appeal building, is described as 'Residential/ Agricultural/Stables and associated storage'.
  12. Furthermore, an earlier application<sup>3</sup>, dated 4 October 2013, for a Lawful Development Certificate for an Existing Use, granted on 2 December 2013, established residential use for the property known as 'The Bungalow'; a building sited in the same position as the building labelled as 'existing bungalow' on the appellants site location plan which I consider, as a matter of fact and degree, to be the same property. Moreover, the buildings to the west of 'The Bungalow', which includes the building the subject of this appeal, are

---

<sup>1</sup> Local Planning Authority Ref: PRA/2020/0007

<sup>2</sup> Local Planning Authority Ref: WA/2019/2006

<sup>3</sup> Local Planning Authority Ref: WA/2013/1670

labelled as 'The Stables' on the approved location plan and the supporting statement, dated October 2013, describes the collection of buildings known as 'the stables' as being used for equine purposes. An affidavit from Donald Arthur Sainsbury confirms that, whilst living in a mobile home next door to the bungalow in the periods 1995 to 1997 and 2000 to 2005, he kept his own horses in the stables and helped with the maintenance and looking after of the appellants' horses. Another affidavit from Timothy Andrew Squire confirms that he and his partner lived in the bungalow between November 2010 and September 2012, during which time his partner kept her horses on the property and in return helped look after Mrs Johnson's horses. Mr Johnson's own affidavit (July 2013) confirms this arrangement in so far as it states that in November 2010 Mr Squire and his partner moved into the bungalow with his partner's two horses moving into the yard. In an email, dated October 2013, the agent for the application states that there is a building used as a tack room near the bungalow with a corrugated metal roof. Moreover, the Council's officer report records that the case officer, following a site visit made on 27 November 2013, describes the buildings sited approximately 20 metres to the west of the bungalow as equestrian buildings.

13. In addition to the Council's evidence, I also note that interested parties, some of whom have lived close to the appeal site continuously since before 20 March 2013, state that they can only ever recall seeing and hearing horses on the property. Such observations do not run counter to the Council's evidence that at least part of the site had equine use for substantial periods before and after 20 March 2013. Moreover, the evidence provided in support of the 2013 application provides conclusive proof of residential use of part of the site.
14. Accordingly, on the balance of probability, and based on the collective weight of the various strands of evidence, I have reason to doubt the appellants' contention that the appeal site (that is the building and the land within its curtilage) was used *solely* for an agricultural use as part of an established agricultural unit on 20 March 2013. As such, the appeal proposal fails to meet the requirements of paragraph Q.1.(a) of Schedule 2, Part 3, Class Q of the GPDO and therefore does not constitute permitted development.

#### *Prior Approval*

15. Given my conclusion that the proposed change of use would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

#### **Conclusion**

16. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO.
17. The appeal is, therefore, dismissed.

*Andrew Bremford*

INSPECTOR