

Delegated Report

Planning Ref: 23/00783/CLE
Applicant: Mr and Mrs Wright
Ward: Markfield Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: Willow Farm Thornton Lane Stanton Under Bardon

Proposal: Certificate of Lawful Development Use of existing agricultural buildings as livery stables and associated equine storage as part of a livery business

1. Recommendations

1.1. Grant Certificate of Lawful Existing Use

2. Planning application description

2.1. This is an application for a Lawful Development Certificate for an existing use to confirm, on the balance of probabilities, that the agricultural buildings have been utilised as livery stabling and associated equine storage as part of a livery business for a continuous period of ten years or more at Willow Farm, Thornton Lane, Stanton Under Bardon.

2.2. The following documents/information have been submitted to support the application:

- Application Form
- Block Plan
- Planning Statement
- Schedule of Submitted Documents
- Site Location Plan

2.3. This application has been submitted in conjunction with a Lawful Development Certificate Application, 23/00777/CLE, and a full planning application, 23/00784/FUL. The first of which seeks to determine the lawfulness of the occupation of a bungalow within the site that has been occupied without complying with its restrictive occupancy condition for a period in excess of ten years, and the second seeks full planning permission for the retrospective change of use of agricultural land to a commercial equestrian use alongside the retention of an outdoor riding manège.

3. Description of the site and surrounding area

3.1. Willow Farm features several agricultural buildings that consist of a 36.5m wide x 12m deep cattle shed, a smaller agricultural building to the east of the cattle shed, a small wooden stable block and tack room, an additional 12m wide x 24.5m deep cattle shed, and a former public house.

3.2. Alongside these buildings, Willow Farm consists of two residential dwellings, and a menage. Willow Farm is located to on the north-western side of Thornton Lane and is accessed via a 243m long private track. Thornton Lane is an adopted, but unclassified road subject to the National Speed Limit.

3.3. The application site is located within Charnwood Forest and the National Forest and outside of any identified settlement boundary in the designated open countryside. The site is verdant in character and is surrounded by open agricultural fields. To the north and northeast of the site is Public Right of Way, Footpath R122, and to the west and northwest of the site is Public Right of Way, Footpath R9.

4. Relevant planning history

4.1 23/00784/FUL

- Change of use of land from agricultural to equestrian use and retention of outdoor riding menage
- Awaiting Decision
- TBD

4.2 23/00777/CLE

- Certificate of Lawful Development Use of existing agricultural bungalow as an unrestricted residential dwelling (C3)
- Awaiting Decision
- TBD

4.3 93/00686/4

- Extension to bungalow
- Permitted
- 14.09.1993

4.4 86/00100/4

- Erection of detached agricultural bungalow
- Permitted
- 25.03.1986

4.5 80/01543/4

- Erection of two farm buildings
- Permitted
- 23.12.1980

4.6 80/00181/4M

- Erection of agricultural buildings
- Permitted
- 23.12.1980

4.7 79/00663/4

- Erection of agricultural buildings
- Approval of Reserved Matters
- 22.08.1979

4.8 77/01376/4

- Erection of farm bungalow and buildings
- Outline Planning Permission
- 08.05.1978

5. Publicity

5.1. The application is for a Certificate of Lawful Existing Use and no publicity is necessary.

5.2. Nevertheless, a site notice was posted in the vicinity of the site, but no responses were received.

6. Consultation

6.1. The application is for a Certificate of Lawful Existing Use and no consultation is necessary.

- 6.2. Nevertheless, the Local Highway Authority, and the Council's Drainage, Pollution and Waste Management Officers were consulted on the application, and none of them had any objections to the Certificate.

7. Policy

- 7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and Section 191 of the Town and Country Planning Act 1990, as amended by Section 10 of the Planning Compensation Act 1991, provide advice and guidance in respect for applications for Certificates of Lawfulness of Existing Use.
- 7.2. Planning Practise Guidance confirms that the Applicant is responsible for providing sufficient information to support the application and that such evidence should be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

8. Appraisal

- 8.1. The time period for immunity from enforcement action for this breach of planning control is 10 years. As such, the key issue for consideration is whether the land and building in question have been used continuously for an agricultural use for a period of 10 years from the date of this application.
- 8.2. In applications such as this, if the Local Planning Authority has no evidence itself to contradict or otherwise make the Applicant's version of events less than probable, there is no good reason to refuse the application, provided that the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probabilities.
- 8.3. It is against this legislative framework that the application is assessed.
- 8.4. The Applicant claims that the agricultural use of the site ceased in 2001 after the Foot and Mouth epidemic, and the site has been used as a livery since 01 January 2003. Since then, the 36.5m wide cattle shed is now utilised as stabling for up to 14 horses, the smaller building to the east of this cattle shed provides a further five stables. In addition, the other cattle shed, and the former cubicle house have been utilised for the storage of equipment, hay, and bedding for the horses.
- 8.5. To support this claim, the Applicant has provided historic satellite images of the application site between 2006 and 2023, NFU certificates of public and product liability insurance and NFU mutual correspondence between 2013 and 2023, a receipt for the outdoor riding menage, a receipt for the internal stabling, statutory declarations from the tenants renting stables, and undated photographs of the site.
- 8.6. The receipt for the outdoor riding menage dates from 19 January 2004, and the receipt for four stables is dated 18 May 2005. Furthermore, the Applicant has provided NFU mutual certificates of public and product liability insurance since 26 November 2012 for a livery stable proprietor and woodland/landowner.
- 8.7. Alongside this information, the Applicant has provided ten statutory declarations from people who have declared that the buildings at Willow Farm have been utilised for the purposes of livery stabling continuously since between 24 June 2001 and 30 August 2016. Whilst one statutory declaration suggests the buildings have been used for livery stabling since 30 August 2016, eight of the statutory declarations

assert the livery stable business has been continuously active for a period of over ten years.

- 8.8. Upon undertaking a site visit, the Planning Officer noted that the application site was used entirely as a livery business. Alongside the use of the existing farm buildings, this was seen through the number of horse boxes and trailers that were parked within the site. Based on historic satellite images, the menage has also been present within the site since at least 2006.
- 8.9. Furthermore, there are traffic signs indicating the presence of horses, which have been formally established along Thornton Lane near the application site. Based on historic Google Street View images, these traffic signs have been adjacent to the application site the since at least 2009.
- 8.10. By virtue of these factors, it is considered that the agricultural buildings at Willow Farm, Thornton Lane, Stanton Under Bardon have been utilised for livery stables and associated equine storage as part of a livery stable business for an uninterrupted period of 10 years at this site. The Council has no information to contradict the Applicant's claims, and, on the balance of probabilities, the use of the application site can be considered lawful and immune from Enforcement Action. A Certificate of Lawful Existing Use may be granted.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
 - (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The information included in the application for a Certificate of Lawful Existing Use has sufficient evidence to demonstrate that the agricultural buildings at Willow Farm, Thornton Lane, Stanton Under Bardon have been utilised for livery stables and associated equine storage as part of a livery stable business for an uninterrupted period of 10 years at this site. On the balance of probabilities, the use

of the application site can be considered lawful and immune from Enforcement Action. A Certificate of Lawful Existing Use may be granted.

- 10.2. It is recommended that a certificate is issued because sufficient unambiguous evidence presented by the Applicant, combined with the evidence that the Local Planning Authority have in their possession, has shown that, on the balance of probabilities, agricultural buildings at Willow Farm, Thornton Lane, Stanton Under Bardon have been utilised for livery stables and associated equine storage as part of a livery stable business for an uninterrupted period of 10 years at this site, and is subsequently immune from any enforcement action.

11. Recommendation

11.1 Grant Certificate of Lawful Existing Use.