

2023/0888

Mrs J Birkett

Lawful development certificate for existing use of agricultural building as a residential dwelling

Birkland Farm, Fullshaw Lane, Langsett, Sheffield, S36 9FD

Description

The site currently consists of a number of barns and outbuildings set in an isolated position off Fullshaw Lane, Langsett. The site has been previously used for agricultural purposes. The agent states that the late Mr Michael Steven Birkett and Mrs Birkett (the applicant) bought the land at Birkland Farm of 7.9 Acres, back in July 1990. Mr and Mrs Birkett moved up to Birkett Farm in 1993 residing in a self-contained mobile home/static. The mobile home/static, now located within the barn, was initially located to the East of the Poultry coop just to the North of the private drive. In autumn 1994 the mobile home/static roof developed a leak which resulted in the mobile home/static being moved into the barn, within the side lean to. It still remains there to this day and the agent states that it is still being used as a self-contained dwelling.

Further works were carried out internally within the barn. In 1996, the kitchen area was formed with the living area to the rear of the barn being formed in 2003. The late Mr Michael Birkett was a butcher by trade but worked within a local abattoir in Huddersfield. He kept on with his own butchery for friends and other small scale local farmers. The agent states that the butchery and meat processing aspect was not an agricultural operation and more of a commercial operation. The area used for butchery purposes, meat hanging/food prep and butchery store, is not included within this residential COL application.

Background

B/91/0269/PR Erection of agricultural building (Field No. 8691).

B/92/0725/PR Erection of extension to barn

Proposed Development

The applicant has applied for a Lawful development certificate for existing use of agricultural building as a residential dwelling at Birkland Farm. The areas of the site applied for residential purposes include:-

- The formal dwelling area. The rear area of the barn (living room), the mobile home within the barn (forming additional living accommodation and the Kitchen/bathroom area (within the former/original barn).
- The ancillary domestic rooms/outbuildings. These are currently used for domestic purposes, such as the processing of firewood/ logs, coal store, garage, workshop, store gardening equipment, tool stores, etc (all non-agricultural but all akin with the established residential use).
- The Domestic area (curtilage). The extensive garden areas to the West and South West of the building domestic buildings. The google earth image submitted with the application is dated December 2002, subsequent images show the garden areas in question.

- The secondary access track up the North side of the main building, round the back (West) is not included within the shaded domestic garden area. This, although not fenced off (is has only been used for vehicle access), is a secondary access to the agricultural land. The principle access to the same parcel of land is via an alternative gate from the front paddock.



2023 Google map

Google earth December 2002 image



A summary of the evidence provided is detailed within the 'Assessment' section of this report.

Consultations

Legal – They have the burden of proof but the standard is on a balance of probability unless we have contradicting evidence.

Assessment

The LPA can grant a certificate confirming that an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under Section 191 of the Town and Country Planning Act 1990. The applicant has submitted this application for lawful use of the relevant area of land under Section 191 of the Town and Country Planning Act 1990. Section 191(1) provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful they may make an application for that purpose to the local planning authority specifying the land and describing the use, operations or other matter. Section 191(4) further provides that if, on the basis of the information provided in the application, the Council is satisfied at the time of the application of the use, and the Council is obliged to issue a certificate to the effect that the use is lawful. It should therefore be assessed whether the use of the land is lawful under the Town and Country Planning Act 1990 on the basis. If the 10 years is established for the use the Council would not be entitled to take enforcement action in respect of the breach and the present use would thus be lawful.

The application relates to buildings at Birkland Farm. The applicant has applied for a Lawful development certificate for the existing use of the buildings (specified within the submitted documents) as a residential use. In terms of the submitted evidence, the applicant has provided a 'Building Mass Record + Photos'. This, based upon a detailed site survey and photographs (taken on Friday 21st July 2023). This document clearly demonstrates the use of each building at the time of the survey.

Appendix A contains other documentary evidence;

- Pg 9 - Register of electors dated 2004 (evidencing the presence and registration of Mr

Michael Sam Birkett and Mrs Janet Birkett at the property)

- Pg 10 - Lloyds TBS letter dated 19th March 2009 Addressed to Mrs J Birkett at the subject property regarding the land.
- Pg 11 - Letter dated 29/01/1996 addressed to Mr Michael Birkett at the property, form Barnsley MBC Exchequer Division re confirmation of payment agreement (council tax)
- Pg 12 - A Lloyds TSB Bank statement addressed to Mrs Birkett a the subject property, dated 28 May 2012.
- Pg 13 - A photo (pg 14) of Mrs Birkett and her sister in May 2007 within the garden area. Mobile/static clearly evident within the side lean to of the barn (refer to window). Note Mrs Birketts sister emigrated to New Zealand in 2008

Further accompanying letters (witness statements) accompany the application, these are from other local residents with a long standing historical knowledge and recollection of the subject site, that the 'Building Mass Record + Photos' refers to. These can be found within Appendix B of this statement. Appendix C contains the applicants sworn statement, Mrs J Birkett.

After liaising with the Legal Officer, conducting a detailed site visit (internal and externally) and considering the evidence submitted by the applicant in the form of the sworn statements and other evidence detailed above, it is clear that given these statements, that the buildings in question have been in residential use for 10 years or more. There is therefore sufficient evidence to show that the buildings and curtilage shown on the submitted plans has been used for domestic purposes for more than 10 years and an LDC for this use can be granted.

Recommendation: Grant