DELEGATED REPORT

Application Reference:	PL/2023/04917
Application Type:	Lawful Development Certificate
Site Address:	Lower Grove Farm, Grove Lane, Yatton Keynell, Chippenham, SN14 7BS
Proposal:	Certificate of lawfulness for continued use of outbuilding as an annex
Recommendation:	REFUSE to grant certificate

PROPOSAL

A Lawful Development Certificate (LDC) under s191 to the Town and Country Planning Act 1990 (as amended) seeking confirmation that the existing use of a building ancillary to a residential property known as Lower Grove Farm, Grove Lane, Yatton Keynell, is lawful. It is claimed within the submission that the use of the building has taken place for at least ten years.

Information provided by the applicant

- Application form
- Location Plan
- Letter from B Louveaux
- Floor plans, roof and site plan, elevations and photos
- MCS Installation Certificate
- Electrician quote
- Site plan
- Statutory Declaration S Gaskell

Other evidence available

- Building Regulations records
- Publicly available online evidence
- Aerial photography
- Council Tax/Business Rates records
- Planning History

Within the submitted statutory declaration it is stated that the applicant, Simon Poland Harvey Gaskell and his wife Louisa Gaskell, are joint owners of Lower Grove Farm Yatton Keynell and have lived there since 2004.

It is also claimed that in 2007 the barn, shown as the annexe on the attached plan, was converted to provide an additional office and bedroom. An electricians letter, dated 3rd April 2007 is also supplied claiming works were undertaken to that effect. A further letter, dated 29.05.2013, has been provided from MCS Installation claiming installation of a wood pellet fired boiler.

The declaration goes onto say that since 2007 the business 'The Real Boar Company' has been run from the converted barn and that there have been many friends and family that used the bedroom accommodation

contained within the barn. It is contended that this use has been continuous, without a break, for a period in excess of 10 years and continues today.

PLANNING HISTORY

N/04/03406/FUL Mobile home in connection with agricultural operation for a temporary period of three years PER
N/04/03404/AGN Creation of access road PER
N/04/03405/AGN Erection of agricultural building PER
08/00228/FUL Permanent Site for Agricultural Dwelling with Temporary Consent for Existing Structure PER
N/10/03104/FUL New Single Storey Domestic Dwelling to be Built on the Site of a Temporary Dwelling PER
PL/2023/02903 Retrospective application for the change of use and conversion of outbuilding to provide annexe accommodation. WDN

CONSULTATION

Yatton Keynell Parish Council - No Objection, but refer back to comments made on withdrawn planning application PL/2023/02903. That being:
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> *‘The accommodation to remain ancillary to the applicant's primary residence. YKPC considers some of the descriptions given in the Planning Statement to be somewhat misleading. It is also noted that the premises have been advertised on Airbnb since 2016.’*

Council Highway Engineer – No objection

ASSESSMENT

Relationship of main dwelling and annexe

Permission was granted on 20.01.2005 at Lower Grove farm for the stationing of a mobile home in connection with an agricultural operation for a temporary period of 3 years in connection with the applicant’s business raising wild boar. The file indicates that in May 2005 a minor amendment was accepted for the revised siting of the mobile unit due to the positioning of a PRoW.

In 2008 permission was granted for a permanent site for an agricultural dwelling with temporary consent for the existing structure. Condition 2 required it to be removed by 1st May 2013.

In 2010 permission was granted for a permanent dwelling, steel framed with rendered walls and a steel roof, of a contemporary design was sought and granted. Condition 4 of said approval required the development be implemented as an alternative to the 2008 application, not in addition to.

The file further indicated that in discussions between the case officer and applicants’ wife, the intention was to utilize parts of the temporary structure under the roof of the new permanent property until they could fully afford the cost of the entirety of the new building. The applicant was advised by the case officer to submit two s73 applications to amend condition 2 of 08/00228/FUL and condition 4 of N/10/03104/FUL to allow for this and also to enter into a 106 agreement to ensure that only 1 permanent dwelling remained onsite. No

records of either the s73 applications or legal agreement are held by the LPA.

There is therefore some question whether the existing agricultural workers dwelling actually benefits from planning permission.

MCS Installation Certificate

The submitted certificate (Microgeneration Certificate Scheme) indicates that a Woodpecker Cosyman 25 was installed at 'Lower Grove, Grove Lane, SN14 7BS' on 25.05.2013. The certificate does not state that the wood pellet fired boiler was installed in the barn. Correspondence held under permitted development enquiry 20/04556/PDENQ from the applicant, states that the original boiler broke and its replacement was located within the carport, shown on a submitted diagram as being within the main house. The correspondence from the applicant (email dated 04.06.20) does state that the boiler was used to heat the house and the office.

Electrician quote from Ron Doughty

The submitted quote entitled 'Electrical Work in Store and Office Area', refers to the installation of sockets and relocation of sockets, installation of Bulkhead fittings and a fuse board on existing supply. It is not specified that the store and office area are in the barn (the subject of the CLE).

Letter from B Louveaux

The letter states that they have stayed in the annexe at Lower Grove on numerous occasions and that before the house was built, it was the only spare room.

Statutory Declaration of Mr Simon Gaskell

Mr Gaskell states that the barn was converted in 2007 to provide an additional bedroom and a dedicated office from which to build his business, the 'Wild Boar Company'. He further states that this use has been continuous, without break, fo a period of in excess of 10 years and continues today.

As noted above, Yatton Keynell offered no objection to the application however refer back to their comments made on withdrawn planning application PL/2023/02903:
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> *'The accommodation to remain ancillary to the applicant's primary residence. YKPC considers some of the descriptions given in the Planning Statement to be somewhat misleading. It is also noted that the premises have been advertised on Airbnb since 2016.'*

www.airbnb.co.uk show a property referred to as the 'Owl House' Photographs show the interior and exterior of the property which match the application building.

15 reviews of the barn, from May 2019 to May 2022 have been posted online.

The LPA considers that the use of the building as an Airbnb would have required planning permission as it is wholly self - contained and not just a room in a family home. Furthermore the building is not located within the garden of Lower Grove Farm but is in an agricultural field to the north of the access track.

The use as an Airbnb is not ancillary to the use of Lower Grove Farm as a dwelling and as such an uninterrupted continuous use has not been demonstrated.

On consideration of the above, on the balance of probabilities, the Council considers that a continuous relevant period upon which a Lawful Development Certificate could be granted has not been demonstrated on a balance of probabilities.

CONCLUSION

Whilst the Council does not disqualify the electrician quote and MCS Installation Certificate, there is some doubt as to whether they explicitly refer to the building in this CLE, thereby introducing significant doubt as to its value as evidence. Further, there is some doubt whether the main house itself benefits from valid planning permission, which in itself would render the building as being incapable of being an annex. In any event, the use as an Airbnb as was easily found by online advertising, breaks the 10 years of uninterrupted use.

In light of the above, and on the balance of probabilities, the Council is not satisfied that the legal tests are met in relation to use of the building and therefore, a Lawful Development Certificate cannot be granted in this instance.

RECOMMENDATION: That the application for a Lawful Development Certificate is REFUSED for the following reason:

On the balance of probabilities, it is concluded that the change of use and conversion of the outbuilding is not lawful and, as such, a certificate of lawfulness of existing use or development cannot be granted under s191 to the Town and Country Planning Act 1990 (as amended).