Planning Services

Directors: A W Newby B.Sc DMS
G Peacegood B.Sc PhD
Registered in England N* 2458413
VAT N* 536 8272 24

Townend
Waterfall
Waterhouses
Staffs ST10 3HZ
Tel (01538) 308043
email: enquiries@pmeplanning.co.uk

Application for Lawful Use of Equestrian Turnout Area, Blake Edge Farm

1 Site and Applicant Details:

Mrs S. Bright
Blake Edge Farm
Fairfield,
Buxton,
Derbyshire SK17 7HR

Easting 407095
Northing 376218
Grid Reference: SK070762

2 Introduction

2.1 This application follows a planning contravention notice issued by High Peak Borough Council issued in respect of the unauthorised change of use of agricultural land for:

1). a residential caravan and associated items
2). horse ménage [sic]

2.2 Definitions:

The ménage referred to in 2.1 2). above, is referred to ibid as a 'turnout area' rather than as a ménage, since this is a more accurate description of it's design, construction and use.

The terms menage, ménage or manège are variously used although the correct term for an equestrian schooling arena is manège.

2.3 The area of land in question is marked on the attached block plan and is shown in the photographs appended to this document.

2.4 This Lawful Development Certificate application is submitted under section 191 of the Town and Country Planning Act 1990 (as amended) and seeks confirmation that the use of the 'turnout area' is lawful.

2.5 This application does not extent to lawful use of the residential caravan.

2.6 The Use of Evidence:

Annex 8 to Circular 10/87 relates to Lawful Development Certificates and confirms that the onus of proof in Lawful Development Certificate applications lies with the applicant and that if the Local Planning Authority has no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, then there is no good reason to refuse the application. This is provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

2.7 Lawfulness:

Section 171(B) of the Town and Country Planning Act 1990 (As amended) Paragraph 2) states that:

For the purposes of this Act uses and operations are lawful at any time if

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason)

2.6 Time Limits:

Section 171(B) Paragraphs 1 and 3 of the Town and Country Planning Act 1990 (As amended) sets out the limits as follows:

1). Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

3). In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

The time limits set out above are also covered in Circular 10/97 Annex 2, paragraph 2.4.

2.7 The Meaning Of Development:

Section 55 of the Town and Country Planning Act 1990 (As amended) sets out the meaning of development and new development as follows:

1). Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

2.8 The Definition of Agriculture:

Section 336 of the Town and Country Planning Act 1990 (As amended) defines agriculture as follows:

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

2.9 Permitted Development:

Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 describes various classes of permitted development for agricultural developments and operations. Class A Permitted development is described as:

The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of -

a). works for the erection of a building, extension or alteration of a building; or

b). any excavation or engineering operations,

which are reasonably necessary for the purposes of agriculture

Applicants may apply for a determination as to whether prior approval is required under parts 6, 24 and 31 of Schedule 2 to the GPDO but are under no obligation to do so.

3 The applicant's case:

3.1 The applicants case is as that the breach of planning of planning control arising through change of use has exceeded the 10 year time limit for enforcement action.

3.2 The 'turnout area' comprises a raised level area to the east of the farm buildings. It measures approximately 30m in length x 24m in width. It is surfaced in limestone quarry dust and enclosed with sheep fencing with a top rail.

3.3 The 'turnout area' was built in April 1997 to provide a firm, well drained and level base upon which to store and handle silage bales and to manoeuvre, load and unload associated farm vehicles and trailers. It provided additional capacity, supplementing the original silage storage area which lies on the west side of the farm buildings.

3.4 It should be considered a turnout area rather than a manège since it has not been designed or constructed in a manner suitable for regular schooling:

1). The sub-base has been built without regard to drainage, filtration, or migration of surface material. A standard manege would be constructed with a herringbone drainage system, geo-textile membranes and graded aggregates.

2). The top surface of 0 - 5 mm 'washed fines' (limestone quarry dust), added in the winter of 1999/2000, is compacted and much to hard for regular schooling, especially when sun-baked. A standard manege would normally be constructed with chipped rubber, or sharp sand mixed with fibre.

3). The fencing is non standard sheep fencing, is too low with no kick-boards at the base, although a top rail with electric fence tape has been added to reduce the risk of entanglement in the sheep fencing when horses lean over to reach vegetation outside of the fencing.

4). The size of the turnout area is non-standard. A standard BHS domestic manège measures 40m x 20m which affords standard pacing for dressage and quadrille. Given the available area, a manège measuring 30m x 20m would be significantly better than 30m x 24m since this at least provides standard pacing across the width.

3.5 The original construction and use of the area for storing silage bales was reasonably necessary for the purpose of agriculture and would have been permitted by the 1995 GPDO.

3.6 Blake Edge farm manages an estate of 390 acres of pasture and moorland. It is a mixed farm with approximately 300 ewes, 100 head of beef cattle plus followers and several horses....

3.7 The farm has raised horses for many generations. These include working, recreational and grazing horses.

For the last 60 years or so, the working horses have been bred, trained and cared for by the farm hand Bob who has lived and worked on the farm from the age of 12 - he is now 76. One of the work horses, a grey, has a bloodline which can be traced back through 8 generations at Blake Edge Farm. The horses are worked on a daily basis: harnessed to a cart loaded with haylage for feeding livestock, carting straw for bedding, harrowing pasture and a variety of general farm tasks.

Over the years, the farm has also raised generations of recreational and grazing horses. For example, Mrs Bright's daughter Sharon's first pony, named "Baby" was born in May 1975 now aged 37 years is named after her grandmother also raised on the farm.

The number of horses has varied over the years. When the 'turnout area' was constructed the farm kept around a dozen horses; four working horses, six breed mares including two retired mares, a small grazing pony named "Baby" and a riding horse named "Midnight".

3.8 Equestrian use of the turnout area began in the autumn of 1997. Initial use was incidental, makeshift and secondary to the storage of silage. During the summer, the horses would be out at pasture. Since poaching can be a problem when horses are wintered on pasture, part of the area not occupied by silage

bales would be sectioned off and the area used to turn out the horses. The area has also been used for breaking in and training young work-horses. Nonetheless, these secondary uses fall outside of the definition of agriculture as set out in Section 336 of the Town and Country Planning Act 1990 and therefore constitute a material change of use. (The initial breach)

3.9 In the winter of 1999/2000, a top dressing of 0 - 5mm washed fines was added to improve the standing for horses and the fencing was moved from the base of the grassed embankments to the perimeter.

3.10 Until the spring of 2000 the farm used 2 wheel drive Nuffield - Leyland tractors equipped with front loaders to stack bales. The limited reach meant that bales could not be stacked above two rows. The purchase of telescopic loaders and a new round baler capable of producing dense bales meant that more bales could be stored within the original storage area on the west side of the farm.

3.11 The addition of the top dressing and the use of new farm equipment for baling and handling bales freed up space within the 'turnout area' and increased the level of equestrian use. This further intensified an established unauthorised use.

4 The Evidence:

4.1 The evidence in support of the application is as follows:

1). A statutory declaration from Mrs Bright which provides an account of the development and use of the turnout area.
2). An aerial photograph captured on 10/7/1999.
3). A letter from Getmapping PLC which dates the aerial photograph.
4). Dated Photographs which show the construction of the turnout area
5). Dated Photographs which shows equestrian use of the turnout area.
6). Application HPK/2001/0460 sought change of use for a caravan storage area, sited next to the turnout area and approved 14/11/2001. By this time equestrian use of the turnout area was well established and self evident.

4.2 Accuracy of dates:

Some items of evidence, aerial photograph, application HPK/2001/0460 are dated precisely and are unambiguous. Other items, declarations and photographs have approximate dates e.g. season and year and are only accurate to a month or two. Given the breach of planning occurred 15 years

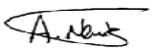
ago, well in excess of the 10 year time limit for enforcement action, the approximate dates are considered to be sufficiently accurate.

4.3 These items of evidence individually and collectively support the case that the breach of planning control arising through change of use has exceeded the 10 year time limit for enforcement action.

5 Conclusion

5.1 There is sufficient weight of evidence and the evidence provided is sufficiently precise so that on the balance of probability the breach of planning control has exceeded the 10 year time limit for enforcement action.

5.2 The applicant therefore asks that the council grant a Certificate of Existing Lawful Use.



Allen Newby B.Sc (Eng) DMS Wednesday, 25 January 2012
PME Planning Services

Photographic Evidence, in chronological order



Fig.1 Construction of silage storage area, spring 1997



Fig.2 Construction of silage storage area, spring 1997



Fig.3 Photo showing the 'turnout area', April 1999. The photo shows small bales of equestrian haylage and straw.



Fig.4 Aerial Survey Photograph ref 278559, 10th July 1999

Commercial-in-Confidence

Getmapping
Virginia Villas
High Street
Hartley Wintney
Hampshire RG27 8NW
Tel +44 (0)1252 849409
Fax +44 (0)1252 849444
Email shelly@getmapping.com
Web www.getmapping.com

12th January 2012

Order No: 278559

Dear Allen,

Getmapping can confirm that the imagery in question for the location below was captured on **10/07/1999.**

Easting: 407095

Northing: 376218

If you need any other information, we would be more than happy to help.

Yours sincerely,

Shelly Barriff
Sales/Finance Administrator
Getmapping Plc
01252 849490
shelly@getmapping.com



Fig. 5. Showing the turnout area in January 2012