



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2023

Appeal Ref: APP/B9506/X/23/3314497

Manor Equestrian Centre, Old Salisbury Road, Ower, Romsey SO51 6FA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ian Bridgett against New Forest National Park Authority.
 - The application ref 22/00552 is dated 14 July 2022.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which an LDC is sought is 'equestrian and dog training activities'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council considered the use for which an LDC is sought to be 'use of equestrian facilities for dog training enterprise and private hire of fields and venue'. There is no evidence to indicate that changing the description of the use applied for, indicated above, was ever discussed with or agreed to by the Appellant. The Council's description suggests a use of land for dog training whereas the Appellant maintains that the land has been consistently used for equestrian and dog training activities, which is why he is seeking an LDC for this use. There is no justification for changing the description of the use for which an LDC is sought.

3. The outcome of the appeal depends on an assessment of evidence relating to historical use of the land, rather than evidence of any use of the land since the date of the application. Consequently, a site visit was deemed to be unnecessary.

Reasons

4. Manor Equestrian Centre is in the countryside and is three parcels of land, separated by areas of woodland and water, that are about 4.2 hectares in total. The largest parcel is about 2.4 hectares and is subdivided into paddocks. Also on the land is an indoor riding school, a block of thirteen stables, and hard surfaced parking areas. The land was the subject of a planning application for 'change of use of land and buildings to riding school', and planning permission for this use was granted in November 1993.

5. The onus of proof in an LDC appeal is on the Appellant and he must provide sufficient precise and unambiguous evidence to justify a conclusion that, on the balance of probability, the land has been in use for equestrian and dog training activities for a period in excess of ten years. The ten-year period is often taken to be that period before the date of the application, but it can be any ten-year period, though if a lawful use becomes established through the passage of time it must not then have been abandoned.

6. The Appellant maintains that dog training activities on the land have been taking place alongside equestrian activities since 1992. The lawful use of the land, established by the grant of planning permission, is 'use of land and buildings as a riding school', so for an LDC to be granted there must have been a material change in the use of the land to a mixed use of 'equestrian and dog training activities' and that use must have subsisted for a period of ten years and must not then have been abandoned.

7. The Council accepts that the land has been used for a period in excess of ten years for dog training. They maintain, however, that the level of dog training activity has not been so great that there was a material change in the use of the land before, possibly, 2021 when "...extensive outdoor facilities were introduced". Though only snapshots in time aerial photographs taken in 2014, 2017 and 2020 do not show there to be any dog training equipment on the land, whereas an aerial photograph of 2021 shows dog training equipment on the land.

8. Supporting documentary evidence is, principally, letters and information from a variety of dog clubs and members of those clubs. Rental agreements for parts of the land and objections by nearby residents are not relevant. The letters and filled-out forms are not sworn and dated statutory declarations and can be afforded only limited weight. If they had been properly sworn statutory declarations, they would have been afforded significant weight. Nevertheless, the Appellant's case rests on the information and will be assessed.

9. Wellow Agility Club, on the evidence of T Hunt their Chairperson, has been holding classes for three hours on Wednesday evenings at Manor Equestrian Centre since 1992. This is corroborated by C Dunning, C Baynham, S Lloyd for 1996-2014, C Banfield for 1996-1997, 2003-2010 and 2014-2022, and A Splash for 2008-2012. G Wright refers to Sunday morning meetings by the Solent Dog Display Team between 2005 and 2018 and to Tuesday evening meetings of Eastleigh and District Dog Training Club (EDDTC) between about 1994 and 2002.

10. The Secretary of EDDTC has stated that the club held weekly evening meetings between the early 1990's and about 2005 but on Thursdays rather than Tuesdays as claimed by G Wright. On the evidence of J Debnam Dogkind Training School (DTS) held a three-hour class on Friday evenings between 2002 and 2014 and J Moss, Secretary of NEWForest Working Dogs, has stated that they have booked the school once a month on a Sunday afternoon throughout the winter months of October to March from 2005 to the present day.

11. Other third party evidence is vague and imprecise. The Appellant has referred to one off dog training events on the land but, again, this evidence is vague and imprecise. On the basis of evidence summarised in the previous two paragraphs regular weekly dog training sessions have occurred since 1992. But the only session that has occurred throughout is the Wednesday evening session by Wellow Agility Club. The evidence provided by the Chairperson of the club is corroborated by five other third parties.

12. EDDTC held a regular weekly dog training session but it is unclear whether this occurred on Tuesdays or Thursdays and the use ceased in 2005. The claim that DTS held a three-hour class on Friday evenings is uncorroborated and was only, on the evidence of J Debnam, between 2002 and 2014. NEWForest Working Dogs only meet on six days in each year and have only done so since 2005. Dog training on the land has occurred since 1992 on a regular basis but only for a few hours a week. Otherwise, this use of the land has been sporadic and intermittent.

13. Ms L Evans, for LETS Go Manor, the current operator of the site, has stated, in support of the appeal, that “When onsite, the owners often choose to keep horses at grass – keeping their allocated stables for storage and emergencies” and “The dog activities allow us to rest pasture and generate an income to keep us afloat until we can offer good grazing again”. It is clear from this and other evidence that there has been, in recent years, a greater emphasis on dog training activities on the land, rather than on the lawful equestrian use of the land.

14. However, at no time since 1992 has there been, on the balance of probability and as a matter of planning judgement, a ten year period when dog training activities have been at such a level that there has been a material change of use of the land from the lawful use of ‘riding school’ to a mixed use of ‘equestrian and dog training activities’. Dog training activities have occurred alongside the lawful equestrian use but have not become a primary use of the land, until possibly recently.

15. For the reasons given above the Council’s refusal to grant an LDC in respect of ‘equestrian and dog training activities’ was well-founded and the appeal thus fails. The powers transferred under section 195(3) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector