



Appeal Decision

Site visit made on 10 June 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

Appeal Ref: APP/M1710/W/25/3359798

Yew Tree Cottage, Eastland Gate, Lovedean, Waterlooville, Hampshire PO8 0SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Martin Price against the decision of East Hampshire District Council.
 - The application Ref is 26982/019.
 - The application sought planning permission for the change of use of agricultural fields to private equestrian paddocks, creation of associated manege and horse walker without complying with a condition attached to planning permission Ref 26982/018, dated 27 June 2024.
 - The condition in dispute is No 4 which states that: *No external lighting/ floodlighting shall be installed on the site until such details have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed, operated, and maintained in accordance with the approved details.*
 - The reasons given for the condition is: *In the interests of the amenity of the occupants of neighbouring properties and the amenity of the area.*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural fields to private equestrian paddocks, creation of associated manege and horse walker at Yew Tree Cottage Eastland Gate, Lovedean, Waterlooville, Hampshire PO8 0SR in accordance with the terms of the application, Ref 26982/019, subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs was made by Mr Martin Price against East Hampshire District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The appeal submissions indicate that planning permission was initially granted in 2017 for the change of use of agricultural fields to private equestrian paddocks, creation of associated manege and horse walker¹. On the basis of the evidence before me, I am satisfied that this constitutes the original act of development. In the banner heading and formal decision above, I have therefore used this description.

Background and Main Issue

4. Permission was granted for development described as the change of use of agricultural fields to private equestrian paddocks, creation of associated manege

¹ LPA Ref: 26982/003

and horse walker at the site². Condition 5 of the permission was imposed to safeguard the living conditions of the occupiers of neighbouring properties and the character and appearance of the area, through the requirement for the submission and approval of details of any external lighting/floodlighting.

5. While the details submitted pursuant to condition 5 were not formally approved by the Council, there is no dispute that condition 5 of the permission, was subsequently deemed to be discharged. As such, the Council's consent, agreement or approval to any matter as required by the condition is deemed to have been given, based on the submitted details required by the condition. Nonetheless, despite the deemed discharge of the condition, it was reimposed by the Council, in the form of condition 4 of a subsequent permission³ granted pursuant to s73 of the Town and Country Planning Act 1990 (as amended) in relation to the drainage of the site.
6. To provide clarity, the appeal seeks to vary the condition to prevent the installation any further lighting/floodlighting, over and above that which was subject to the deemed discharge, without the prior approval of the Council. As the proposed variation does not seek to amend the lighting scheme submitted pursuant to the condition, the appellant relied upon the technical information submitted previously⁴ to discharge the condition (the lighting scheme).
7. Taking the above into account, the main issue is the effect of the proposed variation of the condition on the character and appearance of the area and the living conditions of occupiers of nearby properties.

Reasons

8. The Council contend that the appellant failed to submit sufficient information to enable the effects of the lighting on the living conditions of neighbouring dwellings and the character and appearance of the area to be fully assessed. However, given that the application sought to vary the condition solely to reflect the lighting scheme previously submitted to the Council to discharge the condition, such details, and any subsequent effects, are not for consideration as part of the proposal to vary the condition. Furthermore, from my reading of the document, despite the absence of a scaled block plan, the number, location, height and design of the floodlights, including level of luminance, is clear, based on the images within the document and associated commentary.
9. Moreover, whether the lighting that has been installed on the site accords with the details which formed part of the deemed discharge in terms of numbers, position or height of lighting columns, is not a matter for consideration as part of this appeal. Nor is compliance or otherwise with conditions attached to subsequent planning permissions granted for development at the site.
10. Taking these factors into account, the proposal would therefore not deviate from the lighting scheme that was previously subject to deemed discharge and would continue to retain control of future lighting/floodlighting of the site. Thus, the variation of the condition as proposed, would not have an adverse effect upon the character and appearance of the area or the living conditions of occupiers of nearby properties. In that regard it would not conflict with those aims of Policies

² LPA Ref: 26982/003

³ LPA Ref: 26982/018

⁴ Yew Tree Equestrian Paddock Lighting Dated 19 August 2021

CP19, CP20, CP21, CP27 and CP29 of the East Hampshire District Local Plan: Joint Core Strategy (2014) which seek to protect the countryside, including landscape character, maintain, enhance and protect biodiversity and living conditions of local residents, with particular regard to the effects of light pollution, or Policy C12 of the East Hampshire District Local Plan: Second Review adopted March 2006 which supports equestrian development where specific criteria are met.

Conditions

11. The PPG is clear that permission granted under section 73 of the Act should reinstate conditions imposed on the earlier permission that continue to have effect. I have limited information before me regarding the status of the other conditions imposed on the original approval. I shall therefore reimpose the conditions. In the event that some have been discharged, that is a matter which can be addressed by the parties.

Conclusion

12. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission substituting the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

E Worley

INSPECTOR

Schedule of Conditions

- 1) Within three months of the date of this permission, details of the measures to dispose of manure and other waste have been submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented on commencement of use and shall be retained thereafter.
- 2) Notwithstanding any indication shown on the approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order) the development hereby permitted shall be used only as private, non-commercial, equestrian use incidental to the enjoyment of the dwellinghouse (Yew Tree Cottage) as a private residence and for no other purpose.
- 3) The surface water drainage shall be built in accordance with the approved details provided by 'Claydon Horse Exercisers' and the approved plans BKP032014-MIC-005 REV.A01 and retained thereafter.
- 4) No additional external lighting/floodlighting shall be installed on the site above that previously deemed discharged under application 26982/003 until such details have been submitted to and approved in writing by the Local Planning Authority. Any additional lighting shall be installed, operated, and maintained in accordance with the approved details.

- 5) The development hereby permitted shall be carried out in accordance with the following approved plans and particulars:

Application form
Drainage report
Location plan- equestrian
Legal note

Plans and documents carried over from original permission 26982/003:

Application form
CIL form 1
Design and access statement
Phase 2 bat emergence survey
GP/04/22 Rev F - proposed block plan (ground floor)
Existing floor & elevations: GP/01/22
Location plan
GP/03/22 Rev K - proposed floor, elevations & roof plan (Approved under 59740/002)
GP/03/22 Rev O - proposed floor, elevations & roof plan
Topographical & sections: GP/02/22
Biodiversity checklist
Ecological impact assessment

*******end of conditions*******