Planning Inspectorate

Appeal Decision

Site visit made on 6 May 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2026

Appeal Ref: APP/P0240/X/24/3357460
Greenacres, 16 Thorncote Road, Northill, BIGGLESWADE, SG18 9AQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal in part to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr & Mrs C Caswell against the decision of Central Bedfordshire Council.
- The application ref CB/24/02400/LDCE, dated 3 September 2024, was refused in part by the Council by notice dated 20 November 2024.
- The application was made under section 191(1)(a) & 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The use and development for which a certificate of lawful use or development is sought is described on the application form as: construction of a manège and access with use of stables for equine private stabling and livery.

Decision

1. The appeal is dismissed.

Reasons

2. An application for a Certificate of Existing Lawful Use or Development (CLUED) is not an application for planning permission. As such my decision makes no comment on the planning merits of the development. The main issue is whether the Council's decision to refuse the application was well-founded based on the facts of the case and any relevant judicial authority. The onus rests with an appellant to make their case, on the balance of probability.

3. The application related to operational development in respect of the construction of a manège and use in respect of the use of the stables, manège and access for "equine private stabling and livery". The land in question, as identified by the red line of the application relates specifically to the stable building, the manège and the access to it. The residential property at Greenacres is excluded from the application boundary.

4. The Council was satisfied that the construction of the manège was lawful and granted a CLUED in respect of that element. Consequently, the issue in dispute in relation to the appeal is whether the use of the land and buildings was lawful.

5. The wording of the use for which a CLUED is broken down into two elements "private stabling" and "livery". Livery, indicates a commercial use where others would pay for stabling and upkeep of their horses, whereas private stabling would appear to be a reference to the keeping of horses belonging to the appellants themselves, albeit that the description is not entirely clear.

6. Under s191(2) of the Act, uses and operations are lawful at any time if 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; and they do not constitute a contravention of any of the requirements of an EN then in force. There is no enforcement notice in force in relation to the site.

7. Whilst the appellants have not actively used the stables for the last ten years, their case is that they had used the stables continuously for that purpose from 1996, when they took over the property, for the following 18 years. I have no reason to doubt that was the case. The building is clearly of some vintage judging by the brickwork and appears to be purposely designed as a stable block, given the layout and internal fittings and stable bays which appear to be old and part of the original design.

8. The archaeological survey of the site carried out in 2018 noted a narrow range of buildings on the site as far back as the 19th century and concludes that the stables were likely associated with Northill Grange, the Georgian dwelling immediately to the west of the site. Given its functional design it seems likely that the building was purposely constructed to provide stabling associated with that property.

9. At some point in time ownership must have switched to the substantial and more recently constructed dwelling of Greenacres, which the appellants purchased in 1996. A substantial amount of land is associated with that dwelling, including the stables and the manège. To gain access to the stables one needs to enter through the access controlled gates to Greenacres and then a spur branches off from the driveway to provide access to the stables.

10. The stables are also directly next to the manicured garden of the dwelling, with little physical or visual separation from the residential element. Whilst the red line of the application boundary only encompasses the manège and stables, plus the spur of the driveway leading to them, it seems to me that the land and buildings are clearly entwined with the residential use of Greenacres as opposed to being a separate entity.

11. The address given for the stable in relation to the 1991 appeal[1] was given as Greenacres, which does indicate an association with the residential property at that point in time. However, who was running the signwriting business and the degree to which it was associated with the occupation of Greenacres is not clear from the text of the decision.

12. That appeal decision is the earliest direct evidence of use provided by either party. Precisely how it had been used prior to the use as a signwriting business is unclear. However, the description of development for which permission was sought in that appeal was for the use of stables as a signwriting workshop. That would indicate that the former use was a stable block. The statutory declarations of the appellants indicate that the previous owners had lived at the property for 10 years and kept a pony and trap in the stables. I have no reason to doubt that position.

13. The primary evidence provided for the period following 1996 is contained within the statutory declarations of Mr and Mrs Caswell and Mr Gary Madgin. Those declarations are first-hand accounts and were witnessed by a solicitor. In the absence of any contradictory evidence provided by the Council I have no reason to doubt the accuracy of the information provided. However, the extent to which the

[1] T/APP/J0215/A/90/169217/P8

evidence demonstrates that the land in question was operated as a stables and livery independent of the dwelling is unclear.

14. The driving force for the appellants purchasing the property was the fact that the on-site stabling would enable Mrs Caswell to keep her two horses in the stables, as opposed to being in livery elsewhere. As with the previous owners, that arrangement would have been very much ancillary to the primary residential use of the property and planning unit as a whole.

15. In 1998 it is said that an agreement was reached with the Twin Trees Equestrian Centre, located a few hundred yards away, who would walk horses down the road and let them graze in the appellant’s paddocks over the summer months, sometimes involving horses being kept overnight. Whether those paddocks were the same land as that identified in the present appeal is unclear, as is the precise number of horses or how long that arrangement continued for.

16. It is said that Mrs Caswell was running the stables full-time by the late 1990s, hiring out the manège to local horse owners for schooling in dressage and jumping and keeping horses for short periods when the owners were on holiday. Again, the extent of those activities in terms of the number of horses involved or the frequency is unclear. Part time staff are referred to but no names are given, nor is there an indication of how long such arrangements continued.

17. Short-term livery is said to have been available from 2006 to 2014 for periods of a few weeks to a few months. However, the declarations are light on detail as to how many horses were involved and how frequent the activity was. For the whole period from 1996 up to 2014 only 3 owners are referred to by name. Jo Underwood kept one horse and two foals on full livery for 5 years from 2000, Gary Madgin had one horse on full livery from 2002 to 2012. Ms Yvonne Austin kept horses on a part-time livery basis for a period of 6 years from 2002. It is not clear how often her horses were stabled or how many horses she had.

18. Putting that together, the declarations show that the stables appear to have been in continued use for equine purposes from the point at which the appellants purchased the property in 1996 up until 2014 when the appellants decided to wind down the activity, after their children had grown up. That use was a mixture of stabling their own horses for private use along with stabling on a livery basis for others, along with the provision of lessons on the manège. The fact that the manège was constructed at all is an indication of an equine use given its obvious function. The overhead photographs are inconclusive as to any activity but I have no reason to doubt the version of events within the statutory declarations.

19. As explained by Mrs Caswell, the equine related activity was a lifestyle choice with summers being spent at various shows, events and gymkhanas. However, the actual extent of any commercial activity is unclear. Given the limited size of the stables and the fact that the appellants had their own horses, the number of horses kept on a livery basis would inevitably have been limited at any one time.

20. Moreover, no bills, advertising information or anything to indicate that the stables or livery had a particular business name have been provided, as would often be the case in commercial yards. Beyond the named individuals the actual extent of livery and/or riding lessons is unclear. The overall impression is that the equine activity was a lifestyle choice for Mrs Caswell with associated livery being on a low-key basis, potentially to friends and acquaintances and the like.

21. The starting point for assessing whether a material change of use of land has occurred is to identify the relevant planning unit. For the reasons set out above the stables and manège appear to form part of a single planning unit, including the residential property of Greenacres. That would appear to have been the case at least as far back as 1991 when the appeal relating to the stables was determined because the address of the appeal site was given as Greenacres. The fact that the property included stables was a key reason for the appellants purchasing the dwelling in order to keep their own horses on site.

22. Identifying the correct planning unit is important because where multiple activities take place within a single planning unit one needs to consider whether one element is the primary use and others are ancillary to it. In other words, was the primary use of the planning unit residential, with equine activity ancillary or incidental to that use?

23. Based on the limited information before me it could be that the primary use remained residential. The appellants and their children used the stabling and manège for private purposes in a manner that would be ancillary to their use of the dwelling. Any commercial livery appears to have been small-scale judging by the information provided and unlikely to have resulted in a material change of use of the planning unit as a whole.

24. It is common for small scale commercial activity to take place in residential properties without resulting in a material change of use. For example, a child-minder looking after a small number of children for example. Depending on the scale of activity, the primary use of the property remains residential.

25. Given the low key nature of the livery and commercial element, it seems unlikely that the Council could, at any point, have served an enforcement notice in respect of a material change of use of the land because the primary use of the planning unit would have remained residential, with any stabling and equine activity ancillary to that use. Thus, in respect of s191(2)(a) of the Act, the ten-year period for taking enforcement action would not be relevant because it is not clear that there was ever a breach of planning control against which the Council could have enforced.

26. Looking at the evidence presented, both parties have jumped to the question of whether the use or activity continued for a period of ten years or more. However, no consideration appears to have been given as to what the correct planning unit was and what was the use of that unit as a whole. Looked at on that correct basis, the evidence is not sufficient to demonstrate that there was ever a material change of use to private stabling and livery on the land identified.

27. Alternatively, if the livery and commercial activity was of a scale sufficient to have resulted in a material change of use, the result would have a been a mixed use between the residential use of the property and equine related uses, given the close functional and physical links between the appellant’s use of the land and the associated dwelling, within which they continued to reside. There is no evidence that the use was carried out independently of the dwellinghouse which is seemingly the basis on which the application was made.

28. If there was a material change of use to a mixed use of private stabling, livery and residential use, then that use would have ended in 2014 when the appellants ceased using the stables and wound down that activity. The result would likely

have been another material change of use from the mixed-use back to a primarily residential use.

29. Under s191(1)(a) of the Town and Country Planning Act 1990 (the Act) a person may make an application to ascertain whether an “existing” use of land or buildings is lawful. Even if there had been a material change of use to a mixed use of residential, private stabling and livery and that use had continued for more than 10 years, the use ceased in 2014 when the equine related element ceased and the property became residential. That is how the property has been used since that time and there has been no “existing” equine use of the land since that time.

30. In that scenario I could not grant a CLUED for an existing use because there was no existing equine use at the time the application was made. Similarly, even if the use was ancillary to the residential use of the planning unit, such that no material change of use occurred, the equine element has since ceased. In either scenario, the use of the land for private stabling and livery is no longer continuing and I am not satisfied that I could grant a CLUED for an existing use that was not existing at the time the application was made.

31. Moreover, it seems to me that the way in which the application was submitted did not seek confirmation that the stabling and livery was in use for purposes ancillary to the dwellinghouse or that is was in use as a mixed use between residential and private stabling and livery. The red line has deliberately been drawn to exclude the dwellinghouse and other land associated with it and the appellants appear to be seeking confirmation that the land identified had a lawful use for private stabling and livery as a separate entity.

32. For the reasons given, the evidence does not demonstrate the land identified was ever in use as a separate planning unit, independent of the dwellinghouse at Greenacres. The use of the stables and residential use were closely entwined. It is likely that the lawful use of the planning unit was residential, with the equine related elements being ancillary to that use or that the unit was in mixed use up until 2014, before reverting to a residential use. Both scenarios are very different uses to a separate use for stabling and livery, for which a certificate was sought. The equine uses have ceased and the use now appears to be primarily residential.

33. If the appellants wish to ascertain whether it *would be* lawful to use the stables for private stabling and livery in future then the correct course of action would have been to apply for a Certificate of Lawfulness for a Proposed Use or Development under s192 of the Act, as opposed to an existing use under s191.

34. However, given that the use was not existing at the time of the application and that there is no evidence that the land in question was ever in separate use for private stabling and livery purposes, I am not satisfied that a CLUED should be granted on the balance of probability. Accordingly, although I have reached my decision for slightly different reasons, the Council’s decision to refuse the application was well-founded. Therefore, I shall dismiss the appeal and refuse to grant a CLUED in the terms sought.

Chris Preston

INSPECTOR