



## Appeal Decisions

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an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
1 December 2009

### Appeal A: APP/G2815/C/09/2105222 & 2105223 Cherry Lap Farm, Brigstock Road, Sudborough NN14 3BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr P Johns & Mrs K Johns against an enforcement notice issued by East Northants District Council.
- The Council's reference is EN/08/00129/PPD.
- The notice was issued on 30 April 2009.
- The breach of planning control as alleged in the notice is, without planning permission, a material change of use of land from an agricultural grazing paddock to a horse exercise area with post and rail enclosure.
- The requirement of the notice is to return the land to its original grazing paddock condition.
- The period for compliance with the requirement is six months.
- The appeal is proceeding on grounds (a) and (c) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. Mr P Johns only is deemed to have made an application for planning permission for the development to which the notice relates by virtue of s177(5) of the 1990 Act.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variation.**

### Appeal B: APP/G2815/A/09/2105219 Cherry Lap Farm, Brigstock Road, Sudborough NN14 3BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Johns against the decision of East Northants District Council.
- The application Ref: EN/08/02236/FUL, dated 19 November 2008, was refused by notice dated 12 March 2009.
- The development proposed is the change of use from agricultural land to a horse exercise area with post and rail fence enclosure.

**Summary of Decision: The appeal is dismissed.**

### Appeal A

#### The Notice

1. The reason for issuing the notice is that: *'The change of use from agricultural land to a horse exercise area with post and rail enclosure was the subject of a retrospective planning application EN/08/02236/FUL which was refused on 12 March 2009.'*

property has: 'always had horses on it...and I got an equestrian licence to run as a riding/livery establishment in 1979 which covered the whole of the property and not just part of it...'. Whilst this may be the case, the property to which he refers has since been divided, and notwithstanding any use which may have been carried on within the original property as a whole, the division of the property will have resulted in the demise of the original planning unit. On the evidence before me, Cherry Lap Farm has therefore to be considered as its own planning unit. I am confirmed in this view as a planning permission, granted in 1979 (EN/79/00200/FUL), for a change of use from agricultural land to a horse riding establishment with stables, related to land south-east of Cherry Lap House, and did not include this appeal land.

11. Within the current planning unit of Cherry Lap Farm, I acknowledge that the land on which the horse exercise area has now been formed may have previously been used for horse grazing, but this does not necessarily mean, as a matter of fact and degree, that the use has materially changed from an agricultural use, including a use for grazing by horses which could be regarded as being incidental to agricultural use. Even if the land had been used for the keeping of horses, that is the keeping of horses for recreational purposes and fed primarily by other means than grazing, which would be unlikely to be an agricultural use, there would, in my view, still be a material change of use to a horse exercise area as illustrated by the existence of the manège.
12. I find that the alleged material change of use is development requiring planning permission. The development is therefore in breach of planning control, and the appeal on ground (c) fails.

### **Appeal A, the deemed application, and Appeal B**

#### ***Planning policy and the main issue***

13. The North Northamptonshire Core Spatial Strategy was adopted in 2008. Whilst the Council refers to Policies 1 and 9, to my mind, these are more concerned with development as it affects the form and pattern of settlements. Policy 13 is relevant as it deals with sustainable development including the need to conserve and enhance landscape character.
14. Saved Policy AG5 of the East Northamptonshire District Local Plan 1996 encourages horse related development to be located in existing settlements, but exceptions may include proposals associated with existing farmsteads. The Rural North, Oundle and Thrapston Plan has been drawn up following the North Northamptonshire Core Spatial Strategy. Although not yet adopted, I concur that the Plan is at an advanced stage of preparation, having been through its public examination, and that Policy 25, dealing with farm diversification, is a material consideration.
15. The main issues are the applicability of policies dealing with equestrian development in the countryside, and the effect of the development on the character and appearance of the locality.

#### ***Reasons***

16. I acknowledge that Local Plan Policy AG5 is now of some age, but I do not see that it is significantly out of step with the more recent national advice set out in

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23. I direct that the enforcement notice be varied by deleting, in paragraph 4, the reason for issuing the notice, and inserting as follows: *'The development lies outside of any existing settlement and is not associated with any existing farmsteads. The development would lead to intrusion of development in the open countryside and set a precedent for further development that would be detrimental to the open countryside's character and appearance. The development therefore is contrary to Policy AG5 of the adopted East Northamptonshire District Local Plan, Policies 1, 9 and 13 of the North Northamptonshire Core Spatial Strategy, and guidance contained in PPS1 and PPS7'*.
24. Subject to this variation, I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

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25. I dismiss the appeal.

*Paul V Morris*

Inspector