

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 17th April 2023

Application No:	HPK/2022/0359	
Location	Lower Cliff Farm, Thornsett Lane, Birch Vale	
Proposal	Installation of Horse Riding Menage. Change of Use to Equestrian	
Applicant	Mr David Hodges	
Agent	High Peak Architects	
Parish/ward	Hayfield PC/Sett Ward	Date registered 2 nd Sept 2022
If you have a question about this report please contact: James Stannard, Tel. 01298 28400 extension 4298, james.stannard@highpeak.gov.uk		

1. SUMMARY OF RECOMMENDATION

Approve with Conditions

1. REASON FOR COMMITTEE DETERMINATION

- 1.1 This application has been brought before the Development Control Committee owing to a large interest of members of the general public and local Councillors.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 The application relates to a rectangular parcel of land measuring 30m x 60m that sits within a larger agricultural field associated with Lower Cliff Farm, Birch Vale, which stands approximately 200m to the north, accessed from Thornsett Lane. The agricultural land is currently rented to an agricultural tenant but is within the control of the applicant.
- 2.2 The site lies immediately adjacent to a sewage treatment works operated by United Utilities to the east – separated by a distance of 6.0 metres - and is situated outside of the built-up area boundary in the open countryside in the North Derbyshire Green Belt.
- 2.3 The topography of the wider field slopes steeply from Lower Cliff Farm towards the site where it becomes flatter. The existing topographic survey shows that the northern end of the site stands at a height of 174m with the southern end having a height of 169m (i.e. a drop of 5m in levels over a distance of 60m).
- 2.4 As shown on the latest plans, the applicant has sold a small parcel of land to United Utilities immediately adjacent to the north of the treatment works, which stands separately to the application site.

3. DESCRIPTION OF THE PROPOSAL

- 3.1 This application seeks full planning permission for the change of use of existing agricultural land to introduce an equestrian riding arena for personal use of the applicant and his family, and the associated engineering 'cut and fill' operations that would facilitate it.
- 3.2 Following the submission of the application, officers were made aware from the Agricultural Tenant that occupies the land that they were not notified of the application as required by the Town and Country General Management Procedure Order 2015 as amended. An Article 13 form has since been submitted that provides evidence that such notice has been served, which addresses this matter of procedure.
- 3.3 Throughout the consultation period, revised plans have been submitted which show the position and orientation of the menage being amended slightly to reduce the extent of 'cut and fill' engineering operations. The revised plans also show the removal of any reference to a 'riding track' and seeks to correct minor errors on the originally submitted plans. The description of development has been amended to reflect these changes.
- 3.4 As such, the plans which are the subject of consideration within this report are as follows:
- Location Plan
 - Proposed Site Plan (Ref: PL-01A)
 - Proposed Sections (Ref: PL-02)
- 3.5 The latest plans under consideration show the equestrian menage to have a standard length of 20m x 60m, bordered by a timber fence (height unknown) situated immediately on flatter ground towards the bottom of the valley and to the south of the Lower Cliff Farm complex. The menage would be positioned to the west of the nearby Sewage Treatment Works operated by United Utilities, orientated in an east and west direction.
- 3.6 The application, the details attached to it including the plans, comments made by residents and the responses of the consultees can be found on the Council's website at <http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=256551>

4. RELEVANT PLANNING HISTORY

- 4.1 The site itself has not been subject to any previous planning history. Lower Cliff Farm has been subject to planning history which is set out below:

HPK/2007/0641- Change of Use of vacant barn to 2no. holiday lets

(Approved 02/10/2007)

HPK/2009/0027 - Change of Use of Vacant Barn to Two Dwellings-
(Refused 23/03/2009)

5. PLANNING POLICIES RELEVANT TO THE DECISION

High Peak local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- EQ2 Landscape Character
- EQ3 Rural Development
- EQ4 Green Belt
- EQ6 Design and Place Making
- EQ10 Pollution and Unstable Land
- CF6 Accessibility and Transport

National Planning Policy Framework 2021

Achieving Sustainable Development	Chapter 2
Promoting Healthy and Sustainable Communities	Chapter 8
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed Places	Chapter 12
Protecting Green Belt Land	Chapter 13
Conserving and Enhancing the Natural Environment	Chapter 15

6. CONSULTATIONS CARRIED OUT

Site notice	Expiry date for comments: 27 th October 2022
Neighbour letters	Expiry date for comments: 11 th October 2022
Re-consultation	Expiry date for comments: 21 st March 2023
Press Notice	Expiry date for comments: N/A

Public Comments

6.1 1 x neutral comment has been received from a member of the public who wishes the following matters to be fully considered:

- Expected increase in traffic
- Maximum height of fence bordering the riding arena
- Requirement for appropriate drainage scheme
- Distance from nearest watercourse
- Inaccuracies in Application Form regarding visibility from public highway
- Disposal of foul sewage cited as unknown, how will this be dealt with?

6.2 31 x letters of objection (some amounting to further comments from the same objector) have been received during the original public consultation. Grounds of objection are summarised as follows:

- Current agricultural tenants have no desire to vacate the land
- Increase in traffic movements and harm to highway safety
- Visual Impact on surrounding Landscape Character
- Impact on views into and outward from the nearby Sett Valley Trail
- Impact on landscape arising from engineering operations to level land
- Change of use of traditional agricultural land to private use
- Already sufficient riding facilities in the local area
- Lack of drainage scheme
- Impact on the Green Belt
- Traffic congestion and subsequent impact on Hayfield Primary School
- Impact on local wildlife
- Correct legislative procedure has not been followed
- Concerns of menage being used for commercial purposes
- Safety concerns for horses
- Disruption to nearby residents during construction works

6.3 A 14 day re-consultation period with all neighbours and members of the public who were either originally consulted, or commented on the original proposals was triggered following the submission of revised plans.

6.4 12 x objections have been received in connection with the latest plans, the grounds of objection being summarised as follows:

- Unclear how revised plans are allowed to be submitted under same application
- Landscape and Visual Impacts, particularly into and out of nearby Sett Valley Trail
- Highly visible from surrounding elevated roads and footpaths
- Increase in traffic movements and subsequent congestion
- Reference to ancient land rights
- New location would obstruct a natural watercourse
- Impact on Wildlife and Environment
- Unclear how waste will be disposed of

6.5 6 x letters of support have been received in connection with this application, which raises the following points:

- Riding area will be a safe environment for children to ride horses
- Proposal would be for personal use and therefore no highway impacts
- Landscape and Visual impacts would be limited
- Positive impacts arising from sport to mental health and well being
- Equestrian use is wholly appropriate use for open countryside

- Use offers opportunities for more diverse and attractive form of development

6.6 The following comments have been received from consultees:

Consultee	Comments
Hayfield Parish Council	No comments received
United Utilities	No objection subject to drainage condition
DCC Highway Authority	There are no highway safety comments to make subject to the manage and track remaining ancillary to the main dwelling and being for personal and domestic use only.

7. POLICY AND PLANNING BALANCE

Planning Policies

- 7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.
- 7.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the High Peak Local Plan Policies adopted in April 2016.
- 7.3 Other material considerations include the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG). Paragraph 11 of the NPPF explains that at the heart of the Framework is the presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan, they should be approved without delay, but where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

- 7.4 Local Plan policy S1a establishes a presumption in favour of sustainable development as contained at paragraph 11 of the NPPF.

Principle of Development

- 7.5 The application seeks permission for the change of use of existing agricultural land a new equestrian menage (riding arena) which the applicant has confirmed would be used in a non-commercial, personal manner by his family.
- 7.6 The site is located outside of the built-up area boundary in the open countryside and in the Green Belt, and is therefore subject to Local Plan (LP) Policies EQ3 and EQ4, in addition to relevant restrictive national planning policies relating to the Protection of the Green Belt contained under Chapter 13 of the NPPF.
- 7.7 LP Policy EQ3 applies to any development proposal that are located in the open countryside. The policy seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness and supports equestrian development where it does not have an adverse impact upon the character and appearance of the area.
- 7.8 LP Policy EQ4 requires development proposals in the Green Belt to be assessed and determined in accordance with national planning policies.

General Principle of Development

- 7.9 The principle of this type of development in the open countryside is supported by LP Policy EQ3. In order for an equestrian development for personal use to be justified, it is considered reasonable for the applicant to demonstrate that they own horses that would utilise the facility.
- 7.10 At the request of officers, photographs of horses have been submitted that show them residing in a stable block at the southern end of the Lower Cliff Farm complex, and within a nearby paddock west of these buildings. As such, it is considered that an equestrian riding arena can be justified within proximity of the existing buildings.
- 7.11 Chapter 13 of the NPPF contains the relevant national policies relating to the Protection of the Green Belt.
- 7.12 Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

- 7.13 Paragraph 150 of the NPPF identifies a number of forms of development, other than buildings, which are not considered to amount to inappropriate development provided they preserve the openness of the green belt and do not conflict with the purposes of including land within it, which include:
- *engineering operations*
 - *material change of use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)*
- 7.14 The proposed equestrian menage amounts to a change of use and physical development that would be utilised for purposes associated with sport and recreation and thus the proposed change of use and proposed development falls within one of the exceptions within Paragraph 150 of the NPPF.
- 7.15 The proposal does include a 'cut and fill' engineering operation to create an entirely flat surface, that requires planning permission in its own right. As such, an assessment of the proposed development has to be made with regards to whether these engineering operations, and indeed the change of use from agricultural land to facilitate the equestrian use, preserves the openness of the Green Belt and does not conflict with the purposes of including land within it, as set out under Paragraph 138 of the NPPF.

Impact on Green Belt

- 7.16 Paragraph 138 sets out the five purposes of the Green Belt:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to prevent the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land
- 7.17 The term openness is not explicitly defined within the NPPF and has been considered within a number of planning judgements. It has been established that there are two aspects to the impact on openness: (i) spatial impact and (ii) visual impact.
- 7.18 With regards to the spatial impact on the Green Belt, the proposed menage spans an area of 60m x 20m situated within close proximity to a large Sewage Treatment Works, a short distance north of the tree belt that follows the valley floor bordering the River Sett, and within a short distance south of the cluster of buildings that makes up Lower Cliff Farm. As such, given its close relationship with existing man made and natural landscape features, it is considered that the spatial aspect of openness would be preserved.

- 7.19 Turning to the potential visual impact on the openness of the Green Belt, the proposed development is of an open and transparent nature, which aside from a small timber bordered boundary fence would introduce no new physical permanent built structures to the landscape.
- 7.20 The proposed engineering 'cut and fill' operations are shown on the Section drawings, which shows a cut of 1.2m on one side and a fill of 1.2m on the other side, with minimal changes to the overall topography of the wider field, in order to create a flat surface.
- 7.21 It is accepted that there would inevitably be some visual change to the aesthetics when compared to the existing position. However, just because a proposal can be seen, does not make it harmful in visual terms. The nature of proposed development is entirely appropriate for its rural location and due to its open nature with a lack of physical structures, and relatively minimal changes to the topography of the site as a result of proposed cut and fill operations, it is considered that the visual aspect of openness would be preserved.
- 7.22 Lastly, with regards to any conflict with the purposes set out under Paragraph 138 of the NPPF, the proposed development would not result in unrestricted sprawl of large built-up areas, would not prevent neighbouring towns from merging with one another, would not result in encroachment into the countryside, would not result in any adverse impacts to historic towns or prevent any derelict land from benefiting from urban regeneration.
- 7.23 As such, it is considered that the proposals amount to appropriate development in the green belt, would preserve the openness of the Green Belt and would not result in any conflict with the purposes of including land within the Green Belt.
- 7.24 The application is thus compliant with LP Policy EQ4 and relevant restrictive policies contained under Chapter 13 of the NPPF.

Design, Character and impact on the landscape

- 7.25 LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.
- 7.26 LP Policy EQ2 seeks to protect, enhance and restore the landscape character of the Plan Area by requiring development to have particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, be sympathetic to and are informed by the distinctive landscape character areas as identified in the Landscape Character Supplementary Planning Document.

- 7.27 LP Policy EQ3 refers to rural development proposals which lie outside of the defined built-up area boundaries and seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness.
- 7.28 LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.
- 7.29 Paragraph 130 of the NPPF states amongst other matters that new developments should add to the overall quality of the area, be visually attractive as a result of good architecture and are sympathetic to the surrounding built environment.
- 7.31 The site lies within the 'Settled Valley Pastures' Landscape Character Area as defined within the Landscape Character Assessment SPD. This landscape is noted for its wooded character associated with tree belts along streams and small irregular fields enclosed by mixed species hedgerows and dry stone walls, which are present within the site and its immediate surroundings.
- 7.32 The application seeks to introduce an equestrian riding arena with a rectangular form spanning a length of 60m and width of 20m, on a site that has a lower landscape and visual sensitivity to more prominent locations in the area, due to its close spatial and visual relationship with the large structures and ancillary infrastructure associated with the well-established Sewage Treatment Works. The site is screened from the Sett Valley Trail (some 150m distant) by mature trees.
- 7.33 The relocation and reorientation of the menage is considered to result in an improvement with regards to its visual impact on the landscape, due to the reduced amount of cut and fill engineering operations. The proposed menage has a strong visual relationship with the existing sewerage treatment works, with its buildings and fences, thereby reducing its prominence. Moreover, due to its location being on lower ground level, when compared to the farm buildings and the distance to the Sett Valley Trail, it would not be a prominent addition in the landscape.
- 7.34 It is acknowledged that objections have been received from members of the public regarding these potential impacts particularly from the Sett Valley Trail. However, it does not automatically follow that because one can see a development, it results in a degree of harm. The ménage is positioned at a significant distance from the Sett Valley Trail, with trees and soft landscaping filtering views. This type of development is wholly appropriate for its rural location and has an open character that allows the rural character of the immediate and wider area to be maintained. A condition is recommended that requires the boundary fence to be

constructed of timber having a maximum height of 1 metre, which is typical of a riding arena.

- 7.35 Subject to appropriate conditions, it is considered that the introduction of the proposed menage would preserve the rural character of the immediate and wider landscape, in accordance with LP Policies S1, EQ2, EQ3 and EQ6 and relevant paragraphs under Chapter 12 of the NPPF.

Amenity

- 7.36 LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.
- 7.37 LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.
- 7.38 Paragraph 130 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.
- 7.39 Paragraph 185 of the NPPF states that policies and decisions should ensure that new development is appropriate for its location taking into account likely effects of pollution on health, living conditions, and the natural environment, which includes limiting or mitigating the impact of light pollution on local amenity.
- 7.40 The application site lies within an existing agricultural field, towards the valley floor, within the immediate vicinity of an existing active Sewage Treatment Works, and a considerable distance from any residential property.
- 7.41 Developments of this nature in the open countryside can have the potential to result in adverse harm to the amenity of neighbouring residential properties and the general public as a result of external lighting and vehicle movements associated with more intensified commercial riding schools.
- 7.42 In this case, the ménage is for the personal use of the applicant, who has confirmed that it would not be used for any commercial purposes. A condition which links the use of the ménage to the occupants of Lower Cliff Farm and prevents any use of the site for any commercial purposes, gymkhanas and as a riding school, together with a condition which prevents the erection of an external lighting, unless agreed by

the Council, are considered reasonable and necessary in order to ensure that the visual amenity of the landscape is protected.

- 7.43 Subject to compliance with such conditions, it is considered that the proposed development would preserve the amenity of residents and the general public, in accordance with LP Policy EQ6 and EQ10 and relevant paragraphs 130 and 185 of the NPPF.

Highway Safety

- 7.44 LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network. Suitable off-street parking provision in accordance with guidelines set out under Appendix 1 of the Local Plan are required.
- 7.45 Paragraph 110 of the NPPF states that in assessing applications for development, a safe and suitable access is required for all users. Paragraph 111 goes on to state that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.46 The applicant has stressed that the proposed riding arena would be for personal use by his family, in particular his grandchildren. Horses would access the site without the need for any transportation (e.g. horsebox). The Highways Authority have not objected to the proposals subject to the development remaining ancillary to the existing residential buildings and not being used for any commercial purposes.
- 7.47 A number of objections have been raised that relate to potential highway safety impacts resulting from increased traffic movements. Some objections appear to have been submitted on the basis that it would be used by members of the public, which is not the case.
- 7.48 Subject to an appropriate conditions that restricts the use of the menage to the occupants of Lower Cliff Farm and prevents any use of the site for commercial purposes, there are not considered to be any highway safety impacts arising from the proposed development, in line with LP Policy CF6 and relevant paragraphs 110 and 111 of the NPPF.

Other Matters

- 7.49 A number of other concerns not covered within the above sections have been raised within objections from members of the public. Dealing with each of the material considerations in turn:

- Issues relating to ownership, civil rights or covenants associated with the land, and the wishes of both the applicant and the agricultural tenant are not material to the assessment and determination of a planning application. This is a civil matters between both parties.
- The site lies within the open countryside but is not constrained by any statutory ecological or wildlife designation. Given the minor scale of the proposed development, and its position immediately adjacent to a working sewage treatment plant, and a considerable distance away from the tree belt to the south, the proposed development would not result in any adverse impacts to wildlife
- The proposal does not lie within Flood Zones 2 or 3 and is therefore not required to be supported by a Flood Risk Assessment. United Utilities, in withdrawing their original objection, have requested a drainage condition be applied. Such a condition is considered to be reasonable and necessary and addresses concerns raised by members of the public in these regards.

Planning balance & Conclusion

- 7.50 LP Policy S1a reflects the presumption in favour of sustainable development set out within the National Planning Policy Framework (NPPF).
- 7.51 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:
- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.52 A detailed assessment of this application, has, when taking account of all material considerations including local and national planning policies, supplementary design guidance, and comments submitted by statutory consultees and members of the general public, found that the principle of development is acceptable, demonstrating compliance with LP Policies EQ3 and EQ4, and relevant restrictive policies contained under Chapter 13 of the NPPF.

8. RECOMMENDATIONS

A. APPROVE subject to conditions as follows;

1. 3 Year Time Limit
2. Approved Plans
3. Boundary fence to menage to be constructed in timber and maximum height of 1 metre above finished floor level of menage surface
4. No external lighting, unless details are submitted to the LPA.
5. Use of menage solely for the occupants of Lower Cliff Farm and not for any commercial business/gymkhanas/riding school
6. Submission and approval of drainage details

B. In the event of any changes being needed to the wording of the Committee’s decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Operations Manager – Development Services has delegated authority to do so in consultation with the Chairman of the Committee, provided that the changes do not exceed the substantive nature of the Committee’s decision.

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

