



**TOWN & COUNTRY PLANNING ACT 1990
APPEAL TO THE SECRETARY OF STATE**

**CHANGE OF USE OF AGRICULTURAL BUILDING AND
LAND FOR EQUESTRIAN STABLES/STORAGE,
FORMATION OF MÉNAGE AND STALLION WALK OUT
AREA AND ERECTION OF FIELD SHELTER,
INCLUDING PART EXTENSION OF AGRICULTURAL
BUILDING**

**SPRINGHEAD FARM AND SPRINGHEAD STUD,
SCHOLES MOOR ROAD, HADE EDGE,
HOLMFIRTH, HUDDERSFIELD, HD9 1RU**

MR P CROMPTON

OCTOBER 2023

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1.0 INTRODUCTION

- 1.1 This statement outlines the grounds of appeal relating to a retrospective planning application for ***“A change of use of an agricultural building and land for equestrian stables/storage, formation of ménage and stallion walk out area and erection of field shelter, including part extension of agricultural building”*** at Springhead Farm and Springhead Stud, Scholes Moor Road, Hade Edge, Holmfirth. (It will be noted that the Council varied the description from that submitted – the above is the description from the decision notice).
- 1.2 The planning application was submitted in full to Kirklees Metropolitan District Council on the 23rd March 2023 (Application No 2013/62/90656/W). This was following correspondence from the Council's enforcement officer inviting the applicant to submit a retrospective planning application for the change of use of the agricultural land and building and also seek approval for the other associated development.
- 1.3 The application was subsequently refused by the Council on the 20th September 2023 under officer delegated powers, for the following reasons:-
- “1. The development constitutes inappropriate development in the Green Belt and would also result in encroachment of development into the countryside through the intensification of the use, additional built form and associated engineering operations. No very special circumstances have been demonstrated that are sufficient to clearly outweigh the harm by reason of inappropriateness. The development is therefore contrary to Policies LP2, LP56 and LP60 of the Kirklees Local Plan and policies contained within Chapter 13 of the National Planning Policy Framework.***
- 2. By virtue of the scale of the use, additional built form and associated engineering operations the development has a harmful impact on the visual and spatial openness of the Green Belt which fails to respect or enhance the character and appearance of the area. The development is therefore contrary to Policies LP2, LP24 (a), LP56 (b & c), LP57 (d) and LP60 (c) of the Kirklees Local Plan, Policies 1 and 2 of the Holme***

Valley Neighbourhood Development Plan and policies contained within Chapter 13 of the National Planning Policy Framework.”

(See copies of the application supporting documents and the decision notice - Appendix 1).

- 1.4 It will be demonstrated in this appeal statement that the refusal was unjustified and that planning permission should have been granted for the reasons set out.
- 1.5 This appeal statement firstly proceeds to describe the appeal site, the background and the proposal. The Council's processing of the application post submission is then discussed, including the failure of the Council to properly engage with the applicants in respect of the proposals. By reference to the submissions made to the Council, it will also be demonstrated that the planning officer's analysis of the proposal was fundamentally flawed and failed to properly consider and weigh all material considerations. It will also be set out that the Council's policy officer's consultation response raised a number of issues of concern and objections which were addressed by the applicant and a request for a response to the further submissions was made on a number of occasions. However, the Council provided no further response. It is also clear that the Council did not reconsult with the policy officer or provide the officer with the responses to the policy officer's consultation. It is not clear why:
- (a) The Council refused to respond to the further submissions; and
 - (b) The Council did not reconsult with Policy in the light of the further submitted information. This is particularly pertinent in that it is clear from the planning officer's delegation report that the planning officer appears to have relied almost solely on the policy officer's consultation response to substantiate the refusal. It is also clear that the advice from Policy set out that elements of the application were indeed acceptable in policy terms.
- 1.6 The case officer's delegation report is considered. It will be demonstrated by reference to the report that the Council's decision to refuse this application was without justification, particularly in the context of the advice set out in the National Planning Policy Framework and Local Plan policy set out in the Local Plan.

- 1.7 A detailed examination is then made of the relevant planning policies contained in the statutory development plan, together with government guidance set out in the National Planning Policy Framework. In particular, it will be demonstrated that there is no conflict with government guidance contained in the NPPF relating to such development in the Green Belt. It will be demonstrated that the proposals wholly conform with advice in Para's 149 and 150 of the NPPF.
- 1.8 The issues that the proposal raises are then examined in more detail and it will be demonstrated that the Council's reasons for refusal cannot be justified. It will be demonstrated by reference to the Development Plan and the NPPF that the proposal does not constitute inappropriate development in the Green Belt. Nor does it give rise to the issues of harm to the visual and spatial openness of the Green Belt as alleged by the Council. The proposal constitutes acceptable development in Green Belt terms. The proposed equestrian development which is characteristic of the area does not result in encroachment and it does not consist of the expansion of urban development in the Green Belt. It will be demonstrated that as the proposal does not constitute inappropriate development as such 'very special circumstances' do not have to be demonstrated to justify the development.
- 1.9 In summary, the proposal does not constitute inappropriate development. The proposals will not give rise to the harm alleged. The Council's approach highlighted by the post submission correspondence and the officer's delegation report identifies the failure to engage fully with the applicant. The failure to reconsult the Council's policy officer (who's consultation is also almost wholly relied on to justify the refusal) was fundamentally flawed and resulted in a refusal which cannot be justified.
- 1.10 It is contended that the only conclusion that can reasonably be drawn is that the Council's reasons for refusal are wholly unjustifiable and cannot be substantiated. In the circumstances, the appeal should be upheld and planning permission granted.

2.0 THE SITE, PROPOSAL AND BACKGROUND

- 2.1 The subject site incorporates two dwelling houses known as Springhead Stud and Springhead Farm (both owned by the appellants) located off a private drive from Scholes Moor Road, Hade Edge. The overall landholdings extend to some 15 acres or thereabouts and constitute a small mixed use holding with the appellant rearing a small amount of livestock on the farm, including chickens and sheep as well as utilising the landholdings for private equestrian purposes which includes specialist horse breeding. These activities have been established at the site since the appellant purchased the site in 2016.
- 2.2 The subject former agricultural building which is utilised for equestrian purposes was constructed following the Council granting Prior Notification approval (ref 2016/N/9262/W). The building was used solely for agricultural purposes in line with the approval until September 2021. Prior to September 2021, horses were kept mainly outside on the fields, also utilising the field shelter and temporary stables which were brought onto the site temporarily during bad weather and the winter months. The change of use and associated works were undertaken following a decision by the appellant to commence with a horse breeding programme. The appellants undertook the change of use of the building to equestrian use, which involved the internal construction of stables and equestrian storage areas. The change of use involved only internal works, including the formation of 15No stables together with storage areas. A small scale extension to house straw was later added to the building after the change of use.
- 2.3 At the time of the commencement of breeding (and at the submitting of the planning application) the breeding was for hobby (private) purposes only with the appellant breeding horses for their own private enjoyment and not for commercial purposes. The breeding programme has, however, been more successful than anticipated and numbers of horses at the site have increased to the point where a small number of foals have been sold off. It is not the intention to evolve the holding into a commercial stud farm but the capacity of the site has resulted in the requirement from time to time to sell off foals/youngstock. Therefore, it has to be acknowledged that there is to some extent now a small scale commercial element to the equestrian use. However, it must be stressed that the site will not evolve into a full

commercial stud farm and the main function of the equestrian activity will be the keeping of horses as a hobby.

2.4 At the time of writing there are currently 15 horses as follows:

2No stallions;

7No broodmares;

5No youngstock (foals and yearlings); and

1No companion (miniature Shetland pony).

2.5 Due to the nature of breeding horses, the appellant has to keep the male and female horses separate. The stallions and broodmares have completely different routines which is why the equestrian facility was set up with the stallion walkout area to one side and the turnout facilities (ménages) for mares on the other. Due to the topography of the location of the turnout area (it being set below existing ground level) and the landscaping surrounding the area, there are very limited views of the turnout area within the landscape. It will be noted that this was specifically designed to ensure the safety of stallions and other horses with the provision of higher fencing and electric fences. This will be referred to in more detail later in this statement.

2.6 A further field shelter was erected in one the fields in 2021 to allow horses which are grazing to take shelter in inclement weather.

2.7 In more recent times a separate ménage has also been built on site. Due to having to separate stallions and mares in foal from the other horses a second outdoor all weather facility was required. The ménage has been set down into the landscape and is inconspicuous. Some screen landscaping has been included and further landscaping is proposed in this appeal submission. The development of ménages is an ancillary use to the equestrian activity and a feature of the landscape where equestrian activities are involved.

2.8 In summary, in terms of the separate elements of the development these are clarified as follows:

1. Conversion of Agricultural Building to Equestrian Use

This change of use has not required any external changes to facilitate the new use. As will be explored further in terms of policy, the change of use of the building does not constitute inappropriate development in a Green Belt.

2. Extension of the Former Agricultural Building to Form Hay Store

This has been undertaken to provide a hay store. It forms a very small extension to the original building, as follows:

(a)	Original building	2264 cubic metres	volume
		475 square metres	footprint
(b)	Extension	118 cubic metres	volume
		28 square metres	footprint
(c)	% Increase of volume	4.7%	

As can be seen the extension is not a disproportionate addition to the building. The Council's approach to extensions to buildings in the Green Belt of up to a 30% increase is not considered disproportionate and therefore by reference to policy the extension is not inappropriate in a Green Belt.

3. The Ménage

Ménages are an ancillary development on equestrian uses and typical of the area. They constitute facilities for outdoor sport and outdoor recreation and are not inappropriate in a Green Belt.

4. Horse Shelter

This is reasonably ancillary and allows horses which are grazed out to shelter in inclement weather. They are ancillary to the use and required for outdoor sport and recreation. It will be noted that following the comments of

the Council's policy officer this shelter has been repainted in green (the policy officer had concerns about the previous colour).

5. Stallion/Breakout Area

This is specifically required for the proper management of stallions which have to be separated from other horses – this is a health and safety issue which will be set out further. It is required for outdoor sport and recreation and is not inappropriate in a Green Belt.

- 2.9 It is clear that the separate elements do not constitute inappropriate development.
- 2.10 In terms of the broader visual impact of the proposal, it will be noted that sporadic equestrian development is a clear characteristic of the immediate surrounding area and this part of the Kirklees District's rural area. It is not out of place with the general character of the area (see Appendix 6). The change of use of the agricultural building can have no harmful impact on the openness or visual amenity of the Green Belt as it already exists and the ménage and walkout area are well screened and characteristic of the area and form reasonably ancillary development in association with equestrian sites. There is therefore considered to be no harmful impact on the visual and spatial openness or the character of the Green Belt.
- 2.11 This statement goes on in the next section to examine in detail the Council's processing of the application, including consideration of the policy officer consultation response. Following which the officers' delegation report is considered.

3.0 THE PROCESSING OF THE APPLICATION

3.1 Post Submission Negotiations

The following relates to the post submission, ongoing negotiations and discussions with the Council's planning officer. Relevant correspondence is appended (Appendix 2). The following comments are made:

- (i) An email was forwarded to the Council's planning officer requesting an update on the progress of the application and a response to that was received from the Council's planning officer on the 26th April 2023. The email raised a number of issues, including that it was alleged that the former agricultural building concerned was unlawful owing to it being constructed under the Prior Notification procedure. In the context of this, the officer goes on to state:

"In the light of this, my opinion is that the scheme for equestrian stables and associated extensions, shelter and arenas is in excess of that which would usually be considered acceptable for a personal use. I am of the view that the scheme constitutes inappropriate development in the Green Belt for which very special circumstances which clearly outweigh the harm to the Green Belt would need to be demonstrated in the event of any grant of planning permission."

- (ii) On the 22nd April 2023, a detailed response was forwarded by the agent to the Council which stated:

"(i) The issue of the timescale for construction of the building has already been provided to the Council and we are well within the timescale for submission of an application for a change of use within the Prior Notification requirements."

(ii) The regulations clearly by the way that they are framed accept that changes of use in the building previous granted consent by Prior Notification consent can be undertaken. It is therefore

difficult to comprehend how you consider that the development constitutes inappropriate development.

(iii) We have demonstrated in the submitted statement that the re-use of buildings in the Green Belt is not inappropriate. By reference to Para 149 (b) and (c) and 150, the re-use of the building for equestrian purposes is not inappropriate. Therefore, as such very special circumstances do not need to be provided to justify the development.

(iv) You refer to the development being too large for personal use. However, as a statement of fact that is what the site is used for. It is not considered relevant to the consideration of the application whether the applicant utilises the site for personal or wider use – there is nothing in planning policy that would preclude say commercial stables however we have explained that it is for personal use as that as I say is a statement of fact. If you consider the scheme too large for personal use then a permission for an unencumbered equestrian use can be granted.

Your reference to this issue, however, is not based on any approach in policy and you seem to be setting up a test which does not exist.

Finally we are fully aware that Kirklees are reluctant to grant approval for stables as it is considered that such brownfield sites can be considered suitable for redevelopment to residential. The applicant has no intention of utilising the site for residential purposes and is prepared to provide a Section 106 Unilateral Undertaking to preclude such a change. If this assists the Council's approach to this application and provides the comfort that the Council may be seeking, please let me know and we will have a UU drafted.

Also as set out in the planning statement the studs are required to be kept away from the other horses so a walkout area is essential for their exercise.”

- (iii) On the 18th May 2023, a further email was forwarded to the Council’s planning officer which stated:

“Have you had the chance to consider the email and an offer of the Section 106 UU in relation to the stable building?”

No answer to this was provided by the officer.

- (iv) On the 27th June 2023, the Council forwarded a copy of the Council’s Policy Officer’s consultation response (Appendix 3). A detailed response to this submission was forwarded to the Council which will be set out below. The following issues are also noted from that consultation response:

1. The policy officer does not appear to have any issues in relation to the change of use of the land.
2. The officer states that the change of use of the agricultural building fails to preserve openness as it is larger than required for personal use. This is a breeding facility and the number of horses will increase. It is difficult to comprehend how a change of use of an existing building in situ in the Green Belt can be harmful to openness.
3. The officer appears to accept that the extension to the barn is not disproportionate. Compared to the barn as originally built, the extension complies with Local Plan Policy LP57 as the original building remains the dominant element.
4. The officer seems to suggest that the addition of the stallion walkout area in addition to the ménage is excessive, although the inference appears to be that one of those may be acceptable. The officer also states that they do not understand the requirement to keep stallions and female horses separate.
5. The officer acknowledges that the ménage cannot be seen from the road.

6. The officer appears to accept that the engineering operations undertaken for the ménage and walkout do not constitute inappropriate development and are not contrary to purposes of Green Belt.
7. The officer also appears to consider that the field shelter is also acceptable, although objects to its colour (this has now been repainted an appropriate colour for a rural building).

The conclusion is interesting in that the policy officer states:

“There are elements of this proposal which comply with national and local Green Belt policy but other elements fail to preserve the openness and also conflict with the purposes of including land in the Green Belt.”

The officer then goes on to outline that the application must be dealt with as a whole, notwithstanding that elements are acceptable. Clearly, this it is considered is factually incorrect and the Council could, if it had wished, have separated the elements of the development out and provided a split decision.

- (v) In response to this consultation response, a detailed note was sent to the Council on the 4th July 2023, which stated:

“I confirm receipt of the Council’s policy officer’s consultation response and I would make the following comments:

1. ***It is welcomed that Policy recognises that there are no issues in terms of change of use of the land.***
2. ***In terms of ménage and horse break-out area, it appears that the policy officer does not fully understand the difficulties in dealing with thoroughbred horses. An advisory note is attached to provide context from a Vet.***

Whilst it is acknowledged that the engineering operation to create these have been undertaken and has changed the form of the landscape, this is not unusual in the creation of flat surfaced areas in a generally undulating landscape.

What the policy officer also appears to not recognise is that a general characteristic of the overall landscape in this area is numerous equestrian facilities with associated development such as ménages and horse-walkers. It is considered that the ménage and break-out area created are not obtrusive or out of keeping with the landscape. Indeed, they are reasonably a characteristic of the landscape.

- 3. It is noted that the officer states that the development fails to preserve openness as the proposal is excessive and the officer seems to suggest that the extension is harmful. Given the scale of the extension to the existing building which is not disproportionate, it is difficult to comprehend how such a conclusion can be reached. This permission is sought for a change of use of the building and a very small scale extension which does not constitute a disproportionate extension. It is difficult to understand how this fails to comply with relevant policy.*
- 4. In terms of the field shelters, these are left open when horses are out grazing to allow them shelter in inclement weather. It is noted that the policy officer objects to the colour of the shelters. These can be repainted to any colour that the Council considers appropriate. Can you please advise.*

From examination of the comments from the Council's policy officer, it is considered that there is nothing in the response which justifies a refusal of the application. The extension to the building is not disproportionate; the separate ménage and break-out facilities are required owing to the nature of the type of equestrian use (thoroughbreds); in an undulating landscape cutting and filling is

necessary to ensure a flat surface for horses; and the field shelters can be painted a different colour. It also appears that the policy officer has not examined the site in its overall context. The overall characteristic of this area is sporadic and numerous equestrian facilities together with the development which comes with such facilities.

The conclusion of Policy is somewhat muddled and confused. Can I suggest that you ask them to make clear which elements of the application they consider to be acceptable and which they are objecting to? This will then fully inform my client of the choices they have in moving forward on this."

- (vi) It will be noted that in support of the submission, a letter from the applicant's veterinary surgeon, Simon Hutton BVMS MRCVS of Hutton Equine Limited, was also provided which stated:

"I am the attending equine vet to Mr and Mrs Crompton at Springhead Farm, Scholes. I deal with the reproductive work on their yard and have previously had experience in handling their stallions. It cannot be stressed enough that the environment and management for a stallion is totally different to that of a normal horse. Stallions by their nature can be unpredictable, extremely strong and aggressive making them dangerous to handle and on occasions they can endanger themselves as well as other animals around them. In order to lessen the risk, it is imperative to have a management plan that allows the stallions to be kept apart from other horses on the yard.

Stallions must, however, have time to exercise outside of the stables in a safe environment. Mr and Mrs Crompton have set up a stallion walkout area on an all weather surface that has a higher fencing which is electrified – this is an ideal setup which allows all year turn out for the stallions whilst keeping them safe, at a safe distance away from other horses. Stallions need to turn out for their welfare as well as their physical and mental wellbeing but also so that they can have time to be a horse in a safe environment."

It was considered that this letter would provide the Council's policy officer with the clear justification as to why two separate outside exercise areas were required for the specific requirements of the form of equestrian use undertaken at the site.

- (vii) On the 5th July 2023, a response was received from the Council's planning officer which simply stated:

"I will add your email to the application file and take it into account as part of the determination of this application."

A response was made by the agent on the same day which stated:

"It would be much appreciated if you could provide us with a response to our email and clarification requested from the policy officer prior to determination of the application as per the previous email."

- (viii) On the 9th August 2023, a further response was sent to the planning officer as no meaningful response had been provided. The only response which was received on the 15th August 2023 stated:

"I had hoped I would have been able to write up this case and progressed to recommendation stage. However, workloads have meant that I have not been able to as yet. I will endeavour to do so as soon as I am able to."

In response on the same date, the agent stated:

"Further to your email and issues raised, it would be much appreciated if you could respond to our response and to provide a response to any further issues raised and not proceed straight to a decision."

We feel the previous response responded to the issues raised and asked for further clarity in some points made. Proceeding straight to decision in this instance would be premature.”

Unfortunately no further response was received from the Council’s planning officer and the Council determined to refuse the application. It also became apparent that the planning officer did not re-consult the policy officer or provide them with the further information they had been seeking in the consultation response.

3.2 The Planning Officer’s Delegation Report

3.2.1 The officer delegation report is appended (Appendix 4). The following are comments and observations on the officer’s report:

- (i) It is noted that in terms of the site description the officer states:

“The site is within an area which is characterised by open land which is free from development.”

That is factually incorrect and does not accurately describe the character of the countryside in this area, which is in fact characterised by sporadic farming, residential and equestrian development throughout. Whilst overall the area is countryside, it is not characterised by ***“being free from development”***. A plan is provided identifying numerous equestrian facilities within two miles of the subject site (Appendix 6), which can be seen are numerous.

- (ii) In respect of consultation responses, it states that:

“KC policy – do not support the proposed development.”

The report goes on to acknowledge, however, that Policy consider that elements of the proposal are acceptable.

- (iii) The report goes on to summarise the Policy section’s consultation response. It is clear from this that Policy were not reconsulted and provided

with the further information from the applicants. It is also notable that no reference is made to the evidence provided by the appellant's veterinary surgeon in respect of the constraints and issues of keeping of stallions and the need for two separate exercise areas.

- (iv) In respect of the consideration of the principle of development, it is clear that the planning officer relies almost solely on the response from the Council's policy officer to justify the conclusion reached. The question must be raised then as to why, if the officer was so reliant upon the advice from Policy, were Policy not reconsulted and provided with the response by the applicant to the issues Policy had raised?

It is considered that a duty of care is required by the Council to the applicant and, in failing to re-consult Policy with relevant information, that duty of care was not undertaken. In the light of the response and further information provided by the applicant, Policy could have changed their approach? It is not clear why the planning officer failed to consult with Policy or indeed provide any responses from Planning to the further information submitted.

- (v) The assessment then goes on to outline that Policy do not consider that the conversion is acceptable:

“The policy team conclude that the division of internal space represents overdevelopment relative to the size of the enterprise and that there is overprovision of stabling and no remaining space for other storage including hay.”

It is acknowledged that at the time of the submission of the planning application there were more stables present on site than the number of horses. However, since that time horse numbers have increased through breeding and essentially all stables are now in use.

- (vi) By inference the Policy comments seem to suggest that there is no requirement for the hay storage extension. This analysis is flawed. There is nothing in the NPPF which requires extensions to existing buildings to be demonstrated as to why this is required. The test is that the extension is not

disproportionate, which is clearly the case in this instance - a 4.7% increase is not disproportionate. The policy officer acknowledges this in their consultation response.

- (vii) The officer then states:

“There is no clear explanation provided as to why the use was intensified when compared with the operation of the site in 2016-2021, given that the site was not operating on a commercial basis.”

This issue was never raised by the officer during the processing of the application. If it had, then there is a clear and simple explanation, the applicants at that time for their own enjoyment and hobby determined to proceed into the breeding of horses – hence the intensified use and the development (although it has to be stated that it is not clear why this is in any event relevant to the officer’s consideration – it is not an issue referred to in policy or government policy or guidelines).

- (viii) The officer then goes on to state:

“The resultant impact of the changing use of the land and the operational development which is associated with the sporting recreation use is that of sporadic forms of development across the entire site which is eroding the character of the site from that as agricultural holding within the countryside to a more commercial development.”

It appears that the Council are setting up tests for development in the Green Belt which do not exist. It is clear from the NPPF that the provision of outdoor sport and recreation and their associated facilities are acceptable in a Green Belt. They do not constitute inappropriate development.

- (ix) The officer then states:

“It is considered that the spreading of the use across the majority of the site and the expanding nature of the sport/recreation use and the

subsequent pressure that is having to introduce further built form, engineering operations and urbanising features has an incremental impact which is having a harmful impact on the openness and leading to encroachment within the Green Belt.”

Firstly this is factually incorrect – the uses (if he is referring to the whole development) do not spread across the majority of this 15 acre site and are contained around the existing development at the site.

The use of the site for outdoor sport and recreation by reference to the NPPF is wholly acceptable and it has been demonstrated that the facilities provided are reasonably ancillary to a use which is acceptable in the Green Belt. It is difficult to comprehend how an equestrian facility can result in an “urbanising” effect. Equestrian facilities are a feature of the countryside not the town. The development does not result in urban development “encroaching” into the Green Belt.

- (x) The Council acknowledge that the field shelter is considered to be acceptable (the colour objected to by the policy officer has been changed).
- (xi) The officer references the policy team’s approach to the requirement for the two walkout areas and questions why these are required. A detailed response to this was provided to the Council on this issue backed up by a letter from the appellant’s veterinary surgeon. It is not clear why the planning officer failed to provide this further information to Policy which could clearly have changed their approach by clarifying the clear and functional requirement of the need when dealing with stallions and mares in foal to have two horse exercise areas. Policy were never provided with the opportunity to review their comments in the light of this further information.
- (xii) In the conclusion regarding policy the officer states again that Policy regard some elements of the proposal as acceptable. It is considered that they may indeed have considered further elements were acceptable had they been reconsulted and provided with the further information provided by the applicant. It was also clear that one option open to the Council was to provide a split decision.

- (xiii) The officer then goes on to state:

“The development is described as being for personal use, however it is considered to be on a scale beyond which can reasonably be described as recreational activity for outdoor sport and recreation such that the scale which would expect to be seen for a commercial activity rather than personal use associated with sport and recreation.”

It was a statement of fact at the time of submission that the use was for personal use only. The successful breeding programme has resulted in a small commercial element as set out in Section 2.0. The hobby basis of the equestrian use, however, remains the dominant element.

In any event, as the Council are aware from dealing with numerous equestrian facilities there is nothing in policy or legislation (local or national) which would preclude commercial equestrian rather than personal equestrian use. Equestrian uses whether commercial or private are clearly acceptable uses in the Green Belt. There is nothing in policy which separates the keeping of horses on a commercial basis or a private basis. It is not clear on what basis the officer seems to make such a distinction. The site will remain in predominantly private hobby/recreational use with a small element of sales of livestock from time to time.

- (xvi) The officer then goes on to state:

“The use of the building previously used for agriculture, for a recreation and sport use has required extension to the building to facilitate the change of use given the scale of the operation which has been undertaken. It is therefore considered that in this case, due to the scale of development and the fact that the building would completely cease in its agricultural use, the development does not preserve the openness of the Green Belt would conflict with the purposes of including land within it to, albeit small scale, encroachment for the development to facilitate the change of use. The proposal is therefore

considered to conflict with one of the purposes of including land in Green Belt.”

It is difficult to comprehend how the Council can construe the change of use of an existing building to a use which is acceptable in a Green Belt can be deemed harm openness. It is acknowledged that a small scale extension has been added to the building following the change of use which conforms with planning policy in respect of the extension of buildings. Such a small scale addition cannot be deemed to be so harmful. For the record this small scale extension was not required to facilitate the change of use (as erroneously stated by the officer).

- (xv) The officer goes on to state:

“In addition, the nature of the use, being for breeding of horses, appears to have become progressively more intensive use over time with the use in 2016-2021 being outdoor predominantly and since changing to incorporate engineering operations, use of the buildings and new structures. The overall scale of the use is not concluded to preserve the openness in this instance and considered to lead to encroachment.”

Again, the officer appears to be setting up tests which do not exist. Many equestrian facilities expand over time as enterprises or uses become established. There is nothing in policy to say that the use of the Green Belt for equestrian purposes cannot be undertaken subject to no further growth or intensification. By definition, a breeding facility is likely to expand,

- (xvi) The officer states:

“It is considered that the scale of the development and the fact it has lead to a change in the nature of the operation of the site to such that it forms inappropriate development in the Green Belt.”

In this context, by reference to Para 149 and 150, as demonstrated to the Council in the initial supporting statement the proposal does not constitute inappropriate development:

- (i) The change of use of the agricultural building to equestrian use is not inappropriate.
 - (ii) The small scale extension of the building, which is not disproportionate, is not inappropriate.
 - (iii) The provision of ancillary sport recreational facilities which are reasonably required for the overall use of the site are not inappropriate.
 - (iv) The field shelters are not inappropriate.
 - (v) The ménage and stallion walkout areas are reasonably required for the functioning of an acceptable use in the Green Belt as demonstrated.
- (xvii) The officer then goes on to state:

“A ministerial statement in 2015 introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. The government stated that it was particularly concerned about harm that was caused by intentional or unauthorised development in the Green Belt. In this case, it may appear to be certain development undertaken on the site might be construed as intentional by some. This has been taken as a material consideration in weighing up in the assessment of the application by officers.”

It is contended that this is essentially the crux of the matter as far as the Council are concerned. It is considered that the convoluted and confused reasoning to justify a refusal set out in the officer's report is simply an attempt to “punish” the applicant for what it considers constitutes to be intentional development. As the Council are aware, it is not an offence to carry out development which requires planning permission. When the matter of the development requiring permission was brought to the appellant's attention he immediately agreed to submit an application to

regularise the development. The fact that this may be a retrospective application does not render the Council's responsibility of properly applying policy as set out in the NPPF and Local Plan. The uses do not cause harm to the Green Belt and they are not inappropriate in the Green Belt. As I say, it is clear that the Council have convoluted to punish the appellant for what it considers to be wrongdoing.

- (xviii) The officer then goes on to consider the impact on the character and appearance of the area (essentially the basis for justifying reason for refusal No.2). The officer appears to be wholly in denial about the characteristics of development in this area which are characterised by numerous equestrian facilities, together with sporadic residential and other development. Equestrian facilities and their associated facilities are not considered to be inappropriate development in a Green Belt by reference to policy. It is clearly inherent in the advice set out in the NPPF that if such development and changes of use are acceptable in principle then inbuilt in that policy is the acceptance of some impact on openness and a change in the character and appearance of land within the bounds of that policy.

It is clearly a statement of fact that if an agricultural site is changed to some form of outdoor sport or outdoor recreation that inevitably that will result in a change in the character and openness of the site. The issue is whether that change in character is sufficient harmful to justify a refusal. It is clearly not the case in this instance. The development that has been undertaken is wholly characteristic of equestrian sites. The only element that is perhaps less usual in this instance is the formation of a second all-weather exercise facility, the stallion breakout area in addition to a ménage. It has been set out clearly why such a separate area is required on the basis of welfare and the safety of horses, particularly in dealing with stallions and their behavioural requirements (as set out in the veterinary surgeon's submission).

- (xix) It is not clear why the officer is referring to artificial lighting since none has been specified.
- (xx) In the conclusion it is noted that the officer states:

“The development is by definition, inappropriate development within the Green Belt.”

That is factually incorrect when judging the proposals in the context of the provisions set out in Paras 149 and 150 of the National Planning Policy Framework and relevant Local Plan policy.

(xxi) The officer then goes on to state:

“The development is considered to have a detrimental impact upon openness and would lead to further encroachment into the countryside.”

The development undertaken, which incorporates a change of use of an existing building, a small scale extension to a building (not inappropriate) and the formation of ancillary facilities, does not have a detrimental impact on openness. If the Council's approach was to be accepted in terms of the ménage and breakout areas, clearly no ménages or similar ancillary facilities would be granted permission and that is clearly not the case.

It is also questionable as to how this results in encroachment. The use is a form of use which is acceptable in a Green Belt. This is not the “encroachment” of urban development into the countryside.

(xxii) Finally, it is noted that reference is made to Policy Area LP2. This proposal ensures that strengths and opportunities of the area are in fact built on.

3.2.2 In summary, from the detailed examination of the officer's delegation report it is considered that the following summary/conclusions can reasonably be reached:

1. The planning officer appears to have relied almost wholly on the consultation response from the Council's policy officer to justify the case.
2. When the policy officer raised concerns and objections further information was provided to address these concerns. However, for whatever reason Policy were not reconsulted or provided with this further information.

3. The policy officer's response identifies that elements of the proposal were deemed to be acceptable. It is not clear why the Council did not issue or even consider a split decision.
4. The policy officer raised questions about the requirement for a stallion breakout area and a separate ménage and seemed to identify that having both was unacceptable the inference being one was. Evidence was provided as to why two areas were required in this instance. That evidence was never passed on to the policy officer to review their stance on the matter.
5. Conspicuous in its absence is any detailed analysis of the proposal in relation to Para 149 and 150 of the NPPF.
6. The officer appears to set up numerous tests for such development which do not exist. It is not clear why the officer seems to make a clear distinction between commercial and private equestrian use when no such distinction in the application of policy exists.
7. The overall approach by the Council is muddled and confusing. It is clear from one paragraph in the officer's report that the real reason for the approach taken by the Council is an attempt to punish the applicant for unauthorised development, notwithstanding the fact that it is not an offence to carry out development which requires planning permission.

3.2.3 Overall, it is considered that the officer's report clearly demonstrates why planning permission should have been granted. The Council's approach is incoherent and inconsistent and relies heavily on a policy consultation response which had not taken into account all of the information provided by the applicant. It is not clear why the case officer had clearly determined not to reconsult Policy with the further information provided which may have provided a different response from Policy. As the consultation response was being wholly relied on to justify the reasons for refusal, perhaps the planning officer wanted to avoid the policy officers changing their stance?

4.0 PLANNING POLICY

By virtue of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, the planning authority must determine the planning application in accordance with the statutory development plan (insofar as it is material to the application), unless material considerations indicate otherwise. The NPPF also advises of a presumption in favour of development which accords with the development plan. The importance of the statutory development plan in the decision making process necessitates an examination of the relationship between the policies and proposals of the plan and government guidance.

4.1 Central Government Policy Advice

4.1.1 The National Planning Policy Framework

The following are comments on the advice in the Framework which is considered to be relevant to the consideration of the proposal:

- (i) Para 2 of the 'Introduction' sets out that:

“Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.”

- (ii) Section 13 deals with Protecting Green Belt Land.

- (iii) Para 137 of the Framework sets out that the essential characteristics of Green Belts are their openness and permanence. It states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.

- (iv) Para 138 notes that the Green Belt has five purposes which include safeguarding the countryside from “encroachment”.

- (v) At Para 147 it states:

“Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.”

(vi) Para 149 goes on to state:

“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- ...(b) the provision of appropriate facilities (in connection with the existing use of land or change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of the land within it.***
- (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original buildings.”***

(TPC underlining).

(vii) Para 150 goes on to state:

“Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- ...d) the re-use of buildings provided that the buildings are of permanent and substantial construction;***
- e) material changes in the use of the land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)...”***

(TPC underlining).

In respect of the various elements of the development, it is considered that in the context of the above policy and guidance:

- (a) The proposal is an “appropriate” facility for outdoor sport/recreation which preserves openness and does not conflict with the purposes of including land within the Green Belt.
- (b) The extension to the former agricultural building is acceptable as it does not result in a disproportionate addition over and above the size of the original building. It constitutes a 4.7% addition.
- (c) It is considered that it is clearly the case that the reuse of a building for equestrian purposes and the change of use of the land does not constitute inappropriate development.
- (d) The development does not result in encroachment into the Green Belt.

As such, it will be noted that as the proposal does not constitute “inappropriate” development and therefore it is not necessary for the applicant to prove “very special circumstances” to justify the development as alleged by the Council.

4.2 Local Planning Policy - Kirklees Local Plan

4.2.1 The Development Plan for the Kirklees District is the Kirklees Local Plan (2019). The site on the supporting proposals map is identified as being wholly within the Green Belt.

4.2.2 In the Council’s reasons refusal the Council cite a number of policies to justify the reasons for refusal. It is clear from examination of the policies outlined below that there is no such conflict.

(i) Policy LP2 – Place Shaping

“All development proposals should seek to build on the strengths, opportunities and help address the challenges identified in the Local Plan in order to protect and enhance qualities which contribute to the character of these places, as set out in the four sub area statement boxes below.”

(ii) Policy LP24 – Design

The policy constitutes the general design policy for all developments. The retrospective proposals seek the change of use of former agricultural buildings and minor lean-to which is suitable for reuse with no additional external changes. The ménage and horse stallion walkout area benefits from screening due to their topography, lowering of ground level and planting of screen planting. Field shelters relating to equestrian purposes are common within the landscape.

(ii) Policy LP56 – Facilities for Outdoor Sport, Outdoor Recreation and Cemeteries

The policy sets out that:

“In the Green Belt proposals for appropriate facilities associated with outdoor sport, outdoor recreation or cemeteries will normally be acceptable as long as the openness of the Green Belt is preserved and there is no conflict with the purposes of including land within it.”

As demonstrated in this statement, the proposals are appropriate facilities in line with the requirements of the NPPF and policy. The proposals ensure openness is preserved and there is no conflict with the purposes of Green Belt. It will be noted that further screen planting is proposed as part of this submission.

The policy further sets out that:

- “a. the scale of the facility is no more than is reasonably required for the proper functioning of the enterprise or the use of land to which it is associated;***
- b. the facility is unobtrusively located and designed so as not to introduce a prominent urban element into a countryside location, including the impact of any new or improved access and car parking areas;***

- c. ***in the case of all-weather riding arenas or other facilities for the exercising of horses, the degree of engineering operation required and the resultant re-grading of the land, including any earth mounding and retaining structures, does not result in incongruous or discordant land form out of character with its setting that cannot be mitigated through the use of appropriate hard and soft landscaping techniques.”***

In relation to these matters:

- a. The scale of the facility is no more than reasonably required for the functioning of the use. There are sufficient landholdings to support the use.
- b. Stables and equestrian use are characteristic of the countryside landscape in this area. The main building for stabling formed an agricultural building and the walkout area and ménage are well screened in the landscape and unobtrusive.
- c. The ménage and riding area are well screened in the wider landscape due to the use of the topography and the planting of landscaping. Further landscaping is also proposed. They are ancillary facilities for equestrian activities and a characteristic feature of the landscape around this part of the District, where there is a predominance of equestrian uses.

It is therefore considered that the proposal conforms to the above policy.

(iv) Policy LP57 – The Extension, Alteration or Replacement of Existing Buildings

The policy is the general policy relating to the extension, alteration or replacement of buildings within the Green Belt. In relation to extensions, it sets out at (a) that:

“In the case of extensions the original building remains the dominant element both in terms of size and overall appearance.”

The retrospective proposals seek consent for a small lean-to extension which constitutes only a 4.7% increase in the building. It will not dominate the existing building and is very small scale in comparison with the host building. The Council's policy officer concurs with this view.

In addition, the extension will not result in a greater impact on the openness as well as the design and materials not detracting from the Green Belt appearance of the building.

(v) Policy LP60 – The Re-use and Conversion of Buildings

The policy relates to the conversion and re-use of existing buildings in the Green Belt and sets out that they are considered acceptable where:

- “a. the building to be re-used or converted is of a permanent and substantial construction;***
- b. the resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape, including through the treatment of outside areas such as means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings;***
- c. the design and materials to be used, including boundary and surface treatments are of a high quality and appropriate to their setting and the activity can be accommodated without detriment to landscape quality, residential amenity or highway safety.”***

In relation to the above:

- a. The building is of permanent and substantial construction.
- b. The scheme seeks to utilise the existing building and access. The proposals will not result in an urbanising characteristic into the landscape. It does not result in the requirement for a new access or car parking. The ancillary development (ménage etc) is characteristic of equestrian facilities, specifically in this part of the district.

- c. The design and materials used are to remain as existing externally and as such there will be no harmful or visual impact.

4.3 Holme Valley Neighbourhood Development Plan

The Holme Valley Neighbourhood Development Plan became part of the statutory development plan for Kirklees Council in December 2021. The application site falls within the Neighbourhood Plan Area. It also defines the site as being within LCA3 Hade Edge Upland Pastures Character Area. It should be noted that this is a Neighbourhood Development Plan designation and the whole Neighbourhood Plan is covered by character areas:

- (i) Policy 1: Protecting and Enhancing the Landscape Character of Holme Valley

This policy sets out that:

“All development proposals should demonstrate how they have been informed by the key characteristics of the LCA in which they are located. Proposals should be designed in accordance with the character management principles in respect of landscape set out in paragraph 4.1.17 for each of the LCAs in order to avoid detrimental impact on the LCA.”

The application site is located in the LCA3 Hade Edge Upland Pastures which covers a large area including settlements. Reference is made in the LCA to an open and agricultural landscape. The management plan fails to identify the numerous sporadic equestrian developments in the area, which is a clear characteristic of this part of the District.

It goes on to state that ***“proposals should aim to make a positive contribution to the quality of the natural environment”***.

It sets out that the design and siting of new development and associated landscaping schemes should address:

- 1) Respecting long distance views and minimising any impact on the wider landscaping.
- ...3) Boundary treatment should be sensitive to the character area.
- 4) Landscaping scheme to be submitted with applications.

The proposals seek consent for the change of use of an agricultural building to equestrian, a walkout arena, ménage and a field shelter. Both agricultural and equestrian uses/buildings and associated structures are prevalent in the landscape. The ménage and walkout area are largely hidden from the wider landscape due to being set below existing ground level. In addition, landscaping is established and has been planted around the ménage and horse walkout area providing further screening. This will be further enhanced by the additional screen planting proposed with this appeal.

(ii) Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

The policy forms a general policy for all developments in the Holme Valley in relation to building character and design, some of which is not relevant to the proposals. It is considered that:

1. The proposals do not cause issues of harm in relation to the built character;
2. There is no negative impact on the visual appearance of the area;
3. The retrospective proposals use traditional materials for agriculture and equestrian uses; and
4. The proposals do not result in issues harm in relation to residential amenity.

5.0 THE ISSUES

5.1 The Development Plan

5.1.1 The Development Plan is the starting point for the consideration of this application as set out in S38 (6) of the Act and in the NPPF. It has been demonstrated that there is no conflict with Development Plan policy. A number of Local Plan policies are cited by the Council in the reasons for refusal but as detailed in this appeal statement there is no conflict with the stated policies.

5.1.2 It is demonstrated in the section above that the proposal conforms with Development Plan policy for the reasons set. It is therefore considered that the appellant is entitled to the presumption inherent in Section 38 (6) to be weighed in their favour.

It now falls for the matter to be considered in the light of all material considerations.

5.2 Material Considerations

The following are issues that are considered material considerations in respect of the determination of this appeal. It is considered that by reference to such issues this points to the grant of planning permission. There are no issues of harm to outweigh the presumption inherent in S38 (6) in respect of this proposal.

5.2.1 Green Belt

5.2.1.1 It is noted that in the Council's reason for refusal No.1 the Council allege that the proposal constitutes inappropriate development within the Green Belt. It is considered that this analysis is fundamentally flawed and the development does not constitute inappropriate development as set out in this statement. By reference to Para's 149 and 150 of the NPPF, these proposals clearly do not constitute inappropriate development. As such, the very special circumstances referred to in the reason for refusal No.1 do not need to be demonstrated.

5.2.1.2 As set out in this appeal statement, it is clear that each element of the development that has been undertaken does not constitute inappropriate development, as follows:

- (i) The change of use of the agricultural building to equestrian use is a change of use of the building which as set out in Para 150 of the NPPF does not constitute inappropriate development.
- (ii) The extension to the former agricultural building to form a hay store extends to some 4.7% increase in the volume of the building. This is not a disproportionate addition (the Council's usual approach is up to 30%). As such, the extension to the building is not disproportionate and does not constitute inappropriate development (Para 149 of the NPPF).
- (iii) With regard to the ménage, stallion breakout area and horse field shelter, these are common ancillary facilities related to equestrian uses in the Green Belt. It has been set out in detail why in this instance two separate outdoor exercise areas are required. They are reasonably ancillary and are uses which constitute outdoor sport and outdoor recreation. They do not harmfully impact on visual or spatial openness or the functions of Green Belt. As such, they are therefore not inappropriate development by reference to Para 149 of the NPPF.

5.2.1.3 As set out below, the proposal does not result in visual or spatial harm to the openness of the Green Belt and the development is not, therefore, inappropriate. Accordingly, it does not conflict with the Green Belt objectives of the Framework.

5.2.1.4 It is quite clear that the Council's reason for refusal No.1 is unreasonable, unjustified and does not stand up to scrutiny.

5.2.2 Visual Impact

5.2.2.1 As set out in the original submission to the Council, the general area of the countryside is characterised by sporadic equestrian development. A plan is provided identifying numerous nearby equestrian facilities in the area (Appendix 6). The whole of the character of the area is characterised by sporadic development, including farms, equestrian facilities and residential. As such, this proposal is not out of place with the character of the area as alleged in reason for refusal No.2.

5.2.2.2 The assessment of impact on openness is about considering the presence of the development in the context of national policy, which seeks to keep Green Belt land permanently open thus avoiding urban sprawl.

5.2.2.3 The former agricultural building has been converted 'as existing' and therefore its re-use for equestrian purposes can have no impact on the character or visual or spatial openness of the Green Belt. The small scale addition to the building is well within the parameters for acceptable extensions to existing buildings in the Green Belt and as such cannot, therefore, give rise to harm to openness. Clearly, some impact on openness is acceptable within the parameters of the policies which allow extensions.

5.2.2.4 The formation of the ménage and stallion walkout area constitutes acceptable engineering operations. The development is not raised above natural land levels. Indeed, the development has been sunk below previous land levels. In respect of the stallion turnout area, this is essentially shielded from public view by existing topography and boundary treatment and sits adjacent to the barn. Likewise, the ménage is largely shielded from public view due to the topography and boundary treatment, which will be further enhanced by proposed landscape planting.

5.2.2.5 In respect of considering the issue of openness, the Inspector's attention is brought to the case law on the issue of openness. In the case of Samuel Smith Old Brewery Tadcaster v North Yorkshire CC (2018) EWCA (CIV) 489, the Court of Appeal held that:

"Whether a development would preserve the openness of the Green Belt cannot mean that a proposal can only be regarded as not inappropriate in the Green Belt if the openness of the Green Belt would be left entirely unchanged. It can only sensibly mean that the effects on openness must not be harmful – understanding the word "preserve" in the sense of "keep... safe from harm – rather than maintain "a state of things"."

5.2.2.6 Having regard to this Case Law, the degree of change is important in determining whether the proposal would preserve openness. It is considered that the change that has taken place on the site has not harmed openness in spatial terms.

5.2.2.7 Having regard to the above, it is considered that the development does not have a material impact on openness to the degree that it would be considered harmful. The new development does not harmfully impact on openness. The former agricultural building is converted as existing. A small scale extension is not disproportionate and the associated ancillary development of the ménage, horse shelter and stallion breakout area are characteristic associated development with equestrian facilities. Equestrian facilities are a distinct characteristic of the general location. The facilities are reasonably required to support the form of equine use.

5.2.3 Equestrian Use of the Land

Equestrian uses are characteristic in this part of the countryside and give no rise to issues of harm. The use constitutes outdoor sport and recreation. They are not urban features and do not constitute encroachment.

5.2.4 Guidance on Keeping Horses and Veterinary Guidance

5.2.4.1 The Inspector's attention is drawn to the "**Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids**" issued by the Department of the Environment, Food and Rural Affairs. Appended with this submission is the full document (Appendix 5). This advice has been used to inform the appellants how to run and manage their equestrian facility which fully complies with the guidance as set out.

5.2.4.2 At Para 1.9 it will be noted that there is specific reference to the requirements for keeping stallions which require higher fencing, a double fence line and electric fencing:

"This is to prevent aggression between occupants of different paddocks as well as to contain the stallion within the allocated areas."

5.2.4.3 Para 1.15 sets out the size of requirement for foaling boxes which have been adopted in this instance. It will be noted that whilst there are a larger number of stables than horses currently on site, it is the appellant's intention to continue a breeding programme which will fully utilise the stables.

5.2.4.4 Para 3.1 sets out the need for horses to have adequate exercise. Stallions require adequate and safe exercise and turnout daily which is why the all-weather walkout area for the stallions is provided separately to the ménage for the other horses.

5.2.4.5 Para 4.5 relates to aggressive horses, which it is understood stallions usually are. At Para 4.5 it states:

“Aggressive individuals may not be suitable for mixing in fields or communal barns. Incompatible individuals should be separated. These may include uncastrated males (colts, stallions) and “rigs” (a stallion with undescended testicles or a horse which has been incompletely castrated).”

5.2.4.6 Para 4.6 goes on to state that mares in foal or with young foals also need to be separated from other horses and under certain circumstances such mares need to be kept separate from members of the public.

5.2.4.7 At Para 4.8 it goes on to state:

“Stallions have special requirements and may not be suitable for turnout with other horses. It is important that stallions receive adequate exercise and environmental stimulation.”

5.2.4.8 At Para 5.9, in terms of breeding it states that pregnant mares should be potentially kept separate from other horses to avoid infection.

5.2.4.9 In Annex 1 regarding tethering, it states that animals should not be exposed to excessive elements and shelter needs to be provided. Furthermore:

“Animals must be given freedom to exercise off the tether for a reasonable period at least once per day.”

5.2.4.10 It is considered that the appellants who are involved in stud farming and the keeping of stallions have developed the equestrian facility in line with the guidance outlined above which gives clear justification for, in this instance, providing both a stallion breakout area and a separate ménage for other horses at the site. It is clear

that care must be taken in the welfare of animals and in particular both stallions, mares in foal and young mares need to be separated. This is hence the development of two separate exercise areas which are clearly required for the safety of the horses and horse handling in a safe manner.

5.2.4.11 During the processing of the application and following the Policy consultation response, the appellant's veterinary surgeon set out in a submission the reasoning why two external separate exercise areas were required in this instance. It is noted that this response was not provided to Policy nor is any reference made to this in the officer's delegation report.

5.2.5 The Council's Processing of the Application

5.2.5.1 Issues must be raised with regard to the handling and processing of the subject application. It is clear from the officer's delegation report that the determination to refuse the application and the grounds on which to do so seem to be almost wholly dictated by the consultation response from the Council's policy officer, which is quoted at length to provide justification for the Council's approach. What is also clear is that following the receipt of the consultation response where numerous issues were raised and indeed clarification sought (including the policy officer requesting why two outside exercise areas were required), further information was provided to the Council. This information was not passed on to Policy and they were not re-consulted.

5.2.5.2 Fundamental question marks must therefore be raised as to the handling of the application. It is clear that if the planning officer was going to rely almost wholly on the policy officer's consultation response to inform the Council's approach, Policy should have been re-consulted on the further information provided by the applicant. They were not. It is not clear why they were not re-consulted. The policy officer's consultation response was not made on in the light of all the information and evidence available. The approach taken by the planning officer was as such fundamentally flawed.

5.2.6 Landscaping Proposals

- 5.2.6.1 It is acknowledged that the Council's policy officer raised the issue of the requirement for further screen planting, particularly in respect of the ménage. Submitted with this appeal is an indicative landscape plan which shows how the site could be further landscaped to reduce visual impact, through native hedgerow planting such as hawthorn and quickthorn. It is considered that this can reasonably be dealt with by the imposition of a planning condition which requires the submission and approval of a landscaping scheme. It is considered that such a condition would pass the "six tests" for conditions set out in the NPPF and PPG.

6.0 CONCLUSION

6.1 The subject application was submitted in retrospect and involved a number of different forms of equestrian associated development. In refusing the application, the Council concluded that:

- (i) The proposals constitute inappropriate development. It will be noted that whilst the policy officer acknowledged that elements of the proposal were acceptable, the Council simply concluded that the whole of the development constituted inappropriate development. The Council alleged that failure to provide very special circumstances therefore warranted a refusal; and
- (ii) That this development would have a detrimental impact on visual and spatial openness.

6.2 The Council also cited various development plan policies to justify the reasons for refusal.

6.3 In terms of development plan policy, it has been demonstrated that there is no conflict with the policies cited by the Council. It is noted that the reasons for refusal also refer broadly to the National Planning Policy Framework and similarly it has been demonstrated that there is no conflict with the NPPF. Indeed, the proposals wholly conform with the NPPF (Para's 149 and 150) as demonstrated in this submission.

6.4 With regard to the development forming alleged inappropriate development, in terms of various elements of the development the following is stated:

- (i) The change of use of the former agricultural building to equestrian use does not constitute inappropriate development by reference to the NPPF.
- (ii) The small scale extension to the agricultural building which would not result in a disproportionate extension to that building is also not inappropriate development by reference to the NPPF. The Council's policy officer concurred with this view.

- (iii) The outdoor ménage and stallion walkout area are appropriate facilities in associated with the equestrian use and constitute outdoor sport and outdoor recreation. The reason why two separate external exercise areas are required in this instance has been fully set out. By virtue of existing land levels and topography, it does not harm the visual amenity of the Green Belt. Further landscape planting is proposed.
- (iv) Field shelters are a common feature with equestrian facilities acknowledged by the Council's policy officer. The shelter has been repainted an appropriate colour following the policy officer's raised concerns regarding the original colour.

6.5 By reference to the above, it is clearly demonstrated that no element of the proposed development constitutes inappropriate development. The Council's analysis is flawed and as such no very special circumstances need to be demonstrated to justify the development.

6.6 In respect of the impact on openness, relevant case law has been referred to and it is considered that the proposal does not give rise to harm to openness. Given that the proposals do not constitute inappropriate development and conform with the NPPF, it is considered that reason for refusal No.2 cannot be justified. There is also no harm to the character or appearance of the area – equestrian development forming a clear characteristic of the area. The proposal does not result in visual or spatial harm to the Green Belt and is not therefore inappropriate. The proposal does not result in encroachment. Accordingly, it does not conflict with Green Belt objectives set out in the NPPF.

6.7 In the context of the above, it is clear that the Council's conclusion and reasons for refusing the application are without justification and fundamentally flawed. Questions must also be raised about the Council's processing of the application and whether this has been fair and open in terms of the application. As noted in the submission, the Council's policy officer raised a number of issues with regard to the development. It is clear from the officer's delegation report the Council almost wholly relied on the Policy consultation to justify the refusal. A detailed response was submitted on that consultation response, including a submission from a veterinary surgeon outlining the requirements for elements of the development. It is

clear that the planning officer did not reconsult Policy in the light of that further evidence. It is considered that questions must be raised about whether this was fair and reasonable given that by reference to the officer's delegation report, the consultation response from Policy was essentially relied on to justify the refusal.

- 6.8 It has been demonstrated in this submission that the proposals do not constitute inappropriate development and that they conform with both national and local policy. The development is not harmful to the visual or spatial character of the openness of the Green Belt.
- 6.9 It is considered that as the proposal conforms with policy, the applicant is entitled to the presumption inherent in Section 38 (6) to be weighed in his favour. It is considered that there are no issues of harm to outweigh this presumption.
- 6.10 The Inspector is therefore respectfully urged to uphold this planning appeal and grant retrospective planning permission for the development.

APPENDICES

Appendix 1	Decision Notice and Application
Appendix 2	Post Submission Correspondence
Appendix 3	Policy Officer Consultation Response
Appendix 4	Officer Delegation Report
Appendix 5	Government Guidance on Horse Management
Appendix 6	Plan Identifying Other Equestrian Facilities within the Local Area
Appendix 7	Indicative Landscape Plan