

Application No: 12/1310N

Location: SOUTH VIEW EQUESTRIAN CENTRE, WINSFORD ROAD,
WETTENHALL, CHESHIRE, CW7 4DL

Proposal: APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR
AN EXISTING USE OR OPERATION OR ACTIVITY INCLUDING THOSE
IN BREACH OF A PLANNING CONDITION

Applicant: MR CHARLES BRITTON

Expiry Date: 28-May-2012

SUMMARY RECOMMENDATION: For Members to comment on the application

MAIN ISSUES:

- Purpose of the report;
- Decision Required;
- Site Description and Details of Proposal;
- The Proposal
- Conclusions

1.0 Purpose of Report

- 1.1 This application is to be determined under delegated powers. However, a call in request has been made by Cllr Michael Jones on the grounds that *'This is a controversial site with a clear alignment away from current planning permission. It is argued that the lawfulness is not continuous with the site history, in that members should be aware that highways issues, usage issues have all changed substantially since the new ownership, which is less than the claimed period'*.
- 1.2 The decision on these applications is taken purely on factual information, without any regard to suitability or whether or not planning permission would have been granted. The legal test of the evidence is on "the balance of probability". Therefore such applications are delegated to the Head of Development, however given the level of interest in this site, the Head of Development is seeking "**consultation**" with Southern Planning Committee to allow any views to be expressed.

2.0 Decision Required

- 2.1 To note the content of this report and to provide comment to the Planning Officer.

3.0 Site Description and Details of Proposal

- 3.1 The application relates to South View Equestrian Centre and comprises an indoor arena, 2 ménages, stables, ancillary residential accommodation and car parking. The application site is located wholly within the open countryside.
- 3.2 An application has been made for a Lawful Development Certificate for an Existing Use or Operation or activity including those in breach of condition. The applicant claims that the development is immune from enforcement action because no such action has been taken within the time limit specified under section 171B of the 1990 Act. In the case of breach of conditions the time limit to take enforcement action is 10 years. For the purposes of a CLEUD application this is the period of 10 years prior to the date of the application i.e. 2nd April 2012.
- 3.3 There are 3 no. conditions which were attached to permission 7/15644 (use as an equestrian centre) and the applicant claims that they have breached the following conditions over a continuous 10 year period.

Condition 7

The use shall be limited to the months of September to March Inclusive

Condition 8

The use shall not be open to the general public but by invitation

Condition 9

There shall be no more than 50 vehicles of any kind at any event

- 3.4 In addition to the above there are a number of other breaches of planning control, which the applicant has confirmed that they will be submitting a separate application or CLEUD.

4.0 Proposals

Evidence Submitted by the Applicant

- 4.1 In support of the application Statutory Declaration from Charles Britton provides detailed evidence and personal recollections of his use of the site from 1995 to date. This includes his use as a visitor to competitions and events between 1995 and 2005 prior to him purchasing the site. It also includes detailed evidence of the operation of the site. It also includes detailed evidence of the operation of the site since it was purchased by Mr. Britton (and his partner) in 2005
- 4.2 Since 2005 Mr. Britton confirms that the site has continued to operate all year including the months of April, May, June, July and August in breach of condition no. 7. He also confirms that every year since 2005 on many occasions there have been over 50 vehicles at events. Therefore, both between 1995 and 2005 to date Mr. Britton gives

first hand evidence of the continued operation of the site in breach of conditions 7, 8 and 9.

Additionally, further supporting documents include:

- A letter from Nantwich Riding Club confirming that they have used South View Equestrian Centres Facilities between October and April Annually since 1996;
- A letter from the Welsh Ponies and Cobs Society confirming that they had two shows a year up to 2010 (one on Easter Monday and one on the second week in May). They confirm they regularly had between 70 and 100 horse boxes and trailers. The writer confirms that as a judge and competitor they have attended the venue for over 20 years and therefore give first hand evidence to corroborate the Statutory Declaration of Mr. Britton;
- A letter from the former Chairman of East Cheshire Combined Training Group which confirms that she attended events over the summer and winter months between 1992 and 2001;
- A letter from Mr. Williams who confirms attendance at the site for over 20 years and that this included annual events held in the summer;
- A letter from the District Commissioner for the Cheshire Hunt South Branch of the Pony Club confirming high levels of attendance at annual events with reference to over 100 transporters/ponies plus cars;
- Letter from the owner of New Farm bed and breakfast confirming use both in winter and summer over the last 20 years;
- Letter from Michael Marren (Master Saddler) confirming attendance over 19 years at events in both summer and winter
- Letter from Pauline Woodward confirming use since 1992 and referring to events and training in the summer months;
- Letter from Mr. and Mrs Corke (immediate neighbours) confirming that they have lived there for 19 years. They confirm that over the 19 years they have been fully aware of events being run over the summer as well as winter months;
- Letter from Margaret Shaw (British Show Jumping Official/Judge/Freelance Reporter) who confirms she has attended South View Equestrian Centre every year, throughout the year since 1989. She also refers to year round activity;
- Letter from Caroline Hollinshead who confirms she attended the centre since 1989 and that events are held throughout the year and on numerous occasions the events car park had at least 60 vehicles.

Representations made through Consultation

4.3 The Cholmondeston and Wettenhall Parish Council have the following comments to make:

- There has been a considerable increase to the number of events held at Southview over the past 2 years, in particular. This has had a knock on effect to the level of heavy traffic (namely horseboxes) using the local roads in the Parish.
- Due the increased traffic volume, we are concerned about the rise in deterioration of the roads, which are local roads not meant for 7.5ton & HGV horseboxes.

- The increased number of events held at Southview is clearly a breach of the original planning application. There appears to be an event every weekend with in excess of the 50 vehicle limit using the car park.
- The noise created from the external tannoy system is a cause of considerable irritation to many of the local residents.

4.4 One letter of representation received from the occupier of The Oaklands. The salient points raised are as follows:

- My property is next door to the facility and I therefore observe and suffer from the increased noise, litter and loss of privacy. Since Mr. Britton acquired the property he has constructed several all weather surfaces on what were previously grassed paddocks. This has enabled him to commence to run shows outdoors, in all weather, which would have been impossible prior to their construction. He has now installed an outdoor public address system which has made the noise levels intolerable;
- When the events were limited to the winter months between September and March, and held indoors, the summer months were relatively quiet. Now, from early morning to late at night there are constant announcements and the ringing of bells every time a horse enters the ring or is eliminated. Whilst this is for the benefit of the travelling competitors who use the facility, it has greatly reduced the quality of life for the residents of what was previously a quiet, rural location;
- The recent May bank holiday has, in the past, and weather permitting, been a time spent outdoors with family and friends enjoying the surrounding in which I live. Since the increased activity at Southview more and more time is spent picking up litter.

4.5 A letter of representation received from Mr. Ellison (agent acting on behalf of Mr. and Mrs. Moss of Peacocks, Winsford Road, Wettenhall).

- This claims that every year since 2005 SVEC has been operated all year round including activity and events held in April, May June, July or August;
- Mr Britton also states that from 1995 to 2005 he competed and /or attended as a competition horse owner and spectator regularly and throughout the year at the centre at a number of events which were primarily show jumping events run under the rules of the BSJA. His family also took part in unaffiliated events, with him, his family and staff employed in the care of horse and ponies jumped at these events and pony club organise events and later in BS show jumping events. He cites Exhibit 1 in support of an event attendance at events.
- There is also a note regarding an event he attended in the summer months but it is undated and provides no evidence related to it.
- It is stated that since its inception the centre has run a full British Show jumping affiliated calendar throughout the year. He cites Exhibit 19 as a list of BS events and exhibit 20 from 1991 highlighting a leaflet with a high level of international events.
- The Statutory Declaration of Linda Wright. The first page is exactly the same as that of Mr C Britton and much of the rest of the document is very similar. It provides no new evidence. It relies on the records in exhibit 1 which as has already been stated do not confirm continuous use throughout the year.
- The Statutory Declaration of J A Maguire. The first page is very similar to that of the previous two Statutory Declarations. It provides no evidence at all to justify a

continuous breach of conditions 7, 8 and 9 but merely states that the breaches have been continuous. This document cannot be relied on at all and should be completely discounted.

- There are substantial gaps in the applicants records and as such it cannot be proved that there is a continuous breach of the aforementioned conditions
- A number of the letters/documents submitted are not signed and undated and the amount of weight which can be given to these documents must be significantly reduced;
- A number of people that stated they have competed at the various events or attended them have not provided any dates. Therefore, this evidence is unclear, ambiguous and imprecise;
- It is claimed that every year since 2005 SVEC has been offered for use by the general public, with events open and not by invitation in breach of condition 8. Mr Britton received no invitation to all the events he attended and which were generally advertised.
- "None of the events have been by invitation only but are published generally" in various locations, with general diary listings and detailed schedules of events around horse related locations and on horse event web sites.
- No such advertising material or copies of notices, flyers etc. have been submitted with the application so there must be some uncertainty over the promotion and marketing of such literature and what it actually said by way of advertising such events;
- Statutory Declaration of Linda Wright. Similar unsubstantiated claims are made in this document." I received no formal or personal invitation but the event was openly and generally advertised." No examples of distributed or on site advertising material are submitted which confirm that events are open to the general public, no copies of rules of Governing bodies included or their event listings.
- In none of the exhibits is the any reference to whether the events were open or by general invitation. It would be expected that due to the quality and significance of such events that competitors would be invited to attend as it would be unreasonable for a member of the general public to expect to take part in such events. In addition to ensure the viability of such events and make sure they are attended by quality participants, invitations would surely have been sent out by SVEC to guarantee that the event took place. Surely it would have been part of the requirements of the BSJA when tenders were submitted by SVEC especially if these were International or Olympic qualifying events to ensure the right competitors attended.
- There is no factual evidence to support the claims that over 50 vehicles were parked at the various events

5.0 Conclusion

- 5.1 The Committee is invited to *make comment* on the application, but should be aware that the planning merits of the activities being carried out at the site are not for consideration. Furthermore, the decision of whether a positive certificate should be issued shall ultimately be made by the Head of Development. Comments should be submitted by 22 June 2012.

