

**Application for Certificate of Lawfulness for Livery Use
and
Application for Certificate of Lawfulness for Stabling, Barn and Caravan and
associated Livery Use at:**

Cat Hill Livery

Cawthorne View

Firs Lane

Cat Hill

Hoylandswaine

S36 7JB

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1.0 Introduction

1.1 An application is being submitted for:

- Certificate of Lawful Use in relation to the 'livery use' at Cat Hill Livery, Cawthorne View, Firs Lane, Cat Hill, Hoylandswaine;
- Certificate of Lawful Development in relation to the stabling, barn and caravan and use in association with the existing livery use of the site at Cat Hill Livery, Cawthorne View, Firs Lane, Cat Hill, Hoylandswaine;

on behalf of the current owner of the property, Miss Kelly Oxtoby.

1.2 I am a rural planning consultant specialising in occupational dwellings and the commercial equestrian development sector. I hold BSc Equine Welfare with Business Management, LL Dip Law degrees and PgC Agricultural Law. I advise planning authorities throughout the UK, preparing independent appraisals and attending appeal hearings and public inquiries. I have an in depth knowledge of the equine industry and equine welfare.

1.3 With formal academic qualifications in law, business management, equine science and behaviour, I act as expert witness in litigation and prepare expert reports for solicitors in relation to personal injury cases, disputes and veterinary negligence.

1.4 This document aims to show that the livery use of the site together, with the all of the buildings and structures on site (with the exception of the hay barn built in September 2015), has existed for in excess of ten years necessary to be a lawful use.

1.5 This evidence consists of:

- Google Earth images of the site in 2003, 2009 and 2015. (Appendix A)
- Statutory Declaration by Mr Harry Taylor, the previous owner of the site that there has been a continuous equestrian livery use of the site for approximately 14 years comprising 11 years in his ownership until he sold it to Miss Oxtoby in 2015; that the stabling had been used by the liveries during the whole of that period and the barn being used in connection with the livery use since

approximately 2010 when it was built; that the caravan has been on site for approximately 20 years and utilised by the livery owners. (Appendix B)

2.0 The Site

2.1 The site, known as Cat Hill Livery, is situated approximately 1.5 miles from the village of Hoylandswaine, approximately 7 miles from Barnsley, approximately 15 miles from Sheffield and approximately 6 miles from Junction 7 of the M1.

2.2 The site comprises approximately 10 acres (4 hectares) of gently sloping/sloping pastureland enclosed by post and rail fencing, stock fencing, trees and hedging. The buildings and structures on site are in close proximity to each other creating a compact holding that is well screened from the highway by thick hedging. There are no residential properties adjacent to the site or properties that look directly on to the site. The local area is characterised by small equestrian sites with stabling and ancillary facilities.

2.3 The following buildings/structures are on site:

- Barn of block and steel construction with corrugated roof, approx 45ft x 30ft, used for storage, office, tea/coffee making facilities
- Open fronted barn of block construction, Yorkshire boarding with box profile roof, approx 45ft x 30ft, used for storage of hay, straw and feed
- Row of block stabling creating five boxes approx 10ft x 14ft, each with rubber matting and automatic water
- Caravan and porta-loo
- Large area of hardstanding adjoining barns to provide parking and turning area

3.0 Background

- 3.1 Miss Oxtoby purchased the site in September 2015 having previously been a tenant from May 2014. The decision to tenant and subsequently purchase the site was based on its existing use as a livery yard by the owner Mr Harry Taylor. The facilities, layout and location of the site made it ideal for her to run her own livery business.
- 3.2 Miss Oxtoby moved on to the site and established her business straight away having already obtained livery clients from her dressage contacts within the local equine industry. Miss Oxtoby provides a full livery service. This has had the benefit of reducing the number of vehicle movements associated with horse owners visiting the site.
- 3.3 As the business went from strength to strength Miss Oxtoby decided to purchase the site. She was under the impression that, since there had been a livery yard operation for many years, this was a lawful use. Clearly this should have been identified by the solicitor, as should the fact that the stables and barn did not have permission. Miss Oxtoby operated her business in good faith and did not realise that this was actually an unlawful use.
- 3.4 It has since become apparent that the stabling, constructed around 1980 and barn approximately 2010, were not approved by the planning authority as was believed. Under reference B/96/0496/PU an application had been made for ostrich housing by Mr Taylor but the archived documents now show that the proposed buildings were to be sited in the adjacent field, of which Miss Oxtoby now owns half. Mr Taylor did not build the proposed ostrich housing.
- 3.5 In September 2015 a hay barn was built adjacent to the stables by Miss Oxtoby. This was necessary for the storage of the hay produced from the site. Without the newly built barn, the hay would have been spoilt by the rain. It is essential that hay fed to horses is undamaged by rain or damp as it can cause severe respiratory conditions. Again, this was mistakenly believed to be a permitted development. Miss Oxtoby now realises that this needs to be dealt with by way of a retrospective application.

4.0 History of the Site

- 4.1 It is fortunate that there have been few owners of the site. Accordingly, sufficient information has come to light to enable relevant dates and uses of the site to be ascertained.
- 4.2 Miss Oxtoby purchased the site from Mr Harry Taylor of Cat Hill Hall Mews, Cat Hill Lane, where he still resides.
- 4.3 Mr Taylor purchased the property from Mr Gaunt in 1978, and built the stabling in 1980. He kept cows and sheep as well as growing potatoes, carrots and turnips. During the 1990s, he bought some ostriches and subsequently sold the cattle. The stabling was used for the ostrich housing. The proposed ostrich housing, under reference B/96/0496/PU, was never built.
- 4.4 In the early 2000s, the ostriches were sold. Approximately 2004, with there being no use for the buildings and land, the livery was established. Specifically, the land used for the liveries was that subsequently let to Miss Oxtoby and later sold.
- 4.5 The decision was made to let the site to one person as opposed to having a number of horse owners. The yard area and buildings together with the two paddocks, amounting to approximately 10 acres, had proven to be suitable for a livery business.

4.6 Timeline:

1978 - Mr Taylor purchased his property from Mr Gaunt.

1980 - Mr Taylor created the yard area and built the stabling to accommodate the sheep and cattle.

1990s - Mr Taylor sold the cattle and bought ostriches, which were housed in the stabling.

Mid 1990s – caravan moved on site

Early 2000s - Mr Taylor sold the ostriches.

Mid - 2000s - With the stabling and land no longer being used, Mr Taylor began utilising the stabling and paddocks for liveries. Some improvements were made to the site to provide better fencing for the livery horses, improved yard surface and new access for vehicles etc.

2010 – The barn adjacent to the stabling was built for associated livery use.

May 2014 – Miss Oxtoby began tenancy of the site as a livery business.

September 2015 – Miss Oxtoby purchased the site.

Google Earth Images:

2003

4.7 Google Earth images (Appendix A) show the site in 2003, 2009 and 2015. The 2003 image shows sheep in the larger of the two paddocks. The paddock is evenly grazed in line with the grazing pattern of sheep. There is no appearance of the land having been grazed intensively by horses.

4.8 There is an enclosure, which marks out the boundary of the current yard and the stabling, but no defined yard or hardstanding. The two paddocks are enclosed but there is no fencing other than the site boundary.

2009

- 4.9 Unfortunately, there are no images available between the end of 2003 and 31st May 2009. However, by 2009 there are very significant changes in the site that indicate a prolonged and extensive equestrian grazing use.
- 4.10 For the purposes of this CLEUD application the aim is to show the livery use from at least 2008. However, the condition of the land and the grazing patterns indicates prolonged equestrian grazing use and is typical of livery yards. Therefore, at the point in time of this image being created, I would conclude that the intensive grazing by horses had been taking place for a number of years.
- 4.11 The image clearly shows three horses in one paddock with two in the other. Although the image of two animals is slightly more difficult to discern as horses, on balance these are most likely to be horses as it is very unlikely that other livestock would be kept with just two animals in a paddock.
- 4.12 There have been significant changes to the site. A substantial amount of fencing has been erected to create safer paddock areas. The yard has been created with hardstanding to prevent the stable area becoming muddy when horses are taken to and from the stabling. A new access with hardstanding track has been created to enable horse owners to drive on to the site easily and to park their vehicles on a safe and appropriate surface.
- 4.13 By 31st December 2009, the site is much the same as during the summer but with fewer weeds apparent. The grazing pattern remains the same. As would be expected, during the winter the horses are not grazing because they are stabled, just one horse is grazing. There are no other livestock in the paddocks. There are two cars parked in the yard.

2015

- 4.14 The image dated 6th June 2015 shows that the site is much the same as the two images from 2009, with the addition of the barn, believed to be 2010. This is relevant because at this point in time the current owner, Miss Oxtoby, had been running her livery business for over a year.

- 4.15 It is apparent that the land management had been improved in line with the quality of the full livery service offered to clients and the larger of the two paddocks had been divided, but in all other respects the site remain the same.
- 4.16 In my opinion, this image evidence demonstrates that whilst the quality of the grazing has improved since Miss Oxtoby has run her livery business, there have been no other changes needed to enable her to run her successful full livery enterprise. Therefore, the livery business was clearly in existence in 2009.
- 4.17 Whilst there is no image evidence of the site prior to 2009, the grazing pattern of the land conclusively demonstrates the intensive grazing by horses. The amount of weed and 'stale' patches on the land would have taken a considerable time to develop particularly bearing in mind the apparent good quality of the grazing in 2003. This is typical of livery yards throughout the UK.

5.0 Conclusion

5.1 Planning Practice Guidance 6th March 2014 states:

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

5.2 The Google Earth images provide evidence of the equestrian use of the site since 2009. The condition of the land at that point indicates an intensive equestrian use consistent with a livery use for some considerable time before 2009. In my view, the image evidence is sufficient to justify the grant of a certificate on the balance of probability – that the livery use clearly existed since at least 2008.

5.3 However, there is additional evidence from Mr Taylor who has owned the land since 1978. Mr Taylor has confirmed that there was a livery use from mid-2000s, which together with Miss Oxtoby's livery use, results in a continuous livery use for approximately 14 years. Mr Taylor has provided a Statutory Declaration to this effect. He confirms that the buildings were built in 1980 and 2010 and the caravan since at least 1998, and have all been used in connection with the livery use since that time.

5.4 The livery use of the site has existed for in excess of ten years. The buildings and caravan (apart from the hay barn erected by Miss Oxtoby in September 2015) have been in existence for more than the four years necessary to be lawful and have been in used connection with the livery use of the site.

APPENDIX A: Google Earth Images

31/12/2003

31/5/2209

31/12/2009

6/10/2015





APPENDIX B: Statutory Declaration