

STATES OF JERSEY
PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)
APPEAL OF A DECISION UNDER ARTICLE 108
REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT
by Mr Philip Staddon BSc, Dip, MBA, MRTPI
an Inspector appointed under Article 107

Appellants: Mr and Mrs B. Morris (third party appellants)

Site address: Field B978, La Route Du Francfief, St Brelade

Appeal against: Decision of the Department of the Environment to Grant Planning Permission for "*Formation of all weather surface / arena to part of field.*"

Decision date: 26 January 2017

Reference: P/2016/1401

Appeal procedure: Hearing – 2 May 2017

Site visit: 2 May 2017

DATE: 31 May 2017

Introduction

1. This report contains my assessment of the third party appeal made by Mr and Mrs Morris against the decision of the Department of the Environment to grant planning permission for a development near to their home.
2. The development is described in the Department's decision notice as the "*formation of all-weather surface / arena to part of field*". The facility is intended for use for equestrian purposes and, specifically, in connection with the sport of dressage.

The site and its surroundings

3. Field B978 is situated in the Green Zone to the north of La Route de Francief in St Brelade. It is set behind a row of detached properties, which includes the Appellants' home. The field is roughly rectangular in shape and covers about five vergées (8,922 square metres). When I visited the site, the field was in agricultural use for the grazing of Jersey heifers.
4. The field forms part of the landholding associated with *La Fontaine*, which is located to the east and includes established equine activities. *La Fontaine* is the Applicants' home and includes the main farmhouse, outbuildings, ancillary accommodation and stabling.
5. The farm complex is potentially Listed, the published statement of significance recording "*a good example of a well-proportioned mid C19 house in the Georgian style forming an integral whole with associated farm buildings, and potentially earlier structures on the site.*"
6. In addition to the associated facilities and some fields near to their home (which includes field B978), the Applicants also have wider farm holdings elsewhere on the Island. I was advised that, altogether, the Applicants' farmland extends to some 120 acres.
7. Between *La Fontaine* farmhouse complex and the application site there is a vehicular access track leading to a gated access to La Route Du Francief, a small grassed paddock (Field 979) and an all-weather riding area and horse walker (see planning history below).
8. Although there are some buildings and houses in the surrounding area, and the airport is nearby, the character and appearance of the wider locality is distinctly rural.

Relevant planning history

9. Since 2010, there has been a series of planning applications for various developments within the *La Fontaine* farm complex, which was acquired by the Applicants in 2009. These applications included works to the house, the cottage and the barn. I understand that there has been considerable investment and improvement in the property and its facilities.

10. Of the various proposals submitted for Planning approval in recent years, application reference P/2010/1596 is of most relevance to this appeal. This application, which was approved in March 2011, included the provision of an all-weather equestrian arena, known as a 'sand school', along with a circular 'horse walker'.
11. The sand school and horse walker facilities have been implemented and are situated just to the east of the field B978. The sand school riding area covers about 1,800 square metres (approximately 60 metres long by 30 metres wide). It is enclosed and screened by boundary hedging.
12. The sand school is used by the Applicants to ride their own horses (currently seven in number) that are stabled at the premises. It is a private use related solely to the occupation of *La Fontaine* farm complex. There are no livery services at the premises and all equestrian activities are related to the Applicants' horses.

The application proposal under reference P/2016/1401

13. The current application, which is the subject of this appeal, proposes the formation of an all-weather riding facility that would be sited at the eastern end of Field B978 and to the north of *Francief House* and *Maison Blanche* (the Appellants' home is *Les Quatre Regnes*, a little further to the west).
14. It is useful here to distinguish and explain (i) the operational development and (ii) the proposed use. The former is straightforward, the latter is not, and differing views on the intended use are a central theme in this appeal.

The operational development

15. The proposed riding facility would be rectangular in shape and about 40 metres long by 25 metres wide (the proposal was reduced in size through the course of the application). This would mean that the all-weather surface would cover about 1,000 square metres or about 11% of Field B978. The plans indicate that the riding area would be set between 5.8 – 6.4 metres from the boundary formed with the gardens of the two closest houses.
16. The actual physical works involved in creating the facility would include:
 - levelling of the site - there is a slight fall from north to south entailing some proposed 'cut and fill'
 - a hardcore sub-base and landscape membrane across the levelled site
 - the installation of timber retaining boards to the perimeter
 - the laying of a specialist Activ-track¹ surface

¹ *Activ-track* is the trademark name of a synthetic fibre all-weather riding surface provided by Martin Collins Ltd. It is widely used in modern equestrian facilities.

17. The plans also indicate the following landscaping proposals:

- 'new infill planting' between the arena and the nearest houses
- planting alongside the existing access track (although this is actually outside the red-lined application area)
- a proposed new hedge along the western end of the arena

The proposed use

18. The proposed use of this facility is most unusual and has been the source of much of the contention in this appeal. It can only be properly explained by reference to the Applicants' sporting activities and interests.
19. One of the Applicants is a keen dressage rider and is active in the sport. She wishes to use her home facilities to provide occasional dressage competitions for the local sporting community. I understand that the dressage community on Jersey, whilst active, is relatively small and I was advised that the Jersey Dressage Club has 38 members.
20. The Applicants plan to hold up to 10 events at their home facilities. These would typically take place on weekends and last for 1 or 2 days. There would be no more than one event a month and they would be limited to the hours of 9.00 a.m. – 5.00 p.m. The competitive activities would be held in the existing sand school. The Applicants advise that dressage is an inherently quiet sport and the logistics of the events limit the number of competitors and horses present. They also advised that there would be no loudspeakers, music or catering vans. Toilet and basic catering facilities (teas and coffees) would be provided from the farmhouse complex. The Applicants also stress that this is not a commercial proposal, nor is there any intention of operating a 'public' facility or 'showground'.
21. To support these occasional competitive events, the application proposal is intended to provide an all-weather 'warm up' facility for horses and riders prior to entering the judged activities in the sand school. The provision of a separate warm up area is a minimum criterion of the sports' official body, British Dressage, for holding any affiliated events.
22. Although the Applicants may occasionally use the proposed riding area for their own horses for a 'change of surface', the main purpose of the proposed facility would be for the warm-up activities associated with the occasional events. In effect, this means that the facility would have no active use for the majority of the time. As such, the use is a very specific and rather unusual one and linked very closely to the personal equestrian interests of the Applicants and their desire to support their sport for the wider benefit of Jersey's dressage community.

23. I return to the challenge of defining this unusual use for Planning purposes later in this report.

The application consideration and determination

24. The application was determined by the Planning Committee at its 26th January 2017 meeting. I understand that the Committee had undertaken a site inspection and heard representations from the various parties before reaching its decision.
25. At this application stage, written representations comprised 11 letters of objection (from seven residents). These were wide ranging but principally related to the loss of a green field and to amenity and traffic effects arising, particularly from dressage events that may be held at the premises. There were also eight letters of support from the equestrian / dressage community.
26. The Committee resolved to grant planning permission, subject to imposing an additional condition that sought to tie the development to two written statements made by the Applicants that included parameters within which the occasional events would operate. The condition further specified the operating hours of 'the development' would be limited to 9.00 a.m. – 5.00 p.m.
27. Mr and Mrs Morris's appeal is made against this decision to grant planning permission. They oppose the development and argue that it should be refused.

The Appellants' grounds of appeal

28. The Appellants' grounds of appeal are wide ranging. In total, thirteen grounds are cited. These can be summarised:

Ground 1 - the development involves a 'change of use' and the Appellants consider that it has not been fully assessed against Island Plan policies SP 1, NE 7, GD 1 and ERE 1.

Ground 2 - the decision to approve the arena appears to rely on the existence of another arena being made available for public use and no evidence has been presented that this has been approved.

Ground 3 - the proposal would involve the development of greenfield land, contrary to Policy SP 1 of the Island Plan.

Ground 4, 5, 6 and 7 - the proposal fails to meet the tests set out in Policy GD 1, notably in terms of amenity impacts and highways safety implications.

Ground 8 - the development has been incorrectly assessed as 'minor' and the exceptions set out in Policy NE 7 have been misapplied.

Ground 9, 10 and 11 - the description used in the decision notice does not properly reflect the development, the Planning conditions are unsatisfactory, and the controls over 'unaffiliated events' are unclear.

Ground 12 - the approved documents fail to identify and control the use and development proposed.

Ground 13 - the proposal would involve the loss of agricultural land contrary to Policy ERE 1 and the related policy tests have not been applied correctly.

29. A number of neighbouring residents supported the Appellants' views through written representations and through contributions at the Hearing.

The Department's response

30. The Department does not share the Appellants' view that the proposal conflicts with the Island Plan.
31. Specifically, it considers that the proposal accords with the Island Plan's spatial strategy set out in Policy SP 1 as it is '*appropriate to the coast or countryside.*' and that it meets the Green Zone Policy NE 7 exception 12 which allows for development which is small in scale and incidental to the primary use of the land. It considers the physical works to be minimal and not harmful to the landscape. The Department does not consider that the proposal will result in any undue amenity or traffic effects and that the decision to grant permission was reasonable.

The views of the Applicants

32. The Applicants support the decision made by the Department. Through their Appeal submissions, they have sought to re-assure neighbours that this is a private non-commercial venture aimed at sharing the use of their home facilities to 'put something back' into the sport of dressage. They stress that dressage is a quiet sport and that there are logistical limits on the number of horses competing at any one time.
33. They do not consider that the proposal involves any 'change of use' and the development is not intended for use by the general public or as a country show ground'. They consider it appropriate to the countryside and that the occasional events will be low key and limited to no more than ten a year. There will be no undue noise or amenity implications given the nature of the use, its infrequent nature and the physical separation from neighbouring properties.
34. The Applicants also provided a plan, for illustrative purposes, showing how parking might work; this involved the use of Field 979 for vehicle / horsebox parking during the course of an event. The Applicants have stated that they are open to the imposition of a more precise set of Planning conditions.

Assessment - preliminary legal and related issues

35. Some assessments are required as a precursor to considering the Appellants' grounds of appeal and the merits of the application proposal. These initial matters relate to the following questions:

- *Would the proposed '8 -10' dressage events constitute a material change of use of the wider site / Planning unit?*
- *Has the development proposed under P/2016/1401 been clearly and precisely defined?*
- *Is the 'red lined' site area, within which the development under P/2016/1401 will take place, precise and clear?*

These three matters are somewhat interlinked but establishing clarity on each is essential to provide a solid platform for assessing the more detailed grounds of appeal.

Would the proposed '8 -10' dressage events constitute a material change of use of the wider site / Planning unit?

36. It is important to begin by establishing whether the proposed 'up to 10' dressage events would constitute a material change of use of the wider site of which the application proposal, if permitted and constructed, would form a part.
37. As set out by the Applicants, these events would utilise the existing vehicular access gate and track; Field 979 for temporary parking and the Sand School, where the competitive activities would occur. The application proposal would complement these facilities by providing an all-weather riding area for 'warm up' activity use by horses and riders prior to entering the competitive activities in the sand school. As noted earlier, a 'warm up' area is requirement for any British Dressage affiliated events (but clearly not for any unaffiliated events).
38. The Applicants have asserted that 10 events would be the maximum per year and that there would be no more than one event per month. Each event would be held either over one or two days and would be limited to the hours of 9.00 a.m. to 5.00 p.m., which would include arrival, set-up and departure activities. They have also stressed that the number of events, the level of activity and any associated impacts, is limited and commensurate with the fact that *La Fontaine* and its associated facilities is, first and foremost, their family home.
39. The assessment of whether occasional uses of land trigger a material change of use requiring planning permission can prove to be inordinately complex. This is a direct consequence of the immense variety and subtlety of different uses that may be made of land. Most people will be familiar with

'events' occurring on land, sometimes on a quite regular basis. However, whether or not such events constitute a 'material change of use' in Planning law will always be a matter of fact and degree.

40. Through this appeal, references were made to the system in England, whereby certain temporary uses of open land are deemed 'permitted development' under an Order² for periods of up to 28 days per annum (14 days for motor racing based events). Such provisions in England allow fields to be used for gymkhanas and organised equestrian events without any Planning requirements or complications.
41. Whilst this provides a degree of helpful clarity in England, it is important not to confuse this provision with an indication of the threshold for a material change of use in Planning law. Whilst the Order, in effects, grants 'automatic' permission, its scope will, in practice, cover a wide spectrum of temporary uses, some of which may involve a material change of use, whereas others would certainly not (e.g. holding a single annual event). In effect, the Order cuts through a very complex area of Planning law to establish some pragmatic legal parameters. In Jersey, there is no comparable provision in the relevant Order³ and I am not aware of any Jersey legal precedents on this matter.
42. However, based on the 'fact and degree' evidence before me in this case, I am satisfied that the level of use associated with the intended dressage events would not constitute a material change of use requiring Planning permission. It would amount to an occasional and time limited ancillary use of private facilities by a limited number of people and horses, drawn largely from a small and specialist sporting community in Jersey. This level and nature of use within the wider Planning unit would not materially change the primary use of the components of that Planning unit.
43. However, should the frequency, duration or intensity of the events increase beyond that described and defined by the Applicants, a material change of use may be triggered (although the Applicants assert this will never happen).

Has the development proposed under application P/2016/1401 been clearly and precisely defined?

44. The Applicants' description of the development stated on the application form read "*formation of all weather surface / arena & associated planting to east of field 978*". This was condensed by the Department to read "*formation of all-weather surface / arena to part of field*" and this wording is employed in the Decision Notice.

² The Town and Country Planning (General Permitted Development) (England) Order 2015

³ Planning and Building (General Development) (Jersey) Order 2011

45. In my view, neither description adequately captures the proposed development, which is unusual and very specific in terms of its use. Indeed, neither of the descriptions associates the development with equestrian use, let alone identifies the specific use (as a warm up area for occasional dressage events).
46. The Appellants consider that the development is, in fact, a much bigger entity, involving a significant material change of use of the wider site and they have employed descriptors such as 'a sports and leisure facility available for public use' and a 'public events space'. However, given my findings above (that the intended events would not result in a material change of use) I do not agree with these suggestions.
47. However, I do consider that a more precise description is required and I consider that it should read:

Proposed formation of all-weather equestrian riding area (including site levelling, compacted hardcore base with Activ-track topping within perimeter retaining boards and associated landscaping) for use as a dressage horse / rider warm up facility in connection with occasional ancillary dressage events at La Fontaine farm complex.

I propose that this description should be substituted in any decision made on this appeal.

Is the 'red lined' site area, within which the development under P/2016/1401 will take place, precise and clear?

48. The delineation of the application site has been confused by two conflicting plans, both of which have been 'approved' by the Department's determination of the application.
49. The submitted 'Location Plan' defines the application area by a red line drawn around the perimeter of Field B978. Other land owned by the Applicants is shown edged blue. This plan, notwithstanding the fact that the development would only occupy a relatively small part of Field B978, appears to be an accurate and appropriate location plan and follows the published guidance⁴. Furthermore, the application form makes plain that the development relates to the 'east of field 978' and thus provides additional clarity. There is no ambiguity so far.
50. However, the substantive proposal drawing, which contains the details of the scheme, includes an entirely different red line. This is drawn quite tightly around the proposed all-weather riding area (excluding the rest of

⁴ Supplementary Planning Guidance Practice Note 11 – Information Required for a Planning Application – January 2016

field B978) and then extends eastwards to include the access track, field 979 (a small paddock) and the existing sand school arena.

51. These differing plans led to a degree of confusion and perhaps understandable speculation about the true nature of the proposal. However, it has become clear through the course of this appeal that both the Department and the Applicants regard the submitted Location Plan (which red lines Field B978) as the substantive application site.
52. The more detailed proposal drawing, with its conflicting red line was, I am advised, merely to indicate how the proposal linked with the other equestrian facilities to the east when the occasional events would be underway.
53. I agree that the Location Plan red line is the correct one. This is important, as the red line defines the geographical extent of any development permitted and the area within which any Planning conditions can exert enforceable control.
54. In essence, the 'development' is limited to Field B978 and, more specifically, to a relatively small part of it. There is no 'development' proposed beyond this area i.e. on the remainder of Field B978. These matters could be clarified in a revised decision notice.

Assessment - the grounds of appeal

55. My assessments above on the Planning implications of the proposed events, the definition of the development and the 'red line' embracing the development, all have implications for the more detailed assessment of the Appellants' specific grounds of appeal.
56. The Appellants' thirteen grounds of appeal are wide ranging and do overlap and cross refer to some degree. However, I assess each in turn below.

Ground 1 – the development involves a 'change of use' and the Appellant considers that it has not been fully assessed against Island Plan policies SP 1, NE 7, GD 1 and ERE 1.

57. For reasons stated above, I do not consider that the proposal entails a change of use arising from the proposed occasional dressage events. I share the Department's assessment that, in terms of the spatial strategy, this equestrian related development is 'appropriate' to the countryside. I address NE 7 issues under Ground 8, GD 1 under Grounds 4 - 7 and ERE 1 under Ground 13.

Ground 2 – the decision to approve the arena appears to rely on the existence of another arena being made available for public use and no evidence has been presented that this has been approved.

58. For reasons stated above, I do not share the Appellants' view that a broader material change of use to 'public' use is involved. I consider that the limited use of private facilities for occasional dressage events to be ancillary.

Ground 3 – the proposal would involve the development of greenfield land, contrary to Policy SP 1 of the Island Plan.

59. My assessment is as stated above under Ground 1. I consider that this riding facility constitutes appropriate development in the countryside, in line with Policy SP 1. Indeed, I do not consider that it would be logical or sensible in Planning terms to direct such an equestrian related development to the built-up area.

Ground 4, 5, 6 and 7 – the proposal fails to meet the tests set out in Policy GD 1, notably in terms of amenity impacts and highways safety implications.

60. I am entirely satisfied that the all-weather riding area would not cause any undue residential amenity impacts to neighbouring properties, including the Appellants' home. Not only would its active use for riding purposes be very occasional, the distances to the neighbouring houses and their garden areas, along with existing boundary treatments and screening (existing and proposed), provide a comfortable degree of spatial separation.
61. The Applicants have provided further assurances that the 'warm up' activity is quiet and that no tannoys, speakers, music or lighting would be involved. The scope for some safeguarding Planning conditions is discussed under Grounds 9, 10 and 11 below.
62. Given my finding that the occasional events would not result in a material change of use, the need to assess traffic generation and highway safety implications is limited. This is because they are not matters that directly arise from the development proposed in this current application within its red lined application area.
63. However, I do consider that the Applicants have undertaken some assessment of the logistics of access, parking and traffic generation for the occasional events. These are matters of responsibility that will fall to them in terms of proper event management.

Ground 8 - the development has been incorrectly assessed as 'minor' and the exceptions set out in Policy NE 7 have been misapplied.

64. The Appellants disagree with the Department's view that the development can be considered as a 'minor development' exemption under Green Zone Policy NE 7 exception 12. They consider it should be assessed under NE 7 exception 11 which covers 'cultural and tourism' development and do not believe the NE 7 tests have been met.
65. In terms of NE 7 (12), there are three parts to the policy wording to be considered. First, the development must be *'small in scale and incidental to the primary use of land and buildings'*. Second, criterion a) requires that the development is well sited and designed. Third, criterion b) requires that the proposal does not cause serious harm to the landscape character.
66. 'Small in scale' is not defined and some judgement is required. Whilst a 1,000 square metre riding facility may not be small by comparison to built-up area parameters, the context here is the field itself and the wider rural locality. Given that the development relates to a very limited part of the field, it could be considered 'small'. Contextualising the development in the wider *La Fontaine* landholdings would also support that view. Perhaps as relevant as its physical area, is the fact that the proposal has no 'mass' to speak of. It is, essentially, just a levelled outdoor surface. Overall, I am satisfied that this particular proposal can be considered 'small in scale' for NE 7 purposes.
67. I am also satisfied that, despite its very specialist intended use, the development is incidental to the primary use of the land and buildings. This use does include the keeping of horses and activities associated with them (including dressage sport activities).
68. I consider that criteria a) and b) are satisfied. The siting and design are discreet and well screened and the facility will not be clearly discernible in any public view. There is negligible impact on the landscape character, in my view. Indeed, despite the fact that it is largely out of view, such facilities are not uncommon features, or alien, in the rural landscape.
69. I have considered the Appellants suggestion that the NE 7 (11) exemption is the more appropriate one to assess the application against. This exemption relates to 'new cultural and tourism development'. In my view, it would be difficult to conceive that the development has any direct 'tourism' link. However, it could be construed that the specialist sporting element might be regarded as a sub-set of 'culture'. In any event, exception 11 has similar criteria to exception 12 and both are met, as I consider the development to be acceptable in its context and not unduly harmful to the landscape character.

Ground 9, 10 and 11 – the description used in the decision notice does not properly reflect the development, the Planning conditions are unsatisfactory, and the controls over 'unaffiliated events' are unclear.

70. Matters concerning the description are dealt with earlier in this report. A revised more precise description is recommended.
71. Matters concerning Planning conditions are complicated and interlinked with my earlier findings on the description of development; the 'red line' application area; and whether the proposed dressage events on the wider site would trigger a material change of use requiring planning permission.
72. The Department's Decision Notice includes a non-standard condition which seeks to limit the development to the 'operational details' set out in two statements submitted by the Applicant and Agent and seeks to limit use of the development to the hours of 9.00 a.m. to 5.00 p.m. It goes on to state that *"All operations (including the arrival and departure of all persons attending events at the site) must take place during this period."*
73. The two statements made by the Applicants are quite wide ranging and set out responses to neighbours' concerns and providing re-assurances about how events would operate.
74. Whilst I have no doubt that the condition was imposed with good intent, I do not regard it as satisfactory in terms of the six 'tests' that should normally be applied to Planning conditions. These tests are drawn from practice in England and they require conditions to be:
 - necessary;
 - relevant to planning and;
 - to the development to be permitted;
 - enforceable;
 - precise and;
 - reasonable in all other respects.
75. There are a number of issues with the condition imposed. Although the hours of operation stated are clear and precise, it is apparent to me that the condition also seeks to control matters that are way beyond 'the development' applied for. In particular, the condition appears to seek to control the parameters and operational details of the occasional dressage events on the wider site. These matters are relevant to an assessment of whether a material change of use is triggered on the wider site, but I do not consider that they can be controlled or enforced via a Planning condition attached to the current development. Whilst I do recognise the interconnection between the proposal and the intended dressage events, any condition imposed must relate to the specific development applied for (and its red lined site area).

76. Through the appeal process it was apparent that all parties were open to the prospect of an improved suite of conditions. Indeed, the Appellants produced a comprehensive list of suggested conditions. The Applicants also suggested more precise conditions as part of their stated desire to reassure neighbours of their intentions that the occasional events would be low key and not disruptive to neighbours.

77. I have drafted a revised set of Planning conditions for the Minister's consideration if he were minded to dismiss this appeal and grant planning permission. These conditions are set out in Appendix 1 to this report. They include conditions that would make the permission 'personal' to the Applicants (given the unusual nature of the proposal); define the use with greater clarity; impose various amenity safeguards and include a re-instatement provisions should the facility fall into disuse or disrepair.

Ground 12 – the approved documents fail to identify and control the use and development proposed.

78. This ground is covered by my findings above on the development description, application area and conditions.

Ground 13 – the proposal would involve the loss of agricultural land contrary to Policy ERE 1 and the related policy tests have not been applied correctly.

79. Policy ERE 1 seeks to guard against the 'permanent loss of good agricultural land for development or other purposes'. The parties expressed different views about the quality of the agricultural land. In the absence of any technical assessment indicating otherwise, I consider that the land should be assumed to be 'good' and that Policy ERE 1 applies.

80. The main dispute between the parties here was whether the development would involve the loss of land to 'agricultural' use. The issue of whether equestrian uses fall under agricultural use has long tested Planners (and the courts) in England, resulting in a rather confused and complicated regime. I understand that in Jersey, the keeping of horses and associated activities has long been treated as 'agricultural' and part and parcel of the countryside.

81. In Jersey, the Planning system draws its definition of 'agriculture' from the Protection of Agricultural land (Jersey) Law 1964. This states that:

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock, the use of land as grazing land, meadow land, market gardens and nursery grounds; and references to "agricultural land" shall be construed accordingly

82. It is clearly a very wide ranging definition. The use of the word 'includes' suggests that the ensuing list should not be treated as exhaustive. The term 'keeping of livestock' is similarly broad and does not, to my mind, exclude horses. Nor does it seem to exclude equestrian based uses and activities that might reasonably be related to the keeping of horses within a broader agricultural context. Indeed, the Department confirmed that it regards horses as 'livestock' and, unlike in England, equestrian uses and activities have long been treated as falling under agricultural use for Planning purposes.
83. Jersey also has its Environmental Land Control system that operates alongside the Planning system. It provides a legal mechanism to protect and control agricultural land and the service is a regular consultee on Planning applications. With regard to this proposal, the Land Controls consultation response confirmed that the Applicants have permission to use the land for equine purposes and that the equine industry is recognised as 'an important contributor to the rural economy both socially and economically'. It also recommended Planning conditions requiring that the works were reversible and that the land be returned to its original condition if the use by local dressage clubs ceased.
84. In my view, I do not see any conflict between the proposal and Policy ERE 1. The objective of the policy is to protect farmland from permanent loss. Even if it were accepted that the very specific use proposed here (warm up activities for occasional dressage events) was not strictly 'agricultural', there can be little doubt that such equestrian sports are very closely linked to farms and farming. In any event, the proposal relates to a small section of a field, the remainder of which will be retained in farming use. Furthermore, the proposal itself is reversible.

Conclusions and recommendation

85. The very unusual nature of this proposal has led to much speculation and concern about its true nature. It has also led to this appeal, which has explored some quite complicated matters of Planning law. However, my conclusions are that this proposal accords with the relevant Island Plan policies and that permission should be granted. Accordingly, I recommend that the appeal be DISMISSED on the majority of the grounds cited.
86. However, I do consider that the grounds of appeal concerning the development description, the red line and conditions have some merit and should succeed, at least in part. These matters are addressed by my recommended revised description and set of conditions set out in Appendix 1 to this report.

P. Staddon Mr Philip Staddon BSc, Dip, MBA, MRTPI

APPENDIX 1

Proposed revised description

Proposed formation of all-weather equestrian riding area (including site levelling, compacted hardcore base with Activ-track topping within perimeter retaining boards and associated landscaping) for use as a dressage horse / rider warm up facility in connection with occasional ancillary dressage events at La Fontaine farm complex.

Recommended Planning Conditions should the Minister be minded to grant Planning Permission

This permission is granted subject to compliance with the following conditions and approved plan(s):

A. The development shall commence within five years of the decision date.

Reason: The development to which this permission relates will need to be reconsidered in light of any material change in circumstance.

B. The development hereby approved shall be carried out entirely in accordance with the plans, drawings, written details and documents which form part of this permission.

Reason: To ensure that the development is carried out and completed in accordance with the details approved.

Condition(s):

1. This permission shall enure solely for the personal benefit of Mr and Mrs Leng.

Reason: the proposal and its intended use is specifically related to the Applicants' equestrian activities and interests and has been assessed and determined on that basis. Its wider or differing use will require a separate Planning assessment.

2. The application area is defined by the red line marked on the Location Plan and this permission does not authorise any development beyond this area.

Reason: for the avoidance of doubt and to define the terms of this planning permission.

3. The remainder of Field B978 to the west of the proposed all-weather riding facility shall be retained in agricultural use at all times and shall not be used for vehicle parking or for any other purpose.

Reason: for the avoidance of doubt and to define the terms of this planning permission.

4. The all-weather riding facility shall only be used between the hours of 9.00 a.m. and 5.00 p.m. on any day.

Reason: to preserve the amenities of occupiers of neighbouring properties in accordance with Policy GD 1 of the Adopted Island Plan 2011 (Revised 2014).

5. The use of the all-weather riding facility as a 'warm up' area for horses in association with occasional dressage events held at *La Fontaine* shall not exceed 10 occurrences per annum and each occurrence shall not exceed 2 days (i.e. no more than 20 days use per annum). Furthermore, no more than one occurrence of warm up use shall take place in any one calendar month.

Reason: to define the terms of the development permitted and to preserve the amenities of occupiers of neighbouring properties in accordance with Policy GD 1 of the Adopted Island Plan 2011 (Revised 2014).

6. No amplified music, loudspeaker or artificial lighting shall be installed within the application area.

Reason: to preserve the amenities of occupiers of neighbouring properties in accordance with Policy GD 1 of the Adopted Island Plan 2011 (Revised 2014).

7. All proposed soft landscape works within the application area as indicated on the approved plan shall be implemented in the first planting season following the implementation of the all-weather riding area and the landscaping areas shall be thereafter maintained as such.

Reason: in the interests of the amenities of the area in accordance with Policies GD1 and NE 4 of the Adopted Island Plan 2011 (Revised 2014).

8. Should the all-weather riding facility fall into disrepair or disuse (i.e. not being used for a period of 12 months or more) it shall be removed in its entirety (including all materials and hardcore sub-base) from the site and the land re-contoured and reinstated to its original state. Such reinstatement shall be completed within a period of 12 months following any formal written instruction for the undertaking of such works made by the Department of the Environment on behalf of the Minister.

Reason: in the interest of the amenities of the area in accordance with Policies GD1 and to enable the land to return to other agricultural uses in accordance with Policy ERE1 of the Adopted Island Plan 2011 (Revised 2014).