

**TOWN AND COUNTRY PLANNING ACT 1990
LDC APPEAL: LAND AT GREEN GABLES, HEREFORD, ROAD,
LEDBURY,
HEREFORDSHIRE
HR8 2PZ**

COMMENTS ON HEREFORD COUNCIL'S STATEMENT OF CASE

PLANNING INSPECTORATE REF: APP/W1850/X/19/3232067

1. The appeal is not a Section 78 appeal. The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development.
2. The LPA has made reference to a site visit, but no information or evidence is presented/recording/listing of the numbers and location of livestock or a record the numbers shelters and layout of portable fencing on the appeal site. It is therefore impossible to know exactly how the LPA have determined there is, as a matter of fact and degree, a material change of use of land.
3. The LPA have no independent evidence to assume that: "Some ponies are also kept on the land from time to time." This is a complete fabrication. The appellant's undisputed Statutory Declaration (paragraph 13) dated the 24th October 2018 confirms that: *"There was not a year since the 1980's to the present day that I have not kept my ponies on the land."*
4. It is presumptuous and unreasonable of the LPA to attempt, without consultation with the appellant, to change, revise or limit the description of the application to a '*mixed use of keeping horses and keeping rare-breed poultry for non-agricultural purposes (primarily for exhibition)*'. The appellant has already responded to the mixed-use argument. The livestock is not limited to horses and poultry and the reference to 'exhibitions' is irrelevant. The fact that some of the livestock are exhibited at Agricultural Shows does not materially change

how the animals are kept throughout the year, on the appeal site.

5. There is nothing in the appellant's evidence to suggest that the use of the appeal site (as described in the application) somehow changed at some point between 2013 and the date of the application. Fluctuations in the number of livestock, livestock shelters and protective portable fencing does not change the overall use of land or make one species more or less dominant or subservient over another. The Poultry Registration Form dated 2012 is testament to that.
6. The LPA have continually argued that the erection of fencing together with animal shelters have somehow changed the character of the site sufficient to amount to a material change of use of land, however, this is not substantiated by case law. The LPA have chosen not to formally present the Richmond Case in their appeal Statement of Case and have not explained, in any event, how this legal case (highlighted by their lawyers and referred to in the Delegated Decision Report) supports their conclusions.
7. In arguing a change of character, the Council have also failed to make any comment on the Appeal Decision ref: APP/C3430/X/14/2211915, submitted by the appellant, as it also relates the appellant's appendices: P and Q.
8. It is noted that the Council accept the appellant's evidence that some poultry, geese etc. had been kept on the land for more than 10 years, as described in the application. This is further justification to show that the LDC application should have been approved.

Under these circumstances, since the local planning authority has no evidence itself to contradict or otherwise make the appellant's version of events less than probable, there was no good reason to refuse the application. It is considered that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Under these circumstances, the appeal should be allowed.

27/03/2020