

## Appendix A

Please note these documents refer to 21/01079/FULL - Change of use of land for the siting of a temporary worker's dwelling (log cabin) for three years (Revised Scheme) at Land at NGR 316266 116080 (Poachers Rest), Clayhidon, Devon.



## Appeal Decision

Site visit made on 22 November 2016

**by Amanda Blicq BSc (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 December 2016**

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**Appeal Ref: APP/R2520/W/16/3153731**

**Oakhill Equestrian Centre, Eagle Road, Swinderby, Lincoln, Lincolnshire LN6 9HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss Vicky Allen against the decision of North Kesteven District Council.
  - The application Ref 16/0220/FUL, dated 8 February 2016, was refused by notice dated 17 June 2016.
  - The development proposed is temporary siting of caravan.
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### Decision

1. The appeal is allowed and planning permission is granted for temporary siting of caravan at Oakhill Equestrian Centre, Eagle Road, Swinderby, Lincoln, Lincolnshire LN6 9HS in accordance with the terms of the application, Ref 16/0220/FUL, dated 8 February 2016, subject to the following conditions:
  - 1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
  - 2) The occupation of the caravan shall be limited to the person solely or mainly working, at Oakhill Equestrian Centre, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
  - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: PF02 Proposed Site Plan; PF10 Site Location Plan.

### Procedural Matters

2. For clarity I have used the address given on the decision notice in the heading above.
  3. The Council has cited the emerging Central Lincolnshire Local Plan (CLLP) in its reasons for refusal; as this is in the examination phase I give its policies only moderate weight.
  4. The Council's reasons for refusal also cite saved Policies C2 and DC2 of the North Kesteven Local Plan 2007 (LP). LP Policy DC2 tests the erection of rural
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workers' dwellings against both a functional and financial test which is not entirely consistent with the requirements of Paragraph 55 of the National Planning Policy Framework (the Framework). This states only that there should be an essential need demonstrated. However, although Paragraph 215 of the Framework notes that due weight should only be given to relevant policies in existing plans according to their degree of consistency with the Framework, I consider LP Policy DC2 provides more detail in relation to how essential need should be assessed. It is also consistent with emerging policy CLLP Policy LP55 which sets out similar criteria to use as functional and financial tests when considering new dwellings in the open countryside.

5. Saved LP Policy C2 permits development within the open countryside subject to a number of criteria. These include the maintenance or enhancement of the environmental, economic and social value of the countryside, the protection of countryside character, the possibility of location within or near a settlement, and issues around sustainable transport. This policy is broadly consistent with Paragraph 55 of the Framework with regard to isolated dwellings in the countryside, and I give it full weight.

### **Main Issue**

6. The main issue is whether, with regard to local and national policies, there is an essential need for a temporary dwelling in the countryside.

### **Reasons**

7. The appellant runs an equestrian centre in open countryside between Swinderby and Morton. I noted on my visit that the site currently comprises paddocks, stabling for 10 horses, with associated office accommodation and storage for horse boxes and feed. The stables are located a short distance from the lane along a surfaced track which also gives access to Park Farm. It is visible from the lane, and there are no other dwellings in the immediate vicinity. At my visit, there were a few ponies in the stables and other horses and ponies grazing in the nearby paddocks.
8. The appellant has planning approval to build additional stables to enable expansion of the equestrian business<sup>1</sup>, and argues that there is a need for a presence on the site in order to provide care for the horses, and to prevent theft and damage. The granting of permission to enable expansion indicates to me that the Council considers this to be an appropriate location for an equestrian enterprise.
9. The Council notes that their consultant's report<sup>2</sup> has concluded that the enterprise does not have an essential need for a 24 hours presence, although it also notes that such presence would be beneficial. However, there is no supporting text to outline how this conclusion has been reached. The report notes that there were 11 livery horses on the site at the time of their visit, but does not give a threshold above which a permanent site presence would be justifiable.
10. With regard to site security, I noted on my visit that the gated Park Farm access beside the appeal site has coded entry. This indicates to me that farms and businesses in the area have security issues. Furthermore, there are no

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<sup>1</sup> 15/1415/FUL and 15/1398/FUL

<sup>2</sup> Landscape Land and Property Ltd, May 2016

nearby dwellings to provide informal surveillance of the appeal site. Whilst the consultant's report notes the presence of CCTV cameras, their effectiveness, even if operational, would depend on the response time of local police which in a rural area such as this would probably be unlikely to be prompt.

11. Although a financial test is not required under Paragraph 55 of the Framework, emerging CLPP Policy LP55 requires evidence that the business is an ongoing concern, through the submission of business accounts or a detailed business plan. The financial evidence before me indicates that the net profit for year ending 2015 was sufficient to pay a full-time agricultural wage as well as a return on the capital required for both the proposed stables and the caravan. Although I appreciate that the financial information provided is not a full business plan it nonetheless outlines income and expenditure over a three year period and generally shows that turnover is increasing over that period.
12. As such, I am satisfied that the financial information provided indicates that the business is financially sustainable and that there is no significant conflict with emerging CLPP Policy LP55 or saved LP Policy DC2. Although the consultant's report reaches a different conclusion and states that the income is insufficient to demonstrate financial viability, again, there is no explanation as to the basis upon which this conclusion was reached. As such, I give the conclusions of this report limited weight in this regard.
13. Given that a key element of the appellant's business necessitates a duty of care to other people's animals, as well as their security and welfare, as well as the evidence of local security issues, I am satisfied that a presence on site is needed for the business in its current stage of development. As such, in the light of the above I conclude that there is an essential need for a dwelling on site, and that the business has demonstrated financial sustainability.
14. I appreciate that the appellant has not provided evidence to demonstrate that there would not be locally available housing. However, the appeal site is situated in open countryside between the village of Swinderby and the hamlet of Morton. Even if accommodation was available, the dwellings would not be within sight or sound of the equestrian centre. Moreover, I noted on my visit that dwellings in the vicinity were relatively large and I am mindful that the area is within easy commuting distance of Lincoln. As such, I see no reason to disagree with the appellant's statement that an agricultural wage would be insufficient to finance the purchase, or rent, of such a local property.
15. Consequently I find no conflict with the provisions of Paragraph 55 of the Framework, as outlined above. Furthermore, Paragraph 28 of the Framework states that planning policies should promote the development and diversification of land-based rural businesses. The Council has clearly done this by allowing the future expansion of the stables, but the evidence before me indicates that the future growth and prosperity of the business is at least partly dependent on the safeguarding of property and horses at the current time, and that this requires a presence on site.
16. The Council has not raised any concern in relation to visual amenity, trees and landscape, or highway safety or transport issues. Furthermore, the approval of the extension to the stables indicates that the business is considered to maintain or enhance the economic value of the countryside. In addition, the development would reduce the number of journeys to the site made by the appellant. As such, the only point of LP Policy C2 that is relevant to this appeal

is whether the dwelling could be located within or adjacent to a settlement. Given the need to be on the appeal site and the distance to the nearest settlement, I give this argument limited weight and consequently find no conflict with saved LP Policy C2.

*Conditions*

17. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In respect of the plans, I have imposed a condition specifying the drawings upon which I have based this appeal, as this provides certainty.
18. I have also imposed a condition restricting occupancy of the caravan to ensure it remains connected with the ongoing business need of the equestrian centre, as well as a condition ensuring that the use is temporary in view of the stage the appellant is at in establishing the business, to ensure the local planning authority is able to reassess the need at a later date, and because its construction renders it unsuitable for permanent retention.
19. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

**Conclusion**

20. For the reasons given above and taking all matters into account, I conclude that the development would not be contrary to the relevant policies of the Council's Local Plan and emerging Core Strategy and that therefore the appeal should be allowed.

*Amanda Blicq*

INSPECTOR

## Appeal Decision

Hearing held on 4 October 2016

Site visit made on 4 October 2016

**by John Dowsett MA DipURP DipUD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 28<sup>th</sup> October 2016**

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**Appeal Ref: APP/P3040/W/16/3149419**

**Brooklands Stables, Costock Road, Wysall, Nottingham NG12 5QT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D Walsh against the decision of Rushcliffe Borough Council.
  - The application Ref 11/01316/FUL, dated 15 August 2011, was refused by notice dated 29 October 2015.
  - The development proposed is the siting of a mobile home in connection with a livery use.
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### Decision

1. The appeal is allowed and planning permission is granted for the siting of a mobile home in connection with a livery use at Brooklands Stables, Costock Road, Wysall, Nottingham NG12 5QT in accordance with the terms of the application, Ref: 11/01316/FUL , dated 15 August 2011, subject to the following conditions:
  - 1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. The building hereby permitted shall be removed and the land restored to its former condition on or before 31 January 2020 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Number MSP 620/001 (site layout plan); Drawing number MSP 620/002 (site location plan); and Drawing number MSP 620/003 (elevations).
  - 3) The occupation of the dwelling shall be limited to a person solely or mainly employed in connection with the operation of the equestrian business at Brooklands Stables, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

### Main Issue

2. The main issue in this appeal is whether there is an essential need for a rural worker to live permanently on the site.
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## **Reasons**

### *Background*

3. The appellant has been engaged in running a livery business on the site for a number of years with planning permission for the livery use being granted in 2010. The livery business can accommodate up to 20 horses in an American style barn and two smaller sets of external loose boxes. A horse walking machine and riding arena are also present at the stables along with open paddocks. It was stated at the hearing that this is operated on a full livery basis where the appellant has complete responsibility for the welfare and exercise of the horses.

### *Policy Context*

4. Whilst the planning officer's report refers to Policies 1, 5 and 10 of the Rushcliffe Local Plan Core Strategy 2014 and Policies GP2, EN19, EN20, HOU4 and HOU5 of the Rushcliffe Borough Non-Statutory Replacement Local Plan 2006 (NSRLP), the reason for refusal refers solely to Policy HOU5 of the NSRLP. This policy deals specifically with temporary dwellings in association with farming activities or other activities that are appropriate in open countryside. The NSRLP has been adopted by the Council for development management purposes but is not a formally adopted development plan. However, the policies in the NSRLP have been subject to formal examination and consequently significant weight has been given to them in determining planning applications and appeals.
5. Policy HOU5 predates the publication of the National Planning Policy Framework (the Framework) and was written within the context of earlier national guidance<sup>1</sup>. The consistency of the Policy HOU5 with the framework was discussed at the hearing. It was agreed that the basic thrust of Policy HOU5 is to restrict new housing in the countryside except where there are special circumstances and this is consistent with the guidance in Paragraph 55 of the Framework. Substantial weight can still therefore be given to Policy HOU5. It is therefore necessary to consider whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside and whether there is clear evidence of both a firm intention to develop the enterprise and that it has been planned on a sound financial basis.

### *Essential need*

6. The business provides a full livery service where the appellant is wholly responsible for the care, welfare and exercising of the horses accommodated on the site. At the hearing, the appellant also stated that an element of training is also carried out. The business caters for high value horses and the intention is also to expand into providing equine therapy services which would require horses to be brought to and cared for on the site.
7. Medical conditions such as colic can onset suddenly in horses and require urgent action and treatment. It was confirmed by the appellant that, from a welfare perspective, relatively common conditions such as colic can, if not swiftly attended to, lead to serious health issues and mortality.

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<sup>1</sup> Planning Policy Statement 7: Sustainable Development in Rural Areas

8. It was suggested that by living on site and within sight and sound of the stables, the appellant is more likely to be aware of an animal in distress and treatment can be given sooner and, in addition, periodic checks can be more easily carried out. Evidence was submitted with the appeal that horse owners are disinclined to stable animals if there is no on site supervision and that the appellant is unable to obtain veterinary referrals for equine therapy due to not living on site which is hampering expansion of the business.
9. Reference has been made by both parties to a number of appeal decisions for similar livery stable operations. In some cases it has been considered that a worker living on site is essential and in others it has not. There is no clear pattern in the decisions provided. It was however, agreed that in most cases it was regarded as preferable for a worker to live on the site.
10. More compelling is the reference made by the appellant to a planning permission granted in 2013 by the Council for establishment of new equine business with a temporary dwelling at Widmerpool Lane, approximately 3 and a half miles from the appeal site. From the evidence this business appears to be essentially similar to that carried out at the appeal site and it is similarly located in the countryside but near to settlements. In this case it was accepted that there were no suitable properties nearby and a temporary dwelling was permitted. This case is almost directly analogous to the current appeal and the Council were not able to indicate any circumstances that would differentiate it from the appeal proposal.
11. Whilst the Council provided evidence of a large number of properties for sale in the area, the majority of these are some distance from the appeal site, making periodic checks in the evenings and night time less efficient to carry out. Due to relatively high property prices in the close vicinity of the appeal site there are also affordability issues for the appellant. Although there is internal video monitoring of the barn, this is not capable of being monitored remotely. The building alarms do sound remotely, although the appellant advised at the hearing that, when these have been triggered by intruders, in the time it took to travel to the site, property had been stolen and the intruders had left. Remote audio and video monitoring of the facility for welfare rather than security purposes has not been seriously considered by the appellant. However, whilst this is technically possible, it would not overcome the need to travel from a remote location to address welfare issues which could require regular and swift attention.
12. It was not considered that the use of temporary sleeping accommodation such as a touring caravan to monitor known welfare issues was a solution as the need would be too frequent, and would not necessarily be acceptable to the Council.
13. On this basis, I consider that the number of animals, combined with the higher monetary value of the horses and related concerns regarding client confidence indicates that the nature of the enterprise demonstrates an essential physical need for a worker to live permanently on the site.
14. The livery business has been operating for a number of years now. The Council had questioned whether there was sufficient security of tenure for the business to justify a dwelling on the site. At the hearing, a copy of a lease was provided which shows that the appellant has security of tenure until March 2039. The appellant has built up the business since it was established in 2010 and it was

stated verbally at the hearing that in the event that the appellant were able to reside at the site, the business would be developed further to include equine therapy. From this, I consider that there is a clear intention to develop the business, which would meet the first part of the test in Policy HOU5.

15. Various sets of business accounts have been submitted. Whilst there is some question as to whether these include the wages of the employees of the business, and the appellant was unable to confirm where in the accounts staff wages were incorporated, they do nonetheless show a year on year profit and that this has increased over the time that the business has been established. The test in Policy HOU5 is that the business has been planned on a sound financial basis. The business has successfully operated for more than five years and has made a profit each year. This is sufficient evidence to show that there is an adequately sound financial basis for the business to justify a temporary building.
16. The business meets the tests set out in Policy HOU5 and also meets the requirement of Paragraph 55 of the Framework. I therefore conclude that there is a need for a worker to live permanently on the site and that the proposed temporary building would meet the requirements of the Policy.

### **Other matters**

17. It is common ground between the parties that the proposed mobile home would not cause harm to the character and appearance of the area and would not have any adverse effect on the living conditions of the occupiers of nearby residential properties. It is also common ground that the proposal would not cause harm to road safety in the vicinity of the appeal site and that adequate drainage can be achieved. From the evidence before me, and from what I saw on the site visit, I have no reason to disagree with this position.

### **Conditions**

18. I have had regard to the conditions that have been suggested by the Council. It was agreed at the hearing that should planning permission be granted, as the proposal is for a mobile home, it is necessary to impose a condition limiting the time that the mobile home can be retained on site due to the temporary nature of the building. I have also included a short period of time following removal of the building to allow for reinstatement of the site. In order to provide certainty as to what has been granted planning permission, I have imposed a condition specifying the approved drawings. It is also necessary to restrict the occupation of the mobile home to a person employed at the stables as the building is required in connection with the livery stable business.

### **Conclusion**

19. For the above reasons the appeal should be allowed and planning permission granted in accordance with the conditions discussed above.

*John Dowsett*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Mike Sibthorp	Mike Sibthorp Planning
Richard Bacon MBA, BSc	Equine Business Consultant
Darren Walsh	Appellant
Rebecca Lovatt-Walsh	Appellant
Derek Lovatt	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

Joe Mitson	Planning Officer
Andrew Coobe MRICS, FAAV	Sangham Agricultural Planning Limited

INTERESTED PERSONS:

Greg Sharman	6 Yew Tree Close, Rockcliffe on Trent
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**DOCUMENTS SUBMITTED AT THE HEARING**

1. Statement of Common Ground
2. Lease between Derek Lovatt and Darren Walsh, dated 18 March 2014
3. List of properties for sale in the area, dated 3 October 2016



## Appeal Decision

Hearing Held on 2 November 2020

Site visit made on 2 November 2020

**by Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 10 December 2020**

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**Appeal Ref: APP/P1133/W/20/3250242**

**Moorwood, Moor View, Ipplepen, Newton Abbott TQ12 5TP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Jon Clyne against the decision of Teignbridge District Council.
  - The application Ref 19/01877/FUL, dated 24 September 2019, was refused by notice dated 25 February 2020.
  - The development proposed is the temporary siting of a log cabin for 3 years to serve as a key worker supervisory dwelling to meet the needs of an equestrian enterprise.
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### Decision

1. The appeal is allowed and planning permission is granted for the temporary siting of a log cabin for 3 years to serve as a key worker supervisory dwelling to meet the needs of an equestrian enterprise at Moorwood, Moor View, Ipplepen, Newton Abbott TQ12 5TP in accordance with the terms of the application, Ref 19/01877/FUL, dated 24 September 2019, subject to the conditions in the attached schedule.

### Application for Costs

2. Before the hearing an application for costs was made by Mr and Mrs Jon Clyne against Teignbridge District Council. This is the subject of a separate decision.

### Procedural Matters

3. The written evidence of interested parties questions the lawful land use at Moorwood. However, it is not for me to ascertain this matter within this section 78 appeal. That said, so far as is material to this appeal, I consider the site history<sup>1</sup> to indicate a commercial livery land use at the Moorwood site. This was the shared view of the appellants and the Council at the hearing, and I assessed the appeal on this basis.
4. A query was also raised regarding the description of the proposed temporary dwelling as a 'log cabin'. However, the plans submitted with the appeal show a structure with the form and appearance of a static caravan. The appellants consider the structure to fall within the definition of a caravan<sup>2</sup>, which would be easily removed from the site after the three-year period. This was not disputed at the hearing, and I had no reason to reach a contrary view.

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<sup>1</sup> Particularly Ref 20/00243/VAR and its condition No 5.

<sup>2</sup> The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of a Caravan) (Amendment) (England) Order 2006

## Main Issues

5. The main issues are:

- whether or not it has been demonstrated that there is an essential need for a rural worker to live at the site for a period of three years; and,
- the effects of the proposal with regard to carbon emissions.

## Reasons

### *Essential need*

6. Policy S22 of the Teignbridge Local Plan 2013-2033 (adopted 2014) (TLP) states that development in the countryside will be managed to provide attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy. Development in the open countryside, such as at Moorwood, will be strictly managed and limited to given circumstances, including, of application here, necessary housing for rural workers.
7. TLP Policy WE9 sets out criteria against which proposals for rural worker dwellings are assessed. In the first instance, there must a) be an essential functional need arising from the business for a full time worker to be housed on the site, and b) the business unit must be of sufficient size to require a full time employee, be economically viable and have clear prospects of remaining so.
8. Whilst the business at Moorwood is yet to commence, I see nothing in these policies which precludes such a circumstance. Furthermore, such scenarios are anticipated by the Planning Practice Guidance (the PPG), which states that, in the case of new enterprises, the decision maker should consider whether it is appropriate to grant permission for a temporary dwelling for a trial period<sup>3</sup>.
9. A central aspect of the appellants' case around essential functional need rests on the desire to be within 'sight and sound' of the stable in order to respond to potentially fatal illnesses, such as severe colic. However, the illnesses identified would not necessarily exhibit symptoms which residents of the temporary dwelling could be expected to respond to during night-time hours. I am unconvinced, therefore, that the monitoring for such illnesses could not equally be provided through alternative means, such as CCTV.
10. That being said, the demands of running a livery can lead to long and antisocial hours spent on site, with potential issues arising at any time. A temporary dwelling would allow Mrs Clyne the fullest opportunity to provide optimal care for the horses. Within this context, the argument was put to me by the appellants' equine expert that clients would expect a constant onsite presence in order to entrust valuable competition horses into the livery's care. I find this to be a logical argument, which credibly translates to an essential functional need for a dwelling arising from the specific demands of the proposed business.
11. In challenge to this point, I was referred to the existence of liveries in the area which do not have a dwelling. Yet, the individual circumstances of these liveries have not been set out in any substantive detail. Reference is made, second hand, to named equine experts in the written evidence of the interested party Mr Channon, but those experts have not provided submissions to this appeal.

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<sup>3</sup> Paragraph: 010 Reference ID: 67-010-20190722

12. It was asserted that Mrs Clyne's qualifications, or lack of, would be dissuasive. However, Mrs Clyne clarified that the discussed qualifications are not necessarily expected to be a prerequisite to running a competition livery. The prospect of customers opting not to use the livery due to the standard of care or animal welfare is a matter best tested over the three-year trial run period in any case.
13. Turning to viability, there has been much investment at the site in recent years, above the purchase of the land itself, which indicates the appellants' commitment to establishing this enterprise. Whilst there are other aspirations for the business longer-term, such as a breeding programme, this element of the scheme relates to land off site, the status of which was not made wholly clear. Nonetheless, the appellants' forecasts suggest that the livery at Moorwood alone would create work for just over a fulltime worker and would be viable, generating an annual surplus from the second year on. This contrasts with the detailed forecasts of Mr Channon, which reach the opposite conclusion.
14. During the hearing, Mrs Clyne clarified that it is not her intention to personally drive horses to competition or to provide schooling or rider tuition at Moorwood, with external trainers of appropriate qualification brought in instead. It seems to me that this may well release Mrs Clyne from many of the potential costs forecast by Mr Channon. For the marketing, the appellants intend to largely rely on social media, which seems to me to be a proportionate way to reach out to potential clients in the nascent years of the business.
15. Whilst depreciation is an accounting principle, it would not, as far as I know, have a tangible impact upon the cash flow of the business year on year. Moreover, to thwart the proposal on the basis of depreciation would, in my view, be inconsistent with Paragraph 83 of the National Planning Policy Framework (the Framework), which requires decision makers to support the development of land-based rural businesses. To do so would also fail to appreciate that the development is proposed as a trial run.
16. The viability of the business was also challenged by suggestions that the appellants would need to use some of the available boxes to stable their own horses, and for required isolation. However, I understand that the appellants keep their owned horses elsewhere, and there is an emerging arrangement to utilise the approved fodder store at the site for isolation, when needs arise.
17. Within this content, I find that the greater weight attaches to the written and oral evidence of the appellants with regard to viability. In any event, even if I were to favour Mr Channon's forecasts, Paragraph 79 of the Framework does not require an assessment of viability. As such, any conflict with the viability requirements within criteria b) of Policy WE9 would attract only limited weight, and would not, in this case, cause conflict with Policy WE9 as a whole.
18. I therefore conclude on this issue that there is an essential need for a rural worker to live at the site for a period of three years. The proposal would accord with the relevant aims of Policies S22 and WE9 of the TLP and the Framework.

### *Carbon Emissions*

19. Policy EN3 of the TLP requires proposals to seek to minimise their carbon footprint both during construction and in use, to achieve the carbon emissions target in Policy S7, that being about a 42% reduction from 2009 levels by 2030. Given that the proposal is for a temporary three-year period, its carbon

footprint would be inconsequential within the context of the 2030 target. Whilst the Council has questioned the fate of the temporary dwelling after the three-year period, and therefore its long-term carbon footprint, this matter is beyond the scope of the proposed development and, it follows, my assessment.

20. As such, the proposal would have an acceptable effect with regard to carbon emissions. It would accord with Policies EN3 and S7 of the TLP.

### **Other Matters**

21. Much concern has been raised as to the welfare standards that would be achieved at Moorwood, with reference to the Animal Welfare Act. Similarly, reference has been made to Policy EC5 of the TLP which addresses equine development. However, the proposed development before me encompasses the temporary dwelling, and not the enterprise to which it is intended to facilitate.
22. With regard to the character and appearance of the area, the proposed temporary dwelling would relate well to the existing linear form of buildings at Moorwood and would also be well hidden behind the dense roadside boundary. It would not cause harm in this regard. These matters have not therefore been determinative in my assessment.

### **Conditions**

23. In the event that I was minded to allow the appeal, the Council requested conditions to be applied, which I have assessed with regard to the tests set out in the Framework and the PPG. I have amended them where appropriate for the sake of clarity and precision.
24. In addition to the standard time condition, a condition is needed to define the approved plans in the interest of certainty. Given the limitations to development in the countryside, it is necessary to impose a condition restricting the occupation of the temporary dwelling to one associated with the proposed business at Moorwood. As the proposed development is for a trial period, it is necessary to ensure that the temporary dwelling is removed from the site after three years from the date of its occupation. In the interests of protected species, a condition is needed to make any external lighting subject to further consideration by the Local Planning Authority prior to its installation.
25. It was suggested at the hearing that a condition may be utilised in order to confirm the detailed thermal efficiency of the temporary dwelling in reference to its carbon footprint. However, given my findings in respect of this issue, I do not consider such a condition would be reasonable or necessary in this case.

### **Conclusion**

26. For the reasons outlined above, and taking all matters raised into account, I conclude that the appeal should be allowed, subject to conditions.

*Matthew Jones*

INSPECTOR

## **DOCUMENTS SUBMITTED**

Document 1	Policy H15 (Rural Workers' Dwellings) of the Teignbridge Local Plan Review (2020 – 2040)
Document 2	Social media content

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr David Campion MRICS FBIAC	Agent
Ms Sally-Ann Tinsley BSc, LLdip, PgC, AgLaw	Equine Commercial-Legal
Mr John Clyne	Appellant
Mrs Leanne Clyne	Appellant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms Anna Holloway MRTPI MSc BSc(Hons)	Senior Planning Officer
Ms Taya Cotterill MRTPI MPlan	Senior Planning Officer
Mr Gary Crawford MSc	Planning Officer

### **INTERESTED PERSONS**

Ms Hayley Parker  
Mr Rodney Channon BSc (Econ) A.C.A  
Cllr Mandy Hutchings (Ipplepen Parish Council)

## **SCHEDULE OF CONDITIONS**

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0087/09, 0087/10, 0087/11.
- 3) The occupation of the temporary dwelling shall be limited to a person or persons solely or mainly working, or last working, at the equestrian business operating from the land edged blue on the 1:1250 site location plan, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 4) The use hereby permitted shall be for a limited period, being the period of three years from the first occupation of the temporary dwelling. The temporary dwelling hereby permitted shall be removed, the use hereby permitted shall be discontinued, and the land restored to its former condition, on or before the expiry of that period of three years from the date of the first occupation of the temporary dwelling in accordance with a scheme of work that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to the installation of any exterior lighting within the site, full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.



## Costs Decision

Hearing Held on 2 November 2020

Site visit made on 2 November 2020

**by Matthew Jones BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 December 2020**

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### **Costs application in relation to Appeal Ref: APP/P1133/W/20/3250242 Moorwood, Moor View, Ipplepen, Newton Abbot, Devon TQ12 5TP**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr and Mrs Jon Clyne for a full award of costs against Teignbridge District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for the temporary siting of a log cabin for 3 years to serve as a key worker supervisory dwelling to meet the needs of an equestrian enterprise.
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### **Decision**

1. The application is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellants written submissions contend that the Council has acted unreasonably by refusing the planning application for reasons that do not stand up to scrutiny. They were added to at the hearing with oral submissions that the Council has prevented development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal on appeal, and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Members of planning committees are entitled to reach a different opinion to their professional officers, and indeed often do. In this case, the members considered the proposal to be contrary to Policy WE9, a view at odds with the professional opinions of the appellants' consultants, the planning officer, and the Council's own consultant. It is especially important that when members reach a view which runs contrary to the weight of expert opinion, that they do so for sound planning reasons that can be rationalised in the evidence.
5. The members made their decision on the basis that the proposed equine enterprise at Moorwood has not commenced. However, the Council failed to explain how this situation runs counter to local or national planning policy, both in its written evidence and at the hearing. This is unsurprising as I see nothing in policy to justify the member's position either. Moreover, members would or should have been aware that the PPG identifies the potential for a temporary dwelling to be permitted where an enterprise has not commenced.

6. The other reason for refusal relates to the carbon footprint of the temporary dwelling. Given that the proposed development would be inherently temporary, occurring over a three-year period well before 2030, I see no rational basis for the finding of conflict with Policies S7 and EN3. Furthermore, concerns raised regarding the reuse of the temporary dwelling after its removal from Moorwood are beyond the scope of a reasonable assessment of the appeal proposal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Teignbridge District Council shall pay to Mr and Mrs Jon Clyne the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Teignbridge District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Matthew Jones*

INSPECTOR