



Appeal Decision

Inquiry Held on 16 and 19 March and 6 April 2021

Site visit made on 17 March 2021

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2021

Appeal Ref: APP/U1105/C/19/3238383

Land at the Caravan, Otter Valley Golf Centre, Rawridge, Devon EX14 9QP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is made by Ms Natalie Jones against an enforcement notice issued by East Devon District Council.
 - The enforcement notice was issued on 19 September 2019.
 - The breach of planning control as alleged in the notice is:
Without planning permission, the carrying out of a material change of use of the Land from that of agriculture to a mixed use of the Land for siting of a mobile home (shown in the approximate position edged blue on the attached plan) for residential purposes, use of the Land as an equine stud farm and use of the agricultural barn (shown in the approximate position edged brown on the attached plan) for livestock.
 - The requirements of the notice are:
 - I. Permanently cease the use of the Land for the siting of the mobile home (shown in the approximate position shown edged blue on the attached plan)
 - II. Permanently remove from the Land the mobile home (shown in the approximate position shown edged blue on the attached plan)
 - III. Permanently cease the use of the Land as an equine stud farm or for any equine use other than for the;
 - breeding or keeping of working horse/s for the purpose of its use in the farming of land,
 - grazing of horse/s,
 - the breeding and keeping of horses for food production
 - IV. Permanently cease of the use of the barn (shown in the approximate position shown edged brown on the attached plan) for livestock of any kind and remove all internal stabling which facilitates this use.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (d) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is corrected by:

- i. Deletion under the heading in Section 3 of the notice, of the alleged breach of planning control and its replacement with:

Without planning permission the making of a material change in use of the land (outlined in red on the attached plan) including the barn (outlined in brown) to a mixed use for the siting of a mobile home for residential purposes (in the approximate position edged in blue on the

notice plan), for agriculture and as an equestrian facility involving a stud-farm, foaling services as well as for horse and rider training.

- ii. Under the heading in Section 5 of the notice, delete requirements 'I' and 'III' and replace them with:

Permanently cease the use of the land and building for the siting of a mobile home for residential purposes and as an equestrian facility involving a stud-farm, foaling services as well as for horse and rider training.

2. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely a material change in use of the land (outlined in red on the attached plan) including the barn (outlined in brown) to a mixed use for the siting of a mobile home for residential purposes (in the approximate position edged in blue on the notice plan), for agriculture and as an equestrian facility involving a stud-farm, foaling services as well as for horse and rider training at land at the Caravan, Otter Valley Golf Centre, Rawridge, Devon EX14 9QP as shown on the plan attached to the notice and subject to the following conditions:

- 1) The residential occupation of the mobile home shall be limited to a person solely or mainly, or last working, in the equestrian business known as Otter Valley Stud Farm (or any such business at the site trading under a different name), or a widow or widower or surviving civil partner of such a person, and to any resident dependants, or to a person solely or mainly working in the locality in agriculture or forestry or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 2) The use for the residential occupation of the site within the mobile home (in the approximate position edged blue on the notice plan) shall be for a limited period of 3 years from the date of this decision. On or before that date, the residential occupation of the site shall be discontinued, and the mobile home removed from the site.
- 3) The barn (outlined in brown on the enforcement notice plan) shall not be used for the accommodation of animals, except where the need arises from: quarantine requirements, or an emergency due to another building or structure in which the animals could otherwise be accommodated being unavailable because it has been damaged or destroyed by fire, flood or storm or where they require temporary accommodation in a building because they are sick, or are giving birth, or are newly born, or to provide shelter against extreme weather conditions.

Preliminary Matters

3. The public inquiry took place over the course of 3 days and was a virtual event carried out via Microsoft 'Teams'. I carried out my site visit between the first and second days. There were people present on the site when I visited although any discussion with them was at a distance given that it was during a Covid-19 lock-down and was limited to greetings, ensuring my vehicle was not blocking the entrance as well as to ensure that I could carry the visit out safely

both in terms of Covid-19 but also due to the electric fences around some of the fields.

4. Each of the witnesses were sworn-in giving affirmation that their evidence would be the truth. I made each of them aware of the penalties for making false statements under the Perjury Act 1911.

The notice

5. Prior to opening the inquiry, I distributed a note, drawing attention to concerns that I had with respect to the wording of the allegation and the requirements. The mix of uses required clarification as did the requirements. I also raised the matter of whether the building should be described within the allegation.
6. It was agreed by both main parties that the allegation did require correction and I heard submissions and evidence about this. The appellant has also suggested that I should not only include reference to the use of the building but also its erection given the doubt that has been expressed regarding whether it was properly authorised under the provisions of Schedule 2, Part 6 of the General Permitted Development Order¹ (GPDO) or whether there have been breaches of conditions of that part of the GPDO. Mr Ebdon for the Council in his proof of evidence does say that on reflection, the notice ought to have also alleged the erection of the barn without planning permission. He also confirmed in his oral evidence that the Council are not seeking the removal of the building.
7. I can consider correcting defects, errors or misdescriptions under the provisions of s176(1)(a) of the Act. These are broad powers but I can't change the allegation simply because a matter has been agreed by the parties since the notice was issued. The erection of the barn involved operational development which is a separate breach of planning control. The appellant considers that the building was initially authorised for agricultural purposes having been through the GPDO prior approval process. The Council's position in reconsidering this matter, is that it is inexpedient to require the removal of the building. Whilst the reasons for the parties agreeing that the building should remain may not entirely coincide, the submitted evidence and what was given orally to the inquiry was limited given the degree of common ground. It is not apparent that there was a defect, error or misdescription. It is not therefore within my powers to broaden the allegation to refer to the erection of the building.
8. I will go on to consider matters related to the nature of the mixed use of the land as well as the requirements, under ground (b) which is the context in which I heard the evidence.

Grounds of appeal

9. It was conceded on behalf of the appellant in opening by Mr Stemp that the appeal on ground (d) was no longer being pursued. This was on the basis that the mix of uses and in particular the incorporation of the residential use of the mobile home, occurred within the 10 years prior to the issuing of the notice.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

The Appeal on ground (b)

10. To succeed on ground (b), it is incumbent on the appellant to demonstrate that the matters which are stated in the allegation, have not occurred, as a matter of fact. The dispute here is whether the way in which the allegation has been described relates to what has actually occurred. Success on this ground of appeal may not always lead to the quashing of the notice as I can consider the use of my powers under s176(1)(a), where it would not cause injustice to the appellant or the Council.
11. I heard evidence from Ms Jones about the nature of the use of the site which she had purchased in April 2017. The use has involved more than just horse breeding as one would expect by the term "equine stud farm" as set out within the allegation. As well as breeding the equine activity has also included breaking horses-in, coaching owners on their own horses, buying horses to train and then selling them. There is also a miniature horse ('Bubba Shrimp') which is kept at the site, used as a therapy animal, taken to care-homes and to entertain children, having its own social media presence. Ms Jones made it clear that although she helps to train riders on their own horses, she has not been operating and has no intention to run a general riding school, where the public pay to ride on her horses, which would not be covered by her insurance.
12. The Council issued a Planning Contravention Notice (PCN) on the 21 May 2018 asking various questions about the use which had followed visits by Mr Cocker the Council's Planning Enforcement Officer. Mr Cocker visited the site again in March 2019 to assess whether anything had changed. This was some months prior to the enforcement notice being issued on 19 September 2019 and although investigations were undertaken they were limited and included looking through social media posts. There was little engagement by Council officers with the appellant to get to the bottom of precisely what was occurring at the site. I do also recognise that the responses to the PCN on Ms Jones' behalf had a significant element of interpretation rather than simply answering the questions straightforwardly. The appellant had also submitted a planning application which, although not registered, included a description of what the application form indicates is a use already taking place but which does not entirely appear to describe the use according to Ms Jones.
13. Notwithstanding these factors, the Council's officers who appeared at the inquiry are not, by their own admission, experienced or expert horse people. Their other witness Mr Bateman who does have a background in equestrian activities did not engage directly with the appellant before the notice was issued and did not visit the site. Ms Jones' evidence about the form of the horse enterprise was not therefore directly disputed by the Council's witnesses.
14. Ms Jones in her evidence indicated that the agricultural activities in terms of poultry farming had been limited. I did see some poultry when I visited the site and simply grazing of horses can also be considered an agricultural activity. As a matter of fact and degree, agricultural activity appears to have been a primary use amongst the overall mix of uses. The Council has continued its suggestion that reference to agricultural permitted development rights should be included within the allegation but this seems to confuse matters as the allegation relates to a material change in use and not the enforcement of conditions within part 6 of the GPDO.

15. The use as alleged does not appear, on the balance of probability, to have taken place. It was agreed at the inquiry that it required correction and in my view having heard Ms Jones evidence in particular, the allegation would have been more accurately described as:

A material change in use of the land (outlined in red on the attached plan) including the building (outlined in brown) to a mixed use for the siting of a mobile home (in the approximate position edged in blue on the notice plan) for residential purposes, for agriculture and as an equestrian facility involving a stud-farm, foaling services as well as a horse and rider training.

16. Consequently, it is also necessary to correct the requirements within section 5 of the notice so that they match the terms of the revised allegation in order that the elements of the mixed use of the land that the Council consider are unacceptable, are required to cease. That will allow for the ongoing use of the land for agriculture. The requirements that remain would be the subject of consideration under ground (f) if applicable.
17. Although there was not complete agreement on the appropriate revised form of wording of the allegation and requirements, I am basing the changes on the evidence that all parties have had an opportunity to consider and comment upon. The changes to the allegation and requirements can be undertaken without causing injustice to either main party. I therefore allow the appeal on ground (b) as the use as alleged has not occurred as described.

The Appeal on ground (c)

18. The appeal against the notice on ground (c) is that what is alleged as corrected, does not constitute a breach of planning control.
19. Mr Gower conceded in his evidence that the use of the mobile home for residential purposes has involved a material change of use. Although I heard a lot of evidence about the historic use of the site, notwithstanding whether the other uses did or did not require permission when they commenced, another primary use was added to the mix of uses across the site when the mobile home was first used as the appellant's home.
20. As such the mixed use of the site as corrected did constitute a material change in the use of the land and was a breach of planning control. The appeal on ground (c) therefore fails.

The Appeal on ground (a) and the deemed planning application

21. I have to consider whether planning permission should be given for the allegation as corrected.

Main issues

22. During my opening to the inquiry, I identified the 3 main issues as I saw them at that time and in order that I would normally consider them. It has been clarified by the Council that notwithstanding the outcome of this appeal, the barn, will remain and I am assessing the development on that basis.
23. Having heard the evidence and submissions, I have decided to re-order the main issues from how I read them out because the fundamental matter of the acceptability of the mix of uses on the site will in turn affect whether the

mobile home is justified. I have also amended the third main issue in order to target the key matters as they developed through the course of the inquiry.

24. The first main issue is therefore the effect of the unauthorised development on the character and appearance of the area having regard to the need for conservation and enhancement of the landscape and scenic beauty of the Blackdown Hills Area of Outstanding Natural Beauty (AONB). The second is the effect of the unauthorised development on the living conditions of nearby residential properties. Lastly, the third main issue is whether there is a reasonable prospect that a viable business can be established on the site and whether there is an essential need for a worker to live there to justify the mobile home on a temporary basis.

Reasons – character and appearance

25. The site is on a gently sloping hillside within the AONB which slopes up to the A30 close to Monkton. The wide valley is within and contributes to the highly attractive countryside. There is a broad panorama as one travels around the area which is typified by a patchwork of irregularly shaped fields bounded by growing hedges sometimes on traditional banks and interspersed with areas of woodland. This is consistent with the characterisation of this landscape within the East Devon Blackdown Hills Character Assessment 2019 as being within category 3A “the Upper Farmed and Wooded Valley Slopes”.
26. The National Planning Policy Framework (the Framework) requires that great weight is given to conserving and enhancing landscape and scenic beauty in AONBs. Strategy 46 of the East Devon Local Plan 2013 to 2031, adopted 28 January 2016 (LP) includes similar requirements. Amongst other matters, Strategy 46 states that development will need to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of the natural and historic landscape character of East Devon, in particular AONBs. LP Policy E4 encourages proposals that diversifying and expanding upon the range of traditional agricultural related economic activities in rural areas. That is subject to various requirements including that the character, scale and location are compatible with the landscaping setting.
27. The appeal site is somewhat typical of this landscape character of the wider valley with the irregularly shaped fields with mature growing hedgerows along some of the boundaries and a dense woodland as well as rising hillside providing a backdrop to the large barn on the site. The mobile home is positioned to the east of the barn and is therefore shielded largely from the limited viewpoints on the opposite side of the valley from where the site can be seen and only then at a substantial distance. I was not made aware of other specific views of the mobile home but if it can be seen from other directions such as from the south or south-east, this would be alongside the barn or with the barn, woodland or rising hillside providing the backdrop and limiting its visual impact. The barn and mobile home as well as the access and parking areas are on the lower part of the site. The functional clutter used as part of the activity on the site, including vehicles are seen from the west at the front of the building and have a very limited impact on the broader landscape and together are part of a small cluster of development around Claypits Farm.
28. The main fields that are part of the appeal site stretch to the higher slopes, above the position of the building. These higher fields are visually fragmented by the well-established hedge boundaries which include large, mature trees. I

visited the site in the spring before trees and hedges were in leaf but even at this time, these landscape features help to break up the impact of the barn, the activity immediately around it and within the fields. As the photographs reproduced in Mr Ebdon's evidence show, in summer these landscape features provide even further potential for screening when there is additional leaf-cover. I saw that less mature planting has been carried out alongside the boundary of the lower part of the appeal site.

29. The main visual impact on the current activity on the site is from the large building. In this context, the present use of the fields for keeping and training horses as well as the stud farming have a limited impact. The Council is clearly concerned about the impacts if the business is allowed to consolidate and become established. Given the current enforcement action hanging over the site, by the appellant's own admission, they have not been able to flourish.
30. The training of horses is likely to lead to some additional paraphernalia within fields such as moveable jumps and possibly some additional enclosures such as electric or other fencing to subdivide the fields. It also seems likely that this will happen within the higher fields to the east of the barn where there is more space and the topography is conducive to those activities. However, whilst it may well be possible to catch mainly distanced glimpses of the manifestation of such intensification of the present use, given the natural and semi-natural attributes of this site that I describe above, and the surrounding land, my view is that there will be a very low overall impact upon the landscape character of the site and the surrounding area.
31. Any use of the fields within the site will have some visual impact, even if they were used solely for agricultural purposes. Submissions on behalf of the appellant stressed that developments that are not normally controlled such as means of enclosure can have an impact on the character and appearance of the countryside. Some of those suggestions were at the extreme end of what may be likely but, in my experience, agricultural practices can vary and some can at times lead to unsightly visual impacts.
32. It can however be reasonable and appropriate to take account of the clear need for future physical items normally associated with the specific use when assessing the ongoing acceptability of a development. The Council has referred to the Rother District Council appeal decision² where the Inspector did just that. That was however in the context of a site where there was evidence about specific sensitivities that are mentioned by the Inspector such as the dividing of surrounding land into small plots and where there was an apparent likelihood of similar proposals coming forward. The Inspector took a precautionary approach that was justified in those circumstances. Those circumstances are very different from those presented in this case and in terms of my assessment of the landscape character. Some developments such as a manège have been mentioned in previous submissions. I have no evidence that this is something that will have to take place for the development to run successfully and it is not appropriate for me to pre-judge that or fetter the discretion of future decision makers. The appellant's evidence clearly indicates that they feel they can carry out their activities without further significant development and in the absence of clear evidence to contradict that position, I

² APP/U1430/W/17/3167206

accept this point. Any other future proposals would need to be considered on their own merits.

33. The character, scale and location of the development does and would in future be compatible with and conserve the landscape and scenic beauty of the AONB. The development therefore complies with LP Strategy 46 and Policy E4 as well as the advice within the Framework.

Reasons – living conditions

34. The reasons for issuing the notice include that the barn is being used in excess of the emergency provisions for agricultural buildings of Part 6 of the GPDO. I was presented with no direct evidence of harm that has actually been caused to neighbouring properties within 400m of the building as a result of any stabling that may have occurred. The Council did not support their case with any evidence from any environmental health or protection officer.
35. Development is permitted under the GPDO at paragraph A.1.(i) of schedule 2, Part 6 where an agricultural trade or business being undertaken. Development is not permitted however if it involves the erection a building is to be used for the accommodation of livestock, amongst other purposes, within 400 metres of the curtilage of a protected building. My interpretation of this is that it enables Local Planning Authorities to retain control over buildings, for example dwellings outside of the holding, in such proximities in order to safeguard residential living conditions. That also appears to be the logic being applied by the Council.
36. This is therefore analogous to the present circumstances although the appellant does not want the building in use all of the time for stabling of her horses and denies that it has already been used in that way. At the inquiry, some detailed debate was had regarding the ability to prevent harm by imposing a condition along similar lines to the wording of paragraph D.1(3) of schedule 2, Part 6 which provides for emergency use of the building to accommodate livestock, or in this case the horses kept, bred and trained at the appeal site.
37. The barn is distinctly separate from the nearest dwellings that could potentially be affected by its use as permanent accommodation of horses. However, I have no evidence from either party that this has or will occur. In the absence of such evidence it is reasonable to take a precautionary approach. A planning condition would be necessary to ensure that the building is restricted.
38. With the imposition of a planning condition, the development would not harm living conditions at the nearest residential properties. As such in these respects, the requirements of LP Policies E4 (rural diversification) to not harm the amenity of local residents and E5 (small scale economic development) to have no detrimental impact upon the amenities of neighbouring properties, would be complied with. LP Policy D7 relates to purely agricultural buildings and so is not directly applicable to this case however, its aim to protect the amenity of nearby residents would be achieved.

Reasons – justification for living on site

39. The Council's reasons for issuing the notice in relation to this main issue, refers to Policy H4 of the LP. That policy relates to dwellings for persons employed in rural businesses.

40. The business at the site is described in basic terms above. During the inquiry, Ms Jones went into some detail about how it functions and what needs the business has. There had by 2019 to 2020 been around 16 to 20 mares on site with a turnaround of 3 to 4 weeks before returning them to clients and they have their own stallion to service outside mares. Ms Jones is clearly very experienced and is fully aware that having too many horses at any one time could "kill the land" as she termed it. Mr Bateman for the Council stated that he cannot understand how what is proposed can be undertaken on a holding of this size, although on the other hand, Ms Jones is confident that this can be achieved. As well as her own employment which is 7 days a week her husband works on site as and when required and there is 1 full-time worker and 1 part-time worker.
41. It was stressed by Mr Gower and Ms Jones that the barn was not used as a stable apart from when emergencies cropped up. As explained above, according to Mr Gower and Ms Jones, this is analogous to the circumstances where conditions for the agricultural permitted development rights within Part 6 paragraph A.2. [where it cross refers to paragraph D.1.(3)] of the GPDO for a building in this position when required as "temporary accommodation" in emergency situations.
42. Mr Bateman accepted that the business does currently have a functional need for someone to live on site and taking account of the evidence to the inquiry, I agree that the evidence given by Ms Jones demonstrated that. Mr Bateman's change of view regarding the essential need to live on site is in part due to the business developing differently from how it was originally envisaged by the appellant. The Council also confirmed over the course of the inquiry, that the only element of LP Policy H4 that is now at issue is therefore paragraph 3 which states that "in the case of a temporary dwelling, a financial assessment, specifically in the form of a business plan setting out projected future operations, must demonstrate future operational viability."
43. Paragraph 79 of the framework allows for isolated homes in the countryside where, amongst other things, there is an essential need for a rural worker to live permanently at or near their place of work. LP Policy H4 therefore goes further than the framework in requiring the assessment of viability. Ms Jones has been operating the business now since 2017 and the GPDO 'prior notification' submission was registered by the Council on 18 May 2017. She explained that in the first year most of her efforts went into building the barn and that generally at the moment the business can't flourish due to the enforcement action hanging over its future prospects. A basic written "fiscal summary" had been submitted with the planning application that was not registered and this is the basis upon which Mr Bateman was initially instructed by the Council.
44. Much was made at the inquiry of whether or not the information that was submitted and which I heard in evidence about was, in substance if not in form, a "business plan" that could satisfy the requirements of LP Policy H4. A business plan can take varied forms in my view. However LP paragraph 23.5 states that the "business plan would need to look at future projections both in practical and financial terms and would indicate whether a holding is viable and expanding and if it can justify and support an additional dwelling."

45. The figures provided by Ms Jones are out of date with respect to her current business activities and future aims. Whilst they do indicate anticipated income and some elements of expenditure in 3 years, there is little information about how those figures have been reached. Some costs are not explained fully such as labour, insurance and veterinarian expenditure. Mr Bateman justifiably in my view could not reach a professional view that the appellant has adequately demonstrated future operational viability. He could not confirm whether or not further poultry production would assist the viability of the business as a whole.
46. The evidence to the inquiry did not fill in the gaps in the information about financial viability as required by LP Policy H4. It seems unlikely to me that the business could have survived this long without being viable or marginally viable, whilst paying for staff and other costs, but there is a lack of the necessary evidence to demonstrate the case. There has been an opportunity of presenting actual trading figures to explain whether the business is on-track or what would be needed to enable that but there was limited factual evidence of such matters presented.
47. In relation to this main issue, whilst there is an essential need for a worker to live on the site given the activities that are taking place, the evidence has not sufficiently demonstrated future operational viability. In this respect, LP Policy H4 is not complied with.

Planning balance

48. Mr Ebdon for the Council confirmed that LP Policies E4 relating to Rural Diversification and E5 to which I have referred above were of relevance even though the Council did not take these into account when making their decision. LP Policies E4 and E5 are complied with in my view and provide strong support for the enterprise being carried out and planned for this site. Along with that, preliminary paragraphs such as 24.4 provide some further support for non-agricultural rural development and development which includes the keeping of animals which are not traditional agricultural livestock. Horses are specifically referred to. Paragraph 24.5 recognises the importance and changing role of agriculture and the need for new employment in the rural areas. LP Strategy 28 also encourages the re-use of rural buildings to provide jobs and accommodate business starts-ups which is therefore of some relevance and supports the development.
49. LP Policy H4 is however not complied with due to the lack of a business plan or evidence that could in substance be considered as a business plan. However, there are clearly other policies brought to my attention which pull in the opposite direction, supporting the general principle of this type of development.
50. It has been held that where there are provisions in a development plan that support the proposal and others that go against, it is necessary for the decision maker to reach a view of compliance with the development plan as a whole. LP Policy H4 is the most important and specific policy of relevance to at least part of the development, that being the occupation of the mobile home. The policies that are complied with are more general, strategic policies which are not of direct relevance to the specifics of whether the worthwhile enterprise justifies a worker living on site. I therefore consider that the LP when taken as a whole, would not be complied with. I am required to make this decision in accordance with the development plan unless material considerations indicate otherwise and so I need to go on to assess the overall planning balance.

51. The Framework is a material consideration and it supports a prosperous rural economy and states that planning policies and decisions should, amongst other things, enable sustainable growth. In this case, although the business plan was lacking detail, we do know that the business has been employing the appellant full time, another full-time worker as well as 2 part-time workers in which I include the appellant's partner. There are other people who provide services to the enterprise such as farriers and the business provides services to customers in the community and broader area.
52. I consider that there are therefore economic and social benefits which add significant weight to the proposal. If planning permission for occupation of the mobile home is not approved, the business will lack an essential requirement and that will undermine the business making it more likely that it will fail. That will have a detrimental impact upon the livelihood of the appellant and her workers and also in respect of the broader community in terms of what it provides and the ancillary businesses that supply it.
53. If however, the mobile home is approved for a temporary period of 3 years (it was agreed by the main parties that this would be the period to be included in a planning condition), it will give the appellant some certainty over at least that period. If the business cannot demonstrate viability after 3 years, my decision would not bind the Council into approving a permanent dwelling or extending the period for the occupation of the mobile home. Allowing the mobile home will therefore give the appellant the best chance of making a success of the business and this also adds significant weight in favour of the development.
54. Furthermore, if I were to uphold the notice, the appellant would be made homeless and would also potentially lose her livelihood which would make it even more difficult to find alternative residential accommodation. Whilst the Council could consider extending the period for compliance with the notice if it came into effect, to allow for such difficulties, it seems to me that further weight should be given to retaining the home for the temporary period.
55. On balance therefore, I consider that these other material considerations outweigh the conflict with the development plan and indicate that planning permission should be given for the development with the residential occupation of the mobile home being for a period of 3 years.

Conditions

56. The Framework recommends that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted. They should also be enforceable, precise and reasonable in all other respects.
57. The Council had suggested planning conditions limiting the occupancy of the mobile home to a worker at the site and with some minor wording changes, which were discussed at the inquiry, such a condition is necessary given the justification for that aspect of the development. Similarly, it is agreed that the mobile home needs to be restricted to a 3 year rather than 2 year period as originally suggested in Mr Ebdon's proof of evidence. Mr Ebdon had originally suggested that the temporary time-limit should apply to "the permission" however, in my view the only element that is necessary to control is the occupancy of the mobile home. I can see no reasonable justification for limiting the period for the other elements of the mixed use.

58. With respect to the use of the barn, as I suggest in relation to the second main issue, I consider that a restriction to allow emergency use of the building for accommodating animals is necessary. At the inquiry, I heard no evidence about anything broader than using the barn for accommodating horses and so I have kept the wording as succinct as possible rather than broadening it out to cover everything included within the limitations and conditions of Schedule 2, Part 6 Paragraph D.1.(3) of the GPDO.
59. Some discussion was had at the inquiry about the potential for the horse and rider training to become a broader public riding school on horses supplied by the appellant and kept on site. That does not appear on the balance of probability to have occurred. If it did and was noticeable, it would be a matter of fact and degree to be assessed at the time as to whether that involved a material change in the current mixed use of the appeal site. From the evidence presented, it is not clear that there are any specific sensitivities that justify prevention of such activity if it was possible at a lower, non-material level within the scope of the present use of the site. I do not consider that it is necessary to impose further conditional control over this.
60. The Council also suggested at the inquiry, a very broad ranging planning condition to protect landscape features such as trees and hedges, the suggested reason being in the interests of amenity and to preserve and enhance the character and appearance of the AONB. Given my conclusion on the first main issue, I do not consider such a condition is necessary.

Conclusion

61. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the making of a material change in use of the land (outlined in red on the attached plan) including the barn (outlined in brown) to a mixed use for the siting of a mobile home for residential purposes (in the approximate position edged in blue on the notice plan), for agriculture and as an equestrian facility involving a stud-farm, foaling services as well as for horse and rider training as described in the notice as corrected. The appeal on ground (f) does not fall to be considered.

A Harwood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Stemp of counsel Instructed by Ms Jones

He called:

Mr John Gower Planning Witness

Ms Natalie Jones Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Harrison of counsel Instructed by Mrs Shaw planning barrister for
East Devon District Council.

He called

Mr. Jeremy Ebdon BSc Principal Planning Officer, East Devon District
(Hons.), Dip TP, MRTPI Council

David Cocker Planning Enforcement Officer East Devon District
Council

Mr Kevin Bateman Chartered Surveyor and Agricultural Valuer
MRICS, FAAV, FBIAC,
P.Agric, (MRArgM)

DOCUMENTS

- 1 Updated appraisal by Mr Bateman
- 2 17/1183/AGR application form
- 3 Mr Gower's letter to the Council dated 22 March 2017
- 4 Rother District Council appeal decision ref
APP/U1430/W/173167206
- 5 LP Policies E4 and E5