



Appeal Decisions

Hearing held on 20 September 2022

Site visit made on 20 September 2022

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 7 November 2022

**Appeals Ref: APP/U1105/W/22/3294817 and APP/U1105/C/22/3295289
Land at Hornshayes Farm, Stockland, Devon, EX14 9BX**

Appeal A (The appeal against refusal of planning permission)

- 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 Dawn Bradbury against the decision of East Devon District Council.
- The application Ref 21/0463/FUL, dated 15 February 2021, was refused by notice dated 25 November 2021.
- The development proposed is described as "Retain residential use of the static caravan situated on the site located at Hornshayes Farm".

Summary of Decision: The appeal is dismissed and planning permission is refused.

Appeal B (The appeal against the enforcement notice)

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Miss Dawn Bradbury against an enforcement notice issued by East Devon District Council.
- The notice was issued on 15 February 2022.
- The breach of planning control as alleged in the notice is: "Without planning permission and where no permitted development rights exist, the carrying out of a material change of use of the Land from an agricultural use to a mixed use of the Land for agricultural and residential use (C3) by the siting on the Land of a static caravan for residential purposes shown in the approximate position edged in blue on the plan attached".
- The requirements of the notice are to:
 1. Permanently cease the use of the Land for residential purposes
 2. Permanently remove from the Land the static caravan shown edged blue on the plan used for residential purposes
 3. Permanently remove from the Land all materials and debris associated with compliance with steps (1) and (2) above.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the notice, subject to correction and variation (that is, the removal of the second requirement and the extension of the compliance period to 18 months) is upheld.

Preliminary matters

1. There are two caravans on the appeal site, and both appeals relate to the northernmost of the pair. At the Hearing, the Council accepted that the position of this caravan as shown on the plan attached to the enforcement notice was inaccurate, and at my request has since produced a replacement plan. This replacement plan accurately records the location of both caravans, with the caravan that is the subject of these appeals shown edged in blue. I am satisfied that I can substitute this replacement plan for the original enforcement notice plan without injustice to either party.
2. Both appeals are concerned with the use of the caravan as a dwelling. I shall start with the appeal against the refusal of planning permission for this use, because if I were to determine that such permission should be granted, it would follow that the enforcement notice should be quashed.

Appeal A: The appeal against refusal of planning permission for residential use of the caravan

3. The main issues in this appeal are firstly, whether there is a need for a dwelling at this site in order to accommodate a person employed in a rural business; and secondly, the effect of the development on the character and appearance of the area.

The first main issue

4. The Government's *National Planning Policy Framework* advises that the creation of homes in the countryside, outside existing settlements, should be avoided other than in certain specified circumstances; one of which is where there is an essential need for a rural worker to live permanently at or near their place of work. This national policy is reflected in the *East Devon Local Plan 2013-2031*. Strategy 7 of the Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development. Local Plan Policy H4 explicitly permits dwellings in the countryside for people employed in rural businesses, provided that they fully satisfy its listed criteria.
5. The first of these criteria is a proven and essential need for the occupier of the proposed dwelling to be housed permanently on the unit for functional reasons. Where the need is unproven, a temporary dwelling may be permitted to allow time to establish whether there is a genuine functional and financial need for a permanent dwelling. In cases where a permanent dwelling is proposed, criterion two is that the business has been operational for a minimum of three years; is demonstrably commercially viable; and has clear prospects for remaining so. If a temporary dwelling is proposed, criterion three is that a financial assessment, specifically in the form of a business plan setting out projected future operations, must demonstrate future operational viability.
6. The undisputed evidence of the Appellant is that she purchased Hornshayes Farm at auction in 2007, moving into the bungalow now known as "Kimberley", and using the land and barns for the operation of her business, the "Gold Leaf Arabian Stud". The horses are kept outside all year round, on grazing land of approximately 12.5 ha. They need to be checked on a daily basis while grazing, and kept under constant observation when about to foal. At the height of its business the Stud comprised 28 horses, and would breed a maximum of eight

- foals per year, but for the last two years breeding had been put on hold due to the pandemic, and uncertainty as to the outcome of these appeals. Going forward, the Appellant is thinking of keeping 10-15 horses on the land, and breeding two foals each year.
7. At the Hearing, the Appellant explained that her move in 2020, from "Kimberley" to a property in Seaton, was necessary for health reasons. However, it means that travelling to the appeal site now involves a 25 mile round trip. The fact that a trusted individual ("the Occupier") is living on-site in the caravan means she does not have to visit the Stud every day; instead, the Occupier checks on the horses each day, and telephones her immediately if there is anything which might require her attendance. In future, if breeding were to resume as planned and a mare were close to foaling, the Appellant would be able to exercise her permitted development rights to stay overnight in the other caravan in order to be present around the clock.
 8. The Appellant gave compelling evidence that the Stud has been in existence for 35 years, and has bred some outstanding horses which have gone on to compete all over the world. Her passionate commitment to the wellbeing of her animals is obvious, and admirable. However, no evidence at all (such as annual accounts, records of the numbers of foals bred and sold, or other information as to the extent of any funds generated by the Stud) has been provided to demonstrate the commercial viability of the business.
 9. At the Hearing, the Appellant explained that she had in the past kept poultry, cattle and other animals on the land, and was considering introducing some rare breeds in the future. She is also considering converting the old milking parlour at the appeal site into a shop, which would sell arts and crafts, but could also function as a local convenience store. While I do not in any way doubt the integrity of the Appellant's intentions, there is no evidence (such as market research, a Business Plan, funding proposals or informal costings) as to whether or not such proposals might be commercially viable. The Occupier gave evidence at the Hearing that while happy to undertake routine daily inspections of the horses and help out where possible, they were not interested in managing the Stud business, or taking it on from the Appellant when she retires in the near future. My understanding is that The Occupier is not an employee of the Stud business, but voluntarily assists the Appellant; their occupation of the caravan means they are well-placed to do so. The Occupier has other interests and skills, and is pursuing potential employment opportunities in those areas.
 10. Drawing all of this together, I find that the evidence before me does not indicate there is a functional need for a worker to be housed permanently at the appeal site. At the proposed future breeding rate of two foals per year, the need for a 24 hour on-site presence at foaling time could be met using permitted development rights for use of temporary accommodation. Nor is there sufficient evidence that (as would be required in order to justify a permanent dwelling) the business is commercially viable and has clear prospects of remaining so, or (as would be required to justify a temporary dwelling) that it has demonstrable potential for future operational viability.
 11. This is not, of course, to say that the Appellant's proposals for the future use of the appeal site could *never* justify the need for a dwelling: simply that any such plans would need to be supported by evidence demonstrating how they would

meet the relevant criteria of Local Plan Policy H4. The development currently at issue does not meet those criteria. In the absence of a demonstrable need for a dwelling at this site in order to accommodate a person employed in a rural business, my conclusion on the first main issue must be that the residential use of the caravan conflicts with Strategy 7 and Policy H4 of the East Devon Local Plan, and with national planning policy set out in the NPPF.

The second main issue

12. The appeal site lies within the Blackdown Hills Area of Outstanding Natural Beauty (AONB). The NPPF advises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. That advice is reflected in Strategy 46 of the Local Plan, which states that development will only be permitted where it conserves and enhances the landscape character of the area.
13. It is fair to note that the caravan here at issue is located close to other farm buildings, and so is seen in the context of an existing working area of land, rather than (for example) appearing in an otherwise undeveloped field. However, it is constructed from sheet metal rather than the traditional building materials of the adjacent barns and old milking parlour, and serves to increase the extent and visibility of the built-up part of the appeal site, within an area of the District where particular importance is placed on the conservation of natural beauty.
14. The Appellant has indicated that she would be willing to increase the planting of native species that she has already begun, in order to screen the caravan in views from the adjacent road, and the strengthening and retention of this planting could be secured by condition. A condition could also be imposed to address concerns about exterior lighting, and secure compliance with Policy NE3 of the Stockland Neighbourhood Plan, which aims to maintain the dark skies of the parish. These are factors that would mitigate the extent of the harm caused to the character and appearance of the area, but they would not remove it entirely. It would remain the case that the presence of the caravan on the appeal site would adversely affect the natural beauty of the AONB, and so would conflict with Strategy 46 of the Local Plan and the advice of the NPPF.

Other material considerations

15. There is a number of other material considerations which also need to be weighed in the overall planning balance.

Accessibility

16. The appeal site lies around 1.1km from the village of Stockland, along roads which do not have any pavements or street lighting. There are limited amenities in the village, and the only public transport is a "ring and ride" service once a week. The provision of a dwelling in this location would therefore be at odds with the promotion of sustainable transport sought by the NPPF, and with the aim of Local Plan Policy TC2 to locate new development where it is accessible by pedestrians, cyclists and public transport.
17. If it could be demonstrated that there were a functional need for a dwelling to house a full-time worker at the appeal site, the fact that it is not easily accessible by sustainable modes of transport could be offset by the fact that

living on-site would mean that worker no longer needed to commute daily to and from the site. However, in this case no such need has been established, and The Occupier has advised that they are seeking work elsewhere.

18. I understand that in daylight hours during fine weather the Occupier frequently makes use of an electric bicycle, and it is fair to note that in many rural locations public transport services are woefully inadequate. But it remains the case that access from the appeal site to shops, employment, healthcare and other services is not readily available on foot or by public transport, and so the use of the caravan for residential occupation increases the number of journeys made by car. In this respect it conflicts with national and local policies aimed at reducing reliance on the use of private motor vehicles.

Impact on the River Axe Special Area of Conservation (SAC)

19. In March 2022, Natural England published advice that the River Axe SAC is in “unfavourable” conservation status due to poor water quality. Any further deleterious impact to water quality which occurs, regardless of scale, may subsequently compromise the ability to restore the SAC to a favourable condition. Harmful impacts from pollutants and increased nutrients can result from any development that involves the generation of waste water, such as new homes, tourist attractions and accommodation, caravan sites and many types of commercial development.
20. The Habitats Regulations¹ provide that planning permission should only be granted if it can be determined, on the basis of objective information, that the development will not have any significant effects on the SAC. If the possibility of significant effects (alone, or in combination with other development) cannot be ruled out, the proposal should be subject to an “Appropriate Assessment”. For planning permission to be granted, that Appropriate Assessment must contain complete, precise and definitive findings which are capable of establishing, beyond all scientific doubt, the absence of adverse effects on the integrity of the SAC.
21. The appeal site lies within the nutrients catchment area for the River Axe SAC, as identified by Natural England. The Council contends that since the development here at issue is residential accommodation, it will generate additional waste water which would in turn increase phosphate levels in the SAC. The Appellant points out that since the caravan was already on site prior to its residential occupation, and had been used throughout each day as a rest room with toilet facilities (a use which would be continued if planning permission for residential occupation were not granted), there would be no real change in the level of phosphates generated. The Appellant is right that it is the difference between the pre-existing and the proposed use that needs to be considered. But even so, occupation as a dwelling would be likely to generate more waste water than the daily use of the caravan as a restroom; a full-time resident would, for example, be more likely to take showers, wash clothes, and cook meals on the premises. The possibility of significant (albeit small) effects on the SAC cannot, therefore, be ruled out.
22. That being the case, it is necessary to undertake an Appropriate Assessment to establish whether there would be an adverse effect on the integrity of the SAC, having regard to any proposed mitigation of the likely impacts. As discussed

¹ The Conservation of Habitats and Species Regulations 2017

- above, residential occupation of the caravan will increase waste-water generation and thereby phosphate levels, to the detriment of the quality of the water course (a qualifying feature of the SAC). No mitigation has been proposed. This additional nutrient loading would further degrade the already “unfavourable” status of the SAC, and so adversely affect its integrity.
23. The Habitats Regulations provide that if adverse effects on the integrity of the SAC cannot be excluded, planning permission may only be granted if (1) there are no alternative solutions, (2) the development must be carried out for imperative reasons of overriding public interest, and (3) compensatory measures will be provided. None of those three tests are met in this case.
24. The Appellant has pointed out that the land on which the Stud now operates was previously used as a dairy farm, and that since the date of her purchase no fertilisers or pesticides have been used on that land. She explained that she has also planted trees, created areas of wetland, and improved wildlife habitat.
25. I can understand the Appellant’s frustration that none of these measures can be used, retrospectively, to “offset” the increase in nutrient levels associated with the residential occupation of the caravan: rather, the decision-making process has to be based on the status of the SAC, and the impacts of the proposed development, as they stand at today’s date. As was discussed at the Hearing, it would be possible to take into account any mitigation measures that formed part of the proposals for which permission was sought (for example, the creation and future maintenance of wetland areas, or contributions toward the provision of off-site mitigation), but no such proposals form part of the current planning application.
26. In summary, for the reasons set out above it is not possible to ascertain that the development has no adverse effect on the integrity of the River Axe SAC. The provisions of the Habitats Regulations therefore operate to prevent the grant of planning permission in this case.

Flood risk

27. The Flood Map produced by the Environment Agency indicates that part of the site on which the caravan stands is in Flood Zone 2. The Appellant has provided some fairly persuasive evidence that the extent of a flooding event in 1968, which was largely responsible for the designation of this part of the site as Flood Zone 2, was not accurately drawn. However, it is unnecessary for me to draw any formal conclusions on the matter, because the risk of flooding did not form any part of the Council’s reasons for refusing planning permission. Were I to grant planning permission it would be a straightforward matter to impose, if necessary, the Council’s suggested condition requiring the re-positioning of the caravan on the appeal site, so as to bring it wholly within Flood Zone 1.
28. Flood risk is not, therefore, a material consideration which weighs against granting planning permission in this case.

The need for affordable housing

29. The Appellant drew my attention to the provisions of Local Plan Strategy 35, which makes an exception to the general prohibition against new dwellings in the countryside, by permitting mixed schemes for market and affordable housing where there is a proven local need. I understand the concerns of the Appellant and The Occupier as to the lack of affordable housing in the area.

However, the proposed use of the caravan as a dwelling does not meet the requirements of Strategy 35 that “exception” housing should be physically very well related to the built form of the village, and should have its initial and subsequent occupancy restricted to persons meeting specified criteria. The use of the caravan as a dwelling is not, therefore, supported by Strategy 35.

The Personal Circumstances of The Occupier

30. It is common ground that The Occupier has a medical condition which constitutes a protected characteristic for the purposes of the Public Sector Equality Duty (PSED).² The condition is severely exacerbated by living in shared accommodation. Its effects include a tendency, on occasion, to damage property, including the fabric of living accommodation. Difficulty in finding any available and suitable accommodation was why The Occupier, at the instigation of the Appellant, came to live in the caravan in the first place.
31. If planning permission for the residential use of the caravan is refused, The Occupier stands (as a consequence of the concurrent enforcement action) to lose their home. This would be an interference with their right to respect for their private life and home.³ Further, there can be no doubt that finding suitable alternative accommodation would, as a direct consequence of The Occupier’s protected characteristic, be harder for The Occupier than it would for a person who did not share that protected characteristic. The Occupier has recently learnt to drive, which has facilitated a search for employment further afield. However, uncertainty (caused by the current appeals) over whether they would be able to continue living in the caravan has hampered that search, and losing their present home would clearly make it more difficult to obtain employment until an alternative address could be found.
32. The evidence of the Appellant is that her attempts, on behalf of The Occupier, to engage with the Council’s Housing Department in order to establish whether and how alternative accommodation could be provided were fruitless. The Council has not provided any evidence (such as the extent of current availability, or the length of any waiting lists) as to alternative accommodation.
33. In summary, the personal circumstances of The Occupier are an important material consideration. The Occupier has a need for affordable living accommodation that does not involve sharing with others, a need which is currently met by the caravan. If planning permission for the residential use of the caravan is refused, The Occupier would have to find suitable alternative accommodation. Finding such accommodation would be harder for them than it would for somebody who did not share their protected characteristic. Together, these matters carry a great deal of weight in favour of granting a temporary personal permission for the Occupier to remain in the caravan.

The Overall Planning Balance

34. I have found that in the absence of any functional need for a worker to be housed permanently on the appeal site, the use of the caravan for residential accommodation conflicts with the relevant policies of the local Development Plan. The likelihood that residential occupation of the caravan (in contrast with its use for purposes incidental to the agricultural use of the land) would generate a greater number of journeys by private car is also at odds with the

² Set out in s.149 of the Equality Act 2010

³ Per Article 8 of the European Convention on Human Rights, set out in Schedule 1 of the Human Rights Act 1998

- aims of national and local planning policy. I have also found that the adverse impact of the caravan on the appearance of the AONB conflicts with Development Plan policy, but since the caravan would remain on the appeal site even if permission for residential use were not granted (see paragraphs 41 to 46 below) that is not a factor which weighs against granting permission.
35. The fact that the residential occupation of the caravan conflicts, rather than accords, with the Development Plan is not necessarily the end of the matter: planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. An important material consideration in this case is the personal circumstances of The Occupier which, for the reasons set out above, I consider carry great weight in favour of granting planning permission for The Occupier to remain in the caravan for a sufficient period of time to find suitable alternative accommodation.
36. Weighing the needs and circumstances of The Occupier against the harm caused by the conflict with Development Plan policy, I would be minded to make a temporary grant of personal planning permission – that is, planning permission for the use of the caravan as residential accommodation, subject to conditions that it be occupied only by The Occupier, and that such occupation be limited to a specified period. However, another important consideration in this case is the impact of residential accommodation on the River Axe SAC. Since I have concluded that it is not possible to ascertain that the development has no adverse effect on the integrity of the SAC, the Habitats Regulations prevent the grant of planning permission. That remains the case even if conditions were imposed restricting the occupancy and imposing a time limit on the residential use, because these conditions would not themselves suffice to prevent any adverse impacts on the SAC.
37. In summary, I find that in terms of the planning balance there are material considerations which outweigh the conflict with the Development Plan; however, in the circumstances of the current case, granting planning permission would be in breach of the Habitat Regulations. I therefore conclude that the appeal against the refusal of planning permission must fail.
38. That is not, since there are two linked appeals, the end of the matter: the question of whether development should be granted planning permission is a different question to how long is reasonable to comply with the requirements of an enforcement notice. I shall consider the implications of The Occupier's personal circumstances further, in the context of the HRA and my duties under the PSED, in my determination of Appeal B.

Conclusion on Appeal A

39. The appeal is dismissed, and planning permission for the residential use of the caravan is refused.

Appeal B: The appeal against the enforcement notice

40. The appeal was originally lodged on grounds (b), (c) and (f). Ground (b) is that the matters alleged in the enforcement notice have not occurred; ground (c) is that if they did occur, they did not constitute a breach of planning control; and ground (f) is that the steps required by the notice exceed what is necessary to remedy any breach of control.

41. However, it is clear from the representations made by the Appellant that she does not dispute the allegation that the caravan has been put to residential use: as confirmed at the Hearing, she acknowledges that this use began when The Occupier took up residence in September 2018, and has continued ever since. Nor does the Appellant seek to allege that the residential use of the caravan is not a breach of planning control. Rather, her case against the enforcement notice is that it is excessive to require the removal of the caravan, since it had been placed on the land and used for lawful agricultural purposes prior to its use as a dwelling. The Appellant contends that should the appeal against refusal of planning permission for residential use fail, then the caravan ought to be allowed to remain on the land to be used for agricultural purposes. As discussed and agreed at the Hearing, this argument falls wholly within the remit of ground (f), and I shall determine the appeal on that basis.
42. It is common ground that the first of the two caravans on the appeal site was initially sited within the grounds of “Kimberley” in 2009, then moved to its current position in January 2012 (this is the southernmost caravan). Later in 2012 the second caravan (this is the northernmost caravan, the subject of the current appeals) was sited alongside it. The evidence of the Appellant is that the first caravan was (and is still) used for storage connected with the agricultural use of the land. As to the use of the second caravan, the evidence of the Appellant is that when first placed on the appeal site in 2012 it was used as a rest room, site office and agricultural store. It was then also used for incubating and hatching poultry, before its subsequent use as The Occupier’s place of residence began in September 2018. None of this is disputed by the Council. Indeed, the Council’s records show that it began an enforcement investigation in 2017, in response to an allegation that a caravan on the appeal site was being used for domestic purposes: the investigation concluded that the use was storage, not residential accommodation, and the case was closed.
43. Where (as here) the breach of planning control attacked by an enforcement notice concerns a material change of use, the notice can require the removal of any works that facilitated the unauthorised use. But it can only do this if those works were *integral* to the material change of use; in other words, if they were part and parcel of initiating the new, unauthorised, use of the land. The notice cannot require the removal of works that were undertaken for a different and lawful use, and which could be utilised in that other lawful use if the unauthorised use ceased.
44. In this case, the undisputed evidence of the Appellant is that the second caravan was not brought on to the land for the purpose of providing residential accommodation. Rather, it was placed on the appeal site to be used for purposes incidental to the existing agricultural use of the land, and the evidence shows that it was so used for some six years before the unauthorised residential use began. The Appellant has explained that if its residential use must cease, there will be a need to return the caravan to its original use as a rest room in connection with the agricultural use of the land.
45. It follows that the notice’s second requirement, which is to remove the caravan from the appeal site, is excessive. The notice’s first requirement, which is to cease the residential use of the land, is sufficient to remedy the breach of planning control that is acknowledged to have taken place: the caravan had a legitimate use before that breach occurred, to which it may return when that unauthorised use ceases.

46. I therefore conclude that the appeal on ground (f) should succeed. I shall vary the notice by deleting its second requirement, and removing the reference in the alleged breach to the siting of a caravan for residential purposes.
47. The Appellant did not contest the appeal on ground (g), which is that the period specified for compliance with the requirements of the notice falls short of what should reasonably be allowed. However, in the light of my findings in Appeal A above it is important that I give due consideration as to whether the compliance period is proportionate and reasonable.
48. The notice specifies a compliance period of six months. This appears to have been informed by the Council's view that there is nothing in the nature of the existing accommodation that is unique, and that there would be no particular barriers to The Occupier finding alternative accommodation elsewhere.⁴ In fairness I should note that only limited information as to the implications of The Occupier's condition were provided in the written submissions, with more detail being provided at the Hearing.
49. As set out in my consideration of Appeal A above, it is established that as a consequence of their medical condition, which is a Protected Characteristic for the purposes of the PSED, The Occupier needs accommodation that is not only affordable, but also does not require them to share with others, and has provisions in place to manage any damage that the Occupier may cause to its fabric and contents. The caravan at the appeal site, while not "unique" in terms of the nature of the accommodation it provides, currently meets these requirements; it is clear that not every type of accommodation could.
50. I appreciate that six months would usually be sufficient time for a person who did not share The Occupier's protected characteristic to look for alternative accommodation. However, I am concerned that the criteria which will need to be applied to establish suitability for The Occupier will significantly narrow the range of alternative accommodation that might be available, such that six months would not be sufficient, and would place unfair pressure on The Occupier and on the Appellant.
51. In the absence of any substantive evidence from either party it is not a straightforward matter to establish what a reasonable amount of time would be. Had I been able to conclude that the development would not have any significant adverse impact on the River Axe SAC, I would have been minded to grant temporary planning permission for the Occupier to continue living in the caravan for two years, so as to ensure ample opportunity for them to look for suitable alternative accommodation while also seeking appropriate employment. The Habitats Regulations do not apply to my determination of this appeal, but in recognition of the adverse impact that continued residential occupation of the caravan will have on the integrity of the SAC, I shall specify a compliance period of eighteen months. I am satisfied that this strikes the right balance between the conflicting public and private interests in this case.
52. In terms of the HRA, the consequences of my findings in respect of Appeal A and Appeal B are that at the end of the compliance period of eighteen months, The Occupier will lose their home. This amounts to serious interference with their right to respect for their private and family life and home. However, that right is a qualified right, such that interference may be justified where it is

⁴ LPA Statement of Case dated 11 August 2022

lawful and in the public interest. The concept of proportionality is crucial. In this case, subject to the deletion of the second requirement and extension of the compliance period to eighteen months, I consider that the requirements of the enforcement notice are not disproportionate when balanced against the need to uphold the planning system including the policies of the Council's adopted Development Plan; that being made and applied in the wider public interest.

53. I have had due regard to the PSED, which seeks to eliminate unlawful discrimination, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I appreciate that the impact of the notice on The Occupier would be more severe, as a consequence of their protected characteristic, than it would be upon a person who did not share that protected characteristic. I consider that extending the compliance period to eighteen months would be a reasonable step to address that inequality, and that subject to this variation, there are no alternatives to upholding the notice that would be both appropriate to the circumstances and less harmful in impact. I conclude that upholding the notice is proportionate.

Conclusion on Appeal B

54. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with correction and variations.

Formal Decisions

Appeal A

55. The appeal is dismissed.

Appeal B

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

- the substitution of the plan annexed to this decision for the plan attached to the enforcement notice

and varied by:

- the deletion of the words "by the siting on the Land of a static caravan for residential purposes shown" from paragraph 3;
- deleting steps (II) and (III) from paragraph 5, and substituting the step "(II) Permanently remove from the Land all materials and debris associated with compliance with step (I) above" ; and
- at paragraph 6, deleting the word "SIX" and substituting the word "EIGHTEEN".

Subject to the correction and variations, the appeal is dismissed and the enforcement notice is upheld.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Miss Dawn Bradbury, the Appellant
The Occupier

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Digby, Senior Planning Officer
Mr Rory Chanter, District Ecologist

INTERESTED PARTIES:

Mr Roderick and Mrs Yvonne Hole, neighbouring residents

DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

1. Set of annotated plans and aerial views submitted by the Appellant at the Hearing, to demonstrate the extent of flooding in 1968 and its subsequent depiction on flood maps
2. Revised plan submitted after the Hearing by the Council at the request of the Inspector, to be substituted for the plan attached to the enforcement notice.

Plan

This is the plan referred to in the decision dated: []

by Jessica Graham BA (Hons) PgDipL

Land at: Hornshayes Farm, Stockland, Devon, EX14 9BX

Reference: APP/U1105/C/22/3295289

Not to Scale

