



Appeal Decision

Hearing held on 2 April 2025

Site visit made on 2 April 2025

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2025

Appeal Ref: APP/R2520/W/24/3343834

Witzend, Fen Road, Dorrington, Sleaford LN4 3QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Lewis against the decision of North Kesteven District Council (NKDC).
 - The application Ref is 23/1416/FUL.
 - The development proposed is a caravan to form permanent residential unit. Proposed manège/exercise area.
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Decision

1. The appeal is dismissed insofar as it related to the proposed caravan to form a permanent residential unit. The appeal is allowed insofar as it related to a proposed manège /exercise area and planning permission is granted for a proposed manège/exercise area at Witzend, Fen Road, Dorrington, Sleaford LN4 3QB in accordance with the terms of the application, Ref 23/1416/FUL, subject to the conditions in the attached schedule at the end of this decision.

Preliminary Matters

2. The site address specified on the application form was not definitive, Fen Lane is a long road. At the hearing both parties indicated their agreement to refer to the appeal site as 'Witzend', also used by the appellants on their appeal form. I have used this within the banner heading and decision above to more accurately describe the appeal site.
3. The Statement of Common Ground and the Council's documentation refer to development at the appeal site that has been undertaken retrospectively. However, that other development is not before me for consideration and my decision relates only to that which is subject to the application, as set out above.
4. The National Planning Policy Framework (the Framework) was revised on 12 December 2024 and later amended on 7 February 2025. Both main parties have been given the opportunity to comment on how the changes affect their respective cases, and any responses received have been taken into account in my decision.
5. I saw on my site inspection that the caravan was already sited at the appeal site, and this aspect of the proposal is retrospective. However, the proposed manège/exercise area has not been formed, and this is a proposed development. The appeal has been determined on this basis.

6. The Council's reasons for refusing planning permission for the proposed development only related to the caravan. The Council confirmed it does not have any objection to the proposed manège/exercise area which they say is allied to the existing equestrian use at the appeal site and would satisfy relevant development plan policies, and I see no reason to disagree. The Council advised that the proposed manège/exercise area is distinguishable from the caravan and that a split decision could be issued (depending on the outcome of the appeal) to approve the manège/exercise area. The Council said it did not issue a split decision as it was not its policy to do so. I have therefore determined the appeal on the basis that there are no objections to the manège/exercise area being granted planning permission.

Main Issues

7. The main issues are:

- Whether there is an essential need for a rural worker to live at the appeal site; and,
- Flood risk.

Reasons

Essential need for a rural worker

8. The appeal site is a rectangular shaped area of land adjacent to Fen Road, that contains some stables and a caravan, it is located within the countryside to the east of Dorrington, some way from any settlement. Dorrington Dyke is located near to one of the appeal site's boundaries with a drainage dyke running parallel with another boundary.
9. The appellants say that they operate a horse drawn carriage business (Witzend Carriages) from the appeal site, currently said to operate on average 2-3 times a month. However, it was said Mrs Lewis is to undertake a Hackney Taxi Licence test in the very near future and intends to operate the business up to 365 days a year. In addition, it was said at the hearing that they currently have 8 no. horses (4 no. at the appeal site and 4 no. stabled or grazing elsewhere) which are required for the carriage business. The appellants also said they have 2no. sheep and 2no. lambs at the appeal site.
10. With the uncertainty around whether planning permission would be granted and other related enforcement investigations by the Council, the appellants said they are not willing to grow the business and the sheep enterprise at present (it was said previously they had 150 no. sheep). Apart from the appeal site said to comprise 0.39 hectares, the appellants also said they lease 25 acres of land on the side of Dorrington Dyke nearby, and 4.5 acres of land said to be approximately half a mile from the appeal site.
11. Labour for both enterprises is provided on a full-time basis by Mrs Lewis, and on a part-time basis by Mr Lewis who it was said maintains the carriages. In addition, there is a work experience student from Riseholme College, who also works for the business on a part-time basis. It is the appellants intention that their employment would become full time in the near future in anticipation of the carriage business having increased demands (in the event Mrs Lewis obtains her Taxi Licence).

12. The appellants business involves the hire of horse drawn carriages for events, such as funerals, weddings, and local markets. The labour involved in running the business is said to be extensive, with the horses needing to be kept fit to pull carriages for long periods, and the daily exercise is said to be 10 miles for each horse. Leading up to events, Mrs Lewis described how the horses need to be prepared, including platting of their manes, bathing and cleaning and saddling them, and the carriages attached, which are understood to be considerably heavy and require more than one person to manoeuvre them into position. The horses were also said to require regular mucking out and feeding, and the sheep and lambs also required welfare checks.
13. The appellants say the caravan is required for permanent residential occupation due to the welfare and management of the horses and sheep, and to provide security for the animals, carriages and equipment.
14. Policy S1 of the Central Lincolnshire Local Plan adopted April 2023 (CLLP) says that within the countryside new residential development is restricted, which amongst other things, include dwellings essential for the effective operation of agriculture, horticulture, and outdoor recreation. CLLP Policy S5 says mobile homes in the countryside are to be considered on the same basis as a permanent dwelling, and that dwellings in the countryside will only be permitted where they are essential for the effective operation of an existing rural enterprise. To satisfy the policy several criteria must be met including details of the business, its commercial viability; how long it has been established; the need for the dwelling; and its labour requirement. In addition, paragraph 84 of the Framework says amongst other things, new dwellings in the countryside require an essential need for a rural worker to live permanently at or near their place of work.
15. In support of their proposal the appellants have referred to CLLP Policy S23, which relates to the strategic aim of meeting accommodation needs across the district and CLLP Policy S26, which says new caravan pitches and park homes will only be supported in locations where they are acceptable for permanent dwellings. However, I consider these policies to have less relevance to the appellant's proposal, as they are mainly concerned with new housing that is not allied to a business in the countryside. Furthermore, reference was made to CLLP Policy S28 which provides support in principle for small scale business development, which I also did not find to be directly determinative in relation to the essential need to live permanently in the countryside.
16. It is noted that being on site allows Mrs Lewis the opportunity to manage the horses and exercise them, alongside caring for her daughter who also lives with them in the caravan, and undertake the school runs around her duties with the business. However, I was not persuaded that mucking out, stabling, exercising and preparing the horses for the carriages required an on-site presence of a rural worker to permanently live at the site to cater for the current 4 no. on-site horses. It was also unclear if the 4 no. horses located elsewhere would return to the appeal site or how they are currently managed. Whilst I do not doubt it is highly desirable for Mrs Lewis to live at the appeal site for the convenience of managing the business and avoid frequent trips to it, I am not persuaded that this could not be undertaken from living elsewhere and travelling to the site, particularly given the small number of horses currently at the appeal site.

17. It is understood that the appellants have had some foals born at the appeal site in the past, although it was said that this did not occur frequently. I note their desire to be within sight and sound of the horses to respond to emergencies, such as with a pregnant mare and if a horse becomes distressed. Even taking this into account along with the comments regarding a horse fatality nearby, it would not constitute sufficient reasons to permanently live at the site and the birth of a foal in any event would only likely require a short-term presence of a worker. Furthermore, given the small number of horses, it would be reasonable to expect that the use of technology for remote monitoring and management could be used to observe the horses.
18. In terms of the current sheep and lambs at the site, there is no essential need to be present at the site to manage them given their very low numbers. Whilst lambing can require more labour and on-site presence, this would be for a very limited time, and lambing was said to mostly occur once a year. I note the appellant's intention to grow the sheep enterprise up to 150 no. sheep as set out in their Business Plan, and that some lambs could for whatever reason need hand rearing. However, I must assess the proposal as it is currently and there is no essential need from the agricultural side of the enterprise to live at the appeal site. Moreover, even with 150 no. sheep that would graze extensively on the land near to Dorrington Dyke and taking into account lambing and those lambs needing some form of intervention, I am not certain that a permanent dwelling would be necessary in order for a rural worker to live permanently at the appeal site.
19. The appellants Business Plan for the next 5 years, relies significantly on the growth of the carriage business and maintaining 150 no. sheep, livery and teaching, and at this point there is no certainty that this would all take place. Notwithstanding the Council's concerns at some of the inputs and outputs as shown on the Business Plan, from what was said at the hearing, most of these aspects of the business are yet to fully start, and they cannot at the present time form the basis for justifying a permanent dwelling at the appeal site.
20. The security concerns of the appellants are acknowledged. particularly in view of the value of their rare breed horses and the need to avoid disruption to their business operations. Although there were said to be no thefts of animals or carriages, a number of incidents of people going inside the caravan and buildings were raised at the hearing. Whilst Mrs Lewis has said CCTV has been used but is not effective due to not being able to hear the animals, and that she said she would be constantly checking her device to see them, I was not persuaded that appropriate technology with audio and visual streaming could not be effectively used.
21. It was also unclear why security measures, such as alarms, fencing, and gates could not be used at the site to minimise thefts and damage. I was also not persuaded that the carriages could not be securely stored. I would not regard security of the appeal site as a reason to justify the need for the caravan.
22. Students of Riseholme College are given the opportunity to gain experience on the carriage business and the work associated with it. It was also clear at the hearing that the work experience offered has been valuable to students, and with it being a niche business the opportunity to gain this experience was otherwise limited. It was said to have benefitted 4 no students over the last 4 years. Whilst work can start early in the morning, it was not shown to be essential for students to live at

the site to obtain work experience. The work relating to the carriage business was described as very demanding leading up to the event and during it, but I do not see why such work could not be planned and undertaken without a student needing to reside at the site. Moreover, if the appellants were to live in a settlement nearby and continue the business, I see no reason why work experience students would not be able to continue gaining this experience in carriage driving, albeit with some form of on-site welfare facilities.

23. It is clear from my findings above that there is no essential need for a rural worker to live at the appeal site to manage the carriage business, the horses and the sheep/lamb enterprise. Nor was the security of the appeal site or having work experience students at the appeal site found to justify a need for a rural worker to permanently live at the appeal site. Even taking all these aspects together, there would still be no essential need for a rural worker to live at the appeal site currently.
24. The Council said a need for a temporary dwelling would be considered on the same basis as a permanent dwelling. Whether this is so, based on what the appellants said, and separate to a permanent dwelling, there could reasonably be a requirement for some form of staff welfare facilities at the appeal site, such as a toilet, rest area and food preparation area, including for work experience students.
25. In addition, should the lambing enterprise expand as envisaged or if a foal were to be born for example, and there was some very limited and short-term requirement for an overnight stay to respond to these situations, this would still not justify a permanent dwelling at the site. In this event, the appellants have suggested that it could result in their family being separated, however, this would likely be isolated and for a very limited time, and it would not be unusual for a parent to occasionally have an overnight stay away from the home through work commitments in many jobs.
26. I therefore conclude based on the information currently before me, that there is no essential need for a rural worker to permanently live at the appeal site, and the proposal would conflict with the requirements of CLLP Policies S1 and S5 that amongst other things seek to restrict residential development, including permanent occupation of caravans in countryside locations unless there is an essential need for them. In addition, the proposal would also conflict with paragraph 84 of the Framework insofar as it seeks to prevent isolated homes in the countryside unless there is an essential need for a rural worker.

Flood risk

27. Both parties identify the appeal site as being in Flood Zone 3a. The Planning Practice Guidance (PPG) states that Flood Zone 3 has a 'high probability' of flooding.
28. Paragraph 170 of the Framework requires inappropriate development to be avoided in areas at high risk of flooding and directs development away from such areas. To achieve this, the Framework requires that development in areas of a high risk of flooding should be sequentially tested, and paragraph 173 of the Framework specifically states development should be steered towards areas with the lowest risk of flooding. It goes on to say development should not be permitted within areas of high risk of flooding if there are reasonably available sites appropriate for the proposed development with a lower risk of flooding. Policy S21

of the CLLP also requires the application of the sequential test as outlined in the Framework. The Council confirmed at the hearing it did not have a policy or any guidance relating to the search area for the sequential test.

29. The PPG states that the search area for the sequential test will be guided by local circumstances and the relevant catchment for the development type, but not be determined by landownership.
30. As the proposal is for a single dwelling, and in light of my findings above regarding there being no essential need for a worker to live at the appeal site, the search area for the sequential test should not be constrained to areas at or immediately near to the appeal site. The Council has said as there is no locality specific use, the search area for the sequential test should be the entire local authority area, which they say even taking into known areas of flood risks, has ample sites that are available to accommodate a single dwelling, which are at a lower risk of flooding, including within nearby settlements.
31. However, there is little evidence from the Council to support the availability of suitable dwellings with a lower risk of flooding, or a map showing the district in relation to the appeal site. Nevertheless, there is also insufficient information from the appellants regarding the unavailability and unsuitability of housing in the surrounding areas at a lower risk of flooding than the appeal site, particularly in the settlements nearest to the appeal site. Against this background, I am unable to confirm that the sequential test has been passed in this case.
32. I have had regard to the comments in the Flood Risk Assessment, prepared by Oakshire, dated April 2024 (FRA) including that the banks of Dorrington Dyke are lower on the opposite bank, meaning any overtopping would flow away from the appeal site, that the Dyke is well-managed by the Environment Agency, and that no flooding has been recorded at the appeal site. However, this does not change the appeal site's flood risk classification of Flood Zone 3a. In addition, the PPG is clear that when undertaking the sequential test, flood protection measures should be ignored, particularly as the long-term funding, maintenance and renewal of this infrastructure is uncertain.
33. I note that the submitted FRA has recommended flood risk mitigation measures, however, without passing the sequential test, which is for me as the decision maker to determine, it is not relevant in this case to consider flood proofing or resilience measures. For the same reasons, it is not necessary for the Exception Test to be applied.
34. To conclude, it has not been demonstrated that there are no reasonably available sites appropriate for a proposed dwelling in areas with a lower risk of flooding and as such the location of the caravan to be used as a permanent dwelling does not pass the sequential test. The caravan is therefore not in an acceptable location in flood risk terms and is contrary to CLLP Policy S21 and paragraphs 170 and 173 of the Framework, that amongst other things, collectively steer new development to sites with the lowest risk of flooding unless there are no such other sites reasonably available and appropriate for the proposed development.

Other Matters

35. The appellants have said that by not being able to live at the appeal site it would affect their human rights and that there could be disruption to their daughter's

education. The appellants daughter is a pupil at Digby Church of England Primary School, a supporting letter from the school confirms that she has been at the school since September 2019, is settled and happy, and that her attendance is in line or better than expected. The appellants say that taking their daughter out of the countryside away from a rural school would be detrimental to her. On the limited information before me, I consider the best interests of the appellants daughter are to remain living with the appellants, in a rural or semi-rural area and to continue attending Digby Church of England Primary School, or a school in a similar rural or semi-rural area.

36. I regard the best interests of the appellants daughter to be a primary consideration. I have had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires that decisions ensure respect for private and family life, and the home, and Article 1 of the First Protocol relating to the protection of property, which are also engaged in this case. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights, and interference may be justified in the public interest. The concept of proportionality is key.
37. I recognise the paramount importance of the appellants right to have their property, home, private, and family life respected and this is a primary consideration. Any adverse effects from dismissing this appeal in regard to the caravan could interfere with their property, home, private, and family life. Any such impacts would weigh against the proposal in these respects.
38. In this case, there has been no essential need established to justify a dwelling at the appeal site. The appellants daughter's school is in a nearby village, Digby, there are also other nearby settlements; Dorrington; Ruskington; Billingham; and North Kyme, within a commutable distance of Digby. There has been no assessment provided by the appellants that demonstrates that there are no suitable and available dwellings in these nearby villages that would allow them to stay living together as a family and for their daughter to remain in the same school or a similar rural or semi-rural school. Moreover, the Council said a large housing allocation is currently being developed, including market, and affordable housing with a range of different tenures in nearby Ruskington.
39. Having regard to the legitimate and well-established planning policy aims of requiring new residential development to be located in sustainable locations near to existing services and facilities, and directing development away from areas with a high risk of flooding, allowing the appeal in respect of the caravan where it is not demonstrated to be essential to live at the appeal site on the basis of the appellants and their family's human rights would not be proportionate and necessary on the information before me, or consistent with the requirements of the HRA.
40. The appellant's frustrations at the Council's handling of the application and other matters at the appeal site, including enforcement investigations are noted. However, in terms of this appeal proposal I have assessed it based on its planning merits.
41. I note the comments made complimenting the appellants and their family and their contribution to the area, that they are maintaining a traditional carriage business, and saying how the site has been tidied up from how it appeared previously,

including concerns about animal welfare prior to the appellants occupation of the appeal site. However, these points do not outweigh the harm identified above.

42. It has been said that a caravan has been at the appeal site for several years. Be that as it may, I am not aware that there is a certificate of lawful use in respect of a caravan at the appeal site being used as a permanent residential dwelling. Consequently, I am unable to attach any weight to that argument.

Conditions

43. In regard to the proposed manège/exercise area, I have imposed the standard time limit condition for commencement, and a condition listing the approved drawing numbers that the development must accord with for the avoidance of doubt.
44. A condition regarding boundary treatment around the manège/exercise area and its ground surfacing materials are necessary to protect the character and appearance of the area. The permeability of the ground surfacing materials has also been required in order to minimise flood risks. In addition, in order to protect the character and appearance of the area, details of any external lighting are also necessary. Although it was not reasonable to require details of the energy source for any such lighting, as CLLP Policy S8, referred to by the Council, relates to non-residential buildings, and no buildings are proposed in this case.
45. To comply with CLLP Policy 61, a condition is necessary to secure a minimum 10% biodiversity net gain. The condition is worded to reflect there being no baseline assessment.

Conclusion

46. I conclude that the appeal should succeed in part, for the proposed manège/exercise area, subject to conditions. For the reasons given above the use of the caravan as a permanent dwelling, conflicts with the development plan and having had regard to all matters raised, the appeal in relation to that part should be dismissed.

A Hunter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Sarah Lewis	Appellant, Owner of Witzend Carriage Services
Mrs Deborah Green	Supporting appellant, former customer
Mrs Michaela Hall	Supporting appellant, parent of employee/student

FOR THE COUNCIL:

Nick Feltham BA Hons M.Plan- NKDC	Development Manager
Amanda Higgins - NKDC	Technical Planning Officer

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no's 233229-01 only insofar as it relates to the site location plan; and 233229-02 – site plan and visuals.
- 3) Prior to the commencement of the development hereby approved, a scheme shall be submitted to and approved in writing by the local planning authority to secure a minimum 10% Biodiversity Net Gain as a result of the development of the approved manège/exercise area over a 30-year period. The scheme shall include an existing metric of the site's biodiversity value, the measures to secure a 10% increase, together with measures to maintain and manage it thereafter. The development shall thereafter be undertaken and managed in accordance with the approved details.
- 4) Prior to the first use of the manège/exercise area hereby approved, precise details of any boundary treatment around the sides of the manège/exercise area and the ground surfacing materials including permeability details, together with a timetable for their implementation, shall have first been submitted to and agreed in writing by the local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.
- 5) No floodlighting shall be erected, unless details shall have first been submitted to and approved in writing by the local planning authority. Thereafter the development shall be undertaken in accordance with the approved details.