

## APPEALS LODGED AND DECIDED

### Appeals Lodged between – 15 March – 15 April 2018

Application Number	Location	Proposal	Com/Del decision	Appeal Type	Date Lodged
No appeals lodged					

### Appeals Decided between – 15 March – 15 April 2018

Application Number	Location	Proposal	Com/Del decision	Decision	Date Decided
16/00195/COU (Enforcement)	7 Curlew Close Thornton Cleveleys Lancashire FY5 2AN	Change of use from residential dwelling to a nursery	Delegated	Dismissed	05 April 2018
17/00455/FUL	1 Maple Cottages Sowerby Road Inskip-With-Sowerby Lancashire PR3 0TT	Application for removal of condition 5 (relating to holiday accommodation) on Planning Permission 08/00385/FUL	Committee	Dismissed	23 March 2018
17/00178/FUL	Blueberry Stables Lancaster Road Preesall Poulton-Le- Fylde Lancashire FY6 0HN	Erection of detached dwelling and change of use of domestic stables to stud and operation from site of mobile farrier business	Delegated	Dismissed	27 March 2018



## Appeal Decisions

Site visit made on 20 March 2018

by **A A Phillips BA (Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 April 2018

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**Appeal Ref: APP/U2370/C/17/3182648**

**7 Curlew Close, Thornton Cleveleys, Lancashire FY5 2AN**

- 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 appeal is made by Daniel Irvin against an enforcement notice issued by Wyre Borough Council.
- The enforcement notice was issued on 28 June 2017.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the Land from use as a residential dwelling to use as a children's day nursery.
- The requirement of the notice is to cease the use of the Land as a children's day nursery.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

**Summary of decision: The appeal is dismissed and the enforcement notice upheld.**

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### Main Issue

1. Ground (a) of appeal is that planning permission should be granted. The main issue is the effect of the use as a children's day nursery on the living conditions of the occupants of neighbouring residential properties with particular reference to noise and disturbance.

### Reasons

2. The appeal site is a semi-detached property situated in a residential area surrounded by residential properties and shares its boundary with the rear private amenity space of four properties. It is situated in a quiet and compact residential cul de sac where properties are relatively close to one another, the width of the road is relatively restricted and there is limited space for manoeuvring vehicles.
3. The evidence before me suggests that there is a history of problems of noise and disturbance associated with the children's day nursery use and complaints have been made to the Council's Environmental Health Department. The maximum number of children at the nursery at any one time is fifteen and I understand that the carers/staff to children ratio is 1:3. It is my understanding that the entire property is being used as a day nursery and that the rear garden is also used as an outdoor play area.

4. I have noted that no acoustic noise impact assessment has been submitted by the appellant in support of his case. The ambient and background noise at the site comprises some local and more distant traffic with some minor residential generated activity.
5. Given the nature of this modern semi-detached property it seems to me that with up to 15 children using the premises and the type of activities likely to take place in the building there is significant potential for noise to be heard through the walls. While some noise might be expected through the walls from a family living in the property, that is not likely to be as extensive as with a nursery with up to 15 children and on a daily basis.
6. Evidence from neighbours also suggests that noise from children playing outside during the day and during periods of good weather can be particularly intrusive. The appellant states that measures are in place to control noise levels generated by children's outdoor play and activities such as restricting the number of children playing outside at any one time, limiting the times and periods of outdoor play and ensuring that the children are mindful of noise. However, I have limited evidence that such measures have successfully mitigated the impact of noise and disturbance on the living conditions of neighbours. Furthermore, some of the measures are unrealistic given the age of the children involved and the nature of outdoor play and activity.
7. The appellant contends that the noise is in line with a family letting their children play outside; however, the nature and intensity of the use as a day nursery and activities associated with the business are sufficiently different from the use of the property as a family residence to cause concern, as has been the case. I can appreciate that with respect to noise resulting from activities taking place at the premises in a relatively quiet residential area where the outdoor play area is situated close to other residential properties and immediately adjacent to gardens the noise likely to be generated has the capacity to cause significant disturbance to the detriment of the living conditions of occupants of neighbouring properties. Not only may this noise and disturbance be experienced in nearby garden areas, but also inside some properties, especially through the internal wall (as is the case with the adjoining property) and during periods of warm weather when windows are likely to be open.
8. During the early morning drop off period the evidence before me is that there is significant disturbance near to the property from vehicles being parked and manoeuvred in Curlew Close and Pheasant Wood Drive as children and staff are dropped off. This includes noise from vehicle engines, car doors opening and shutting and other more general disturbance arising from the flurry of non-domestic activity. Given the restricted width of the street and the presence of cars parked on the street close to the site noise, disturbance and general activity associated with awkward vehicle manoeuvres, reversing cars and revving engines would be significantly greater than would be expected from use of the property as a family residential property. I expect that similar levels of noise and disturbance may be experienced towards the end of the day during pick up times, although I understand that the pick-ups take place over a longer period of time.
9. I conclude that given the close relationship of the site to residential properties in the immediate vicinity the level of noise and disturbance caused by the use

is significant and harmful to the living conditions of nearby residential occupants.

10. The appellant contends that the site is close to a bus route and is within walking distance of 3 housing estates, providing a much needed service to the community. That may be the case but I have little evidence of carers, children or staff walking to the site, so I can give limited weight to this benefit and the evidence from other parties indicates that even if some are walking to the premises there is still harmful noise and disturbance from cars arriving at and leaving the premises. In addition, the benefits to the community must also be balanced against any harm to the living conditions of the residents of neighbouring properties.
11. It has been put to me by the appellant that other such developments have been approved in the area, including the conversion of a property on Victoria Road. However, I do not have details of the circumstances that applied to that or any other cases with particular reference to noise and disturbance. In this case there is significant evidence that the development is causing harm.
12. I therefore conclude that the use as a children's day nursery would have a harmful effect on the living conditions of the occupants of neighbouring residential properties with particular reference to noise and disturbance. This harm outweighs any benefits attributable to the children's nursery being located at this particular site. As such the development conflicts with Policy SP14 of the Wyre Borough Local Plan 1991-2006 Written Statement Adopted and Operative 5 July 1999 which among other objectives seeks to ensure that development proposals are compatible with the adjacent existing land uses. It also fails to comply with the principles of the National Planning Policy Framework (the Framework) with particular reference to seeking to secure a good standard of amenity for all existing occupants of land and buildings, preventing development from contributing to noise pollution and planning decisions should aim to avoid noise from giving rise to significant adverse impacts on quality of life.
13. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

### **Formal Decision**

14. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Alastair Phillips*

INSPECTOR

arm/rg/pla/cr/18/0205nc2



## Appeal Decision

Site visit made on 20 February 2018

**by Darren Hendley BA(Hons) MA MRTPI**

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

**Decision date: 23<sup>rd</sup> March 2018**

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### **Appeal Ref: APP/U2370/W/17/3190676**

#### **1 Maple Cottages, Sowerby Road, Inskip-with-Sowerby PR3 0TT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mary Southwell against the decision of Wyre Borough Council.
  - The application Ref 17/00455/FUL, dated 17 May 2017, was refused by notice dated 3 August 2017.
  - The application sought planning permission for the conversion of existing stables into three holiday cottages without complying with a condition attached to planning permission Ref 08/00385/FUL, dated 29 May 2008.
  - The condition in dispute is No 5 which states that: *The development shall be used for the purposes of holiday accommodation only and the occupation by any person or persons shall be limited to short stay visitors staying for periods not exceeding one month in any six month period.*
  - The reason given for the condition is: *The development is approved for holiday use only and occupation on a permanent basis would be contrary to the provisions of Policy SP13 of the Adopted Wyre Borough Local Plan (July 1999) and Policy CORE9 of the Wyre Borough Local Plan 2001-2016(first deposit draft).*
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matter**

2. The application form states that the original applicants were Mr and Mrs T Southwell. However, the appeal form indicates that the appellant is solely Mary Southwell. Given that the appellant appears as a named applicant, I am satisfied that the appeal has been made in accordance with the relevant procedural guidance and I have determined the appeal on that basis.

### **Background**

3. The appeal concerns holiday cottages which the appellant wishes not to be restricted in terms of their occupation, so as to allow for permanent, as well as holiday, use. This is prevented by condition 5 on planning permission ref: 08/00385/FUL which limits occupation to the purposes of holiday accommodation and for visitors staying for periods not exceeding one month in any six month period.

## **Main Issues**

4. I consider the main issues are whether condition 5 is reasonable and necessary, concerning (i) whether the proposal would provide a suitable location for housing with regard to the accessibility of services; (ii) economic considerations arising from the potential loss of tourism accommodation; and (iii) whether it would provide acceptable living conditions for the future occupiers by way of the outlook and the private outdoor amenity space provision.

## **Reasons**

### *Accessibility*

5. The 3 holiday cottages are located in a single building to the rear of 1 Maple Cottage, which is found at the end of a short row of residential properties. It is understood the building was formerly stables. Development along Sowerby Road comprises of isolated or small groups of dwellings, together with agricultural related development, that are interspersed with extensive areas of open fields. The prevailing character of the area is open countryside.
6. The nearest settlements are St. Michael's on Wyre and Inskip, which are found just over 1 mile from the site. Both these settlements have typically local services for moderate sized villages, including a school and a public house, amongst other facilities.
7. The occupants of the proposal would have to travel to St. Michael's on Wyre and Inskip to access local services. As well as the distance, with the absence of lit footways on what are country roads, this would result in a likely reliance on the private car as the primary means of transport. Although there is a bus route which runs closer to the site, the frequency of the associated services would mean this would not be likely to significantly reduce the use of the car.
8. The appellant has referred to a housing development in Inskip, although this is substantially closer to the services in the village than the site. In respect of Brookvale Court, also located on Sowerby Road, I have not been made aware of the full circumstances pertaining to residential development, although the appellant has stated this was approved prior to the advent of the National Planning Policy Framework (Framework), which is of some relevance to the consideration of the proposal before me.
9. The Development Plan policies that I have been referred to in the Wyre Borough Council, Wyre Borough Local Plan 1991 – 2006 (1999) (LP) are silent on the issue of accessibility of services, beyond a more restrictive approach to development in the countryside. This places further weight on the Framework.
10. With its lack of proximity to services, the proposal would not enhance or maintain the vitality of rural communities as it would not appreciably support services in a village nearby, and would be functionally isolated. Whilst the Framework does recognise that rural areas can provide housing, the proposal would constitute an isolated home in the countryside and none of the special circumstances to justify it cited in paragraph 55 of the Framework would apply.
11. Taking these factors together, I conclude the proposal would not provide a suitable location for housing with regard to the accessibility of services and it would not comply with the Framework in this regard.

### *Economic Considerations*

12. The appellant has stated that the business associated with the letting of the cottages is not generating sufficient income due to insufficient demand, despite marketing and this is especially low in winter.
13. From my site visit, the cottages are well maintained and so I have some sympathy for the appellant's situation. However, the information I have before me is limited in relation to how the business is managed and what detailed measures have been taken to attempt to actively increase lettings. The accounts information provided also indicates the business makes a profit, albeit this is relatively small. The seasonal variations with holiday cottage bookings would also not be unexpected. With regard to whether or not the neighbouring property may be affecting bookings, the cottages are well screened from this property, so I only give limited weight to this matter.
14. Concerning the marketing of the property for sale as a holiday cottage business, this has been in conjunction with the house at No 1. Whilst I accept this was done on the best advice of an agent, the site layout is as such that the holiday cottages are physically separate, with their own access. The holiday cottages could therefore be marketed separately, with the potential lower value without the house, in order to try to attract more interest.
15. I conclude that with the uncertainties that I have set out there is not sufficient justification before me to permit the proposal on the basis of economic considerations. The potential loss of the tourist use would harm the local economy because of the reduction in tourism spend that would result, both in terms of lettings fees and on local services. This would not be outweighed by the likely spend in the local economy by permanent occupants.
16. As a consequence, the proposal would not comply with 'Saved' Policy H6 of the LP which states that in the countryside area of rural Wyre, proposals for conversions to residential use will only be acceptable provided it can be satisfactorily demonstrated that no potential/demand exists for a commercial, industrial or tourist use in the locality. It would also not comply with 'Saved' Policy SP13 of the LP, as far as it refers to 'Saved' Policy H6 as regards conversions, so it would not form a type of development which is permitted in the countryside under this policy.

### *Living Conditions*

17. The bedroom windows that are on the rear facing elevation of the cottages are obscurely glazed and located in close proximity to the rear garden boundary of an adjacent property. The cottages share a communal grassed area to the front of the building, with the end cottages also having access to an outdoor area with chairs. There is also an area of loose stone nearest to the holiday cottage closest to the site access, which provides a parking area.
18. The bedrooms in each of the cottages that have windows on the rear elevation currently have a poor outlook due to the use of the obscure glazing. Whilst this may be tolerable for a short stay associated with a holiday, this would appreciably detract from the living conditions of future occupiers, if the cottages were occupied on a permanent basis. Even if the windows were clearly glazed, the outlook would be restricted by the proximity to the hedge, and the removal of the obscure glazing would significantly increase the

- perceived overlooking of the adjoining garden, with the number of windows that are involved.
19. With regard to the outdoor amenity space, with the communal arrangement, there is a limited degree of private space provided. Although the appellant has stated the communal areas could be sub-divided, no such details are before me to consider. The cottages are also accessed through these areas, so sub-dividing these areas would not provide an adequate level of privacy for future occupiers.
  20. The appellant has also referred to the potential use of the building as one dwelling, although this would not address the issue of poor outlook from the bedroom windows at the rear, and it would also require significant internal changes to the layout of the building that are also not before me.
  21. I conclude the proposal would provide unacceptable living conditions for the future occupiers by way of the outlook and the private outdoor amenity space provision. As such, it would not comply with 'Saved' Policy SP14 of the LP, where it seeks to apply a high standard of amenity for all types of development. Similarly, it would not comply with paragraph 17 of the Framework, where it concerns a good standard of amenity for all future occupants.

#### *Other Matters*

22. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. The supply of housing is below the 5 years expected by national policy and so paragraph 14 of the Framework is relevant.
23. The proposal would not be unacceptable with regard to visual impact, energy efficiency, the living conditions of existing local residents, access and parking, and with regard to flood risk. These, however, carry neutral weight, as they would be expected from a proposal.
24. I have identified that the proposal would not provide a suitable location for housing with regard to the accessibility of services; that the potential loss of the tourist use would harm the local economy; and it would provide unacceptable living conditions of the future occupiers with regard to the outlook and the private outdoor amenity space provision.
25. Balanced against this is the contribution to the supply of housing and the re-use of an existing building, including in rural areas, to which I have given moderate weight. None of the other factors considered carry any more than limited weight in support of the proposal. Taking all relevant matters into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted.
26. Matters in relation to the Council's pre-application advice service, or how the planning application was handled, are not for me to comment on, in my decision.

## **Conclusion**

27. I have considered all matters that have been raised, but none would demonstrate that condition 5 is not reasonable and necessary. Without the imposed condition, the proposal would result in open market housing in the countryside that would in this instance be unacceptable and contrary to the Development Plan and the Framework.
28. As a consequence, condition 5 complies with the tests for planning conditions set out in paragraph 206 of the Framework and the related advice in the Planning Practice Guidance concerning the application of these tests. Accordingly, I conclude the appeal should be dismissed.

*Darren Hendley*

INSPECTOR

arm/rg/pla/cr/18/0205nc3



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## Appeal Decision

Site visit made on 20 February 2018

**by Darren Hendley BA(Hons) MA MRTPI**

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

**Decision date: 27<sup>th</sup> March 2018**

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**Appeal Ref: APP/U2370/W/17/3190660**

**Blueberry Stables, Lancaster Road, Preesall FY6 0HN**

- 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 Mrs K McGinley against the decision of Wyre Borough Council.
  - The application Ref 17/00178/FUL, dated 27 February 2017, was refused by notice dated 5 June 2017.
  - The development proposed is a detached house and a change of use of domestic stables to stud and operation from the site of a mobile farrier business.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. With regard to the application of the sequential test, the appellant has sought through the appeal submission to apply a Net Developable Area (NDA) which is of smaller size than the application site boundary. However, the application site boundary itself, as shown on the submitted drawings, has remained the same as was before the Council at the time the planning application was determined. The Council and other interested parties have also has the opportunity to comment on the sequential test submitted with the appeal, including the NDA. I have, therefore, considered the NDA that the appellant has applied to the sequential test in my decision. I consider this accords with the Wheatcroft Principles<sup>1</sup>, including the issue of fairness to the Council and third parties.

### Main Issues

3. The main issues are (i) the effect of the proposal on the character and appearance of the area; (ii) whether it would be likely to increase the risk of flooding; and (iii) if harm arises under (i) and (ii), whether this is outweighed by the needs of the appellant and other considerations.

### Reasons

#### *Character and Appearance*

4. The appeal site comprises a field, a paddock area surfaced in sand and an adjacent area constructed of road planings that is used for parking. The site also contains a partly constructed stables building, immediately to the rear of

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

which is a smaller dilapidated structure which also appears to be a stables building in form. The boundary to the road is defined by a hedge and the access. A post and wire fence is found on the boundary of the site to the west with a small field. Watercourses form the remaining boundaries of the site, and close boarded fencing is found beyond the watercourse on the east boundary.

5. The site is found in a semi-rural location, with expansive views over a landscape of open and expansive fields to the south. Built development in the area is of a sporadic nature, with clusters of dwellings or agricultural development interspersed with areas of open land. With the associated countryside qualities, this forms the prevailing character. The site lies in countryside under the Wyre Borough Local Plan 1991 – 2006 (1999) (LP).
6. The proposed dwelling would increase the amount of built development on the site. In doing so, it would serve to both consolidate and result in the further encroachment of development into the site. This would detract from the site's appreciable contribution to the character of the countryside, including with the proximity to adjoining fields and open land. It would also increase the amount of sporadic built development in the area, and this would further erode its character.
7. This harm would not be addressed by the height of the proposed dwelling, as it would still present a height of 2 storeys of accommodation, by way of the dormer windows arrangement in the roof. Its height would also be greater than the hedge along the road, and so despite the distance it would be set back from the site frontage, it would still be noticeable and viewed as a further addition to the amount of development on the site. Screening on other boundaries would also not adequately mitigate the adverse visual effects.
8. The presence of the terraced properties to the west of the site, along with detached properties that are set further along the road from the site frontage, do not alter my views on character because these are clearly separated from the site and so do not have the same effect on character and appearance, as would arise from the proposal.
9. With regards to the use of domestic stables to stud and the operation from the site of a mobile farrier business, as these do not involve the construction of further buildings on the site, they would not unduly affect the character and appearance.
10. I conclude the proposed dwelling would have an unacceptable effect on the character and appearance of the area and, as such, it would not comply with 'Saved' Policies SP13 and SP14 of the LP, which seeks to protect the inherent qualities and rural characteristics of areas designated as open countryside and require a high standard of design. It would also not comply with related guidance in the National Planning Policy Framework (Framework), concerning development responding to local character and reflecting the identity of the surroundings.

#### *Flood Risk*

11. The site lies within flood zone 3, which the Planning Practice Guidance (PPG) considers is an area at risk of flooding, for the purposes of the Framework. The PPG also states that the type of use proposed, as regards the residential use, is

- 'more vulnerable' to flooding under the Flood Risk Vulnerability Classification. With the proposed use, for the proposal to comply with paragraphs 100 and 101 of the Framework and the PPG, it must pass the sequential test which seeks to steer new development into flood zone 1.
12. The Council have also produced a Sequential Test: Advice Note for Applicants (2015) document (Advice Note), which provides a methodology for applying the sequential test. The methodology follows a 3 step approach, concerning the defined geographical area across which the test is applied; the range of alternative sites to be considered; and a consideration of the reasonably available sites. I consider the Advice Note represents a robust approach to the sequential test, and it broadly accords with the intentions of the PPG.
  13. The Sequential Test document<sup>2</sup> which the appellant has submitted with the appeal uses the whole of the Council area as the defined geographical area across which the test is applied. This is accordance with the approach in the Council's Advice Note. With regards to the range of alternative sites, the appellant has considered the scheme as a whole, as the proposed dwelling is to be related to the equestrian related activities on the site. I consider this is reasonable, given the proposal is not simply for a new dwelling and this approach broadly concurs with the Pointer Stables appeal decision<sup>3</sup>, which my attention has been drawn to.
  14. In terms of establishing an NDA for the consideration of alternative sites, the appellant has sought to reduce the gross size from the application site boundary due to the easements the Environment Agency (EA) require from the watercourses.
  15. However, if the easement areas are excluded, this would also exclude a surface water attenuation tank that is shown on the proposed site layout plan. As part of the proposal would, therefore, be outside of the NDA, I find its reduced size compared to the gross size from the application site boundary, not to be acceptable if the sequential test is to be properly applied to reduce the likelihood of flooding.
  16. Given these concerns, I am not persuaded that the information before me can be relied upon as a basis for the consideration of the alternative sites, as other comparator sites could be available if a more applicable NDA was used. It also follows it has not been established, therefore, whether there are sites that would be reasonably available. This does not constitute information which enables me to be able to come to a view that the sequential test is passed. This weighs against the proposal as a whole, given that the scheme is to be considered as such, with the dwelling related to the rest of the proposal.
  17. I have noted the information submitted about the specific flood risk concerning the proposal. However, as I find the appellant has not demonstrated under the sequential test that it is not possible to locate the development in zones with a lower probability of flooding, I am not, therefore, required to apply the exception test and whether it has been demonstrated the proposal would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible would reduce flood risk

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<sup>2</sup> Sequential test & exception test analysis, Site at Lancaster Road, Preesall, FY6 0DY Proposed use: stud with one dwelling, November 2017.

<sup>3</sup> Appeal Ref: APP/U2370/A/14/2227969.

overall. This is notwithstanding that the EA objected to the planning application due to the location of the surface water attenuation tank.

18. The appellant has also stated that land close to the site is at a low risk of flooding, despite that it lies in flood zone 3. The appellant has also referred to photographic evidence submitted by an interested party that shows whilst the road outside the site has flooded, the site itself did not. However, these do not negate the need to properly consider the sequential test for the site itself.
19. I am, therefore, unable to conclude that the proposal would not cause an unacceptable level of flood risk. As such, the proposal would not comply with paragraph 100 of the Framework which states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It would also not comply with paragraphs 100 and 101 of the Framework, as well as the PPG, with regards to the application of the sequential test.

#### *Needs of the Appellant*

20. The appellant is a gypsy and I have no substantive evidence before me which disputes this. I have had full regard to that the appellant intends to settle in the area with the family, that work is undertaken locally, the children attend local schools and the family attends the local church. I also acknowledge the appellant has lived in the area for a number of years and that a member of the family has a medical condition and it is the wish to have the family settled in one place in order to have continuity of care and the means of receiving medical correspondence reliably.
21. With regards to the business case, the appellant has stated that an on-site presence is required due to the value of the stallions and the requirements of owners, and the associated activities such as horse welfare and foaling. No retailing is proposed.
22. I am sympathetic to these needs, both from a personal and business perspective. In exercising my function on behalf of a public authority, I am also consciously aware of my duties under the Public Sector Equality Duty (PSED) contained within the Equality Act 2010 which sets out to eliminate discrimination, harassment and victimisation, advance equality and foster good relations, and the protected characteristics under the PSED. I am also aware of my duties under Article 8 of the Human Rights Act 1998 (Article 8) that bestows the right to private and family life and for the home.
23. However, there is not the evidence before me that persuades me that an existing dwelling in the area could also not meet the family's needs nor provide for a person to live close by in relation the requirements arising from horse welfare and foaling. I also do not have the evidence before me that potentially other less intrusive forms of security have been considered. Matters are in relation to character and appearance, and flood risk, are also legitimate wider community and public interests. The needs of the appellant could also be jeopardised by the potential flood risk. I do not, therefore, find that not granting planning permission would unacceptably conflict with the PSED or Article 8.
24. 'Saved' Policy SP13 of the LP also states, in part, that development in that area designated as the countryside on the proposals map will not be permitted,

except for a number of defined uses. The proposal does not fall within the essential requirements of agriculture and forestry. With regard to whether it is a use appropriate in a rural area, considering the matters I have raised in relation to the need for the proposal, I am not satisfied this has been demonstrated. None of the other defined uses would apply. Moreover, as I have set out, I find the proposal would not comply with 'Saved' Policy SP13, due to its effect on character and appearance.

### **Other Matters**

25. The appellant has also drawn my attention to an application for a prior approval for a change of use from an agricultural building to a dwelling, close to the site. However, such applications are subject to different procedures for those which require planning permission and this does not alter the need to consider flood risk, character and appearance, the need of the appellant and other relevant considerations in determining whether or not the proposal subject of this appeal is acceptable.
26. The Council acknowledges that it cannot demonstrate a 5 year housing land supply in accordance with paragraph 49 of the Framework. However, as the appellant has set out, the proposed dwelling would be related to the equestrian activities on the site. With its proximity to these activities, it would be unlikely to perform the role of a dwelling that would contribute meaningfully to the Council's housing land supply and as a single dwelling, its contribution would be modest.
27. Matters in relation to the Council's pre-application advice service are not for me to comment on in my decision.

### **Conclusion**

28. The proposal would have unacceptable effects as regards the character and appearance of the area and in relation to flood risk. This harm weighs significantly against the proposal. I have had regard to the appellant's personal and business needs, and considered all matters that have been raised, but taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted. The proposal would be contrary to the development plan and the Framework and this conflict is not outweighed by other material considerations. For these reasons, the appeal should be dismissed.

*Darren Hendley*

INSPECTOR

arm/rg/pla/cr/18/0205nc4