



Appeal Decision

Site visit made on 12 April 2023

by David Nicholson RIBA IHBC

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

Decision date: 2 May 2023

Appeal Ref: APP/W3330/W/22/3308523

Lower Toolands, New Road, West Bagborough, Taunton TA4 3EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (T&CPA) against a refusal to grant planning permission under section 73 of the T&CPA for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Ayre against the decision of Somerset West and Taunton Council¹.
 - The application Ref. 45/22/0005, dated 6 April 2022, was refused by notice dated 27 June 2022.
 - The application sought planning permission for: *Erection of Agricultural Workers [sic] Dwelling* without complying with a condition attached to planning permission Ref 45/93/0006, dated 4 November 1993.
 - The condition in dispute is No. 6 which states that: *The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 336(1) of the Town and Country Planning Act, 1990, or forestry or a dependant of such a person residing with him or her or a widow or widower of such a person.*
 - The reason given for the condition is that: *The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agriculture or forestry.*
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The Appellants consider that the agricultural occupancy condition has outlived its usefulness as it currently stands and, while they would prefer the condition to be removed entirely, consider it appropriate to seek a variation to widen the scope of occupation, to ensure future occupiers can remain compliant.
3. The variation seeks to widen the scope of occupation by adding, after *forestry*, the words: *... or involved in the tourism business operated on the holding, ...*. The application was refused for 3 reasons:
 - a. it would introduce unnecessary wording;
 - b. insufficient information to justify the proposed amendment;
 - c. no evidence of appropriate marketing as an Occupancy Tied property;and that all of these would be contrary to Policy H1a of the Development Plan.

¹ On 1 April 2023, the Council was abolished and replaced by Somerset Council

Main Issues

4. I consider that the main issues are whether:
- the condition is justified²;
 - the evidence justifies a broader exemption to include tourism in the definition of a rural worker;
 - the property has been appropriately marketed with the occupancy restriction.

In each case I have considered removing the condition or substituting it with the revised wording.

Reasons

5. The appeal site comprises the house and outbuildings. It is surrounded by land in the Appellants' ownership which is in use as a holiday park with static caravans, lodges and pitches. This use has been permitted in a series of approvals since 2014.
6. The original permission was granted, as an exception, to support a horticultural use. Condition 6 was added to secure the occupancy in line with the exceptional permission. I am told that there has been no agricultural income from the holding for over 10 years. I am not aware that the Council has taken any enforcement action or that the Appellant has applied for a Lawful Development Certificate, and these matters are not before me.
7. Policy for *New permanent housing for rural workers* is detailed in Local Plan Policy H1a. This provides no detail on the amendment of existing conditions, but it does comment on the removal of occupancy conditions and states:
- Applications to remove these or other related conditions will not be permitted unless:*
- The dwelling is no longer needed on that unit for the purposes of agriculture or rural based enterprises;*
 - There is no current demand for dwellings for agriculture or other rural based industries in the locality; and*
 - The dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed with the local planning authority.*
8. Planning Policy Guidance, which supports the National Planning Policy Framework (NPPF), considers: *How can the need for isolated homes in the countryside for essential rural workers be assessed?* It finds that: *Considerations that it may be relevant to take into account when applying paragraph 79a³ of the NPPF could include:*
- evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise ...;*

² In line with the requirements of the National Planning Policy Framework, paragraph 56, that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

³ Now paragraph 80a

9. I saw that the site is no longer in horticultural use. Nevertheless, as allowed by the wording of the condition, the dwelling might well be suitable for someone who was *last employed, in the locality in agriculture*. It is therefore a part of the Council's stock of housing for rural workers. Consequently, I find that the condition does still serve a purpose and meets the requirements for conditions in the NPPF.
10. To my mind, a tourism business such as holiday lodges and/or caravans does not fall within the definition of a land based rural enterprise. I have studied the 2015 Decision⁴, for a mobile home to support a holiday lodge business in Dorset, where the Inspector found that there was *an essential need for a rural worker to live permanently at the site* and that it would meet *a functional requirement for a residential on-site presence*. There are many differences between the two cases. Nevertheless, even if I accepted that the Appellant's business justified a permanent presence, as I do not accept that the enterprise would satisfy the definition of a *rural worker*, I find that this is of limited relevance. On this issue, I conclude that the evidence does not justify a broader, exemption to include tourism in the definition of a rural worker.
11. The Appellants have put forward limited evidence of demand for dwellings for agricultural workers, or of marketing which reflects the agricultural occupancy condition. Rather, they have argued that the policy requirements to market the property to reflect the condition, and to test the need over a minimum 12-month period, are onerous and unreasonable. Instead, the property, including the surrounding holiday park, was placed on the open market with a guide price of £1.45 million, with only one viewing. The estate agent attributed the lack of interest to the agricultural occupancy condition putting people off.
12. To my mind, the lack of interest is hardly surprising when the price did not reflect the agricultural occupancy condition. I consider that there is nothing unreasonable about requiring a substantial discount when the original permission was granted as an exception to planning policy to avoid the development of isolated homes in the countryside. I find that the evidence does not show that there is no demand for *dwellings for agriculture* or that the *dwelling cannot be sold or let at a price which reflects its occupancy condition* and that lifting the condition would not comply with Policy H1a.
13. For all the above reasons, I conclude that there is justification for the condition as currently worded and that the appeal should be dismissed.

David Nicholson

INSPECTOR

⁴ Ref: APP/U1240/W/14/3001205 Gold Oak Farm, Hare Lane, Cranborne, Wimborne BH21 5QT