



Appeal Decision

Hearing held on 15 April 2025

Site visit made on 15 April 2025

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/U1105/W/24/3357889

The Cider Press, Winslade Barton, Clyst St Mary, Devon EX5 1AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr R Giles against the decision of East Devon District Council.
 - The application Ref is 24/0385/VAR.
 - The application sought planning permission for the conversion of barn to three-bedroom dwelling without complying with a condition attached to planning permission Ref 77/C1363, dated 10 January 1978.
 - The condition in dispute is condition B) which states that: *The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, locally in agriculture so described in Section 240 of the Town and Country Planning Act 1971 or in Forestry or a dependent of such person residing him (but including a widower of such person).*
 - The reason given for the condition is: *The site lies in an area where permission for development unrelated to the essential needs of agriculture and/or forestry would not normally be granted.*
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The consultation period in relation to the East Devon Local Plan 2020 to 2042 (Regulation 19 Publication Draft) dated February 2025 recently ended. However, I am not aware of the extent of unresolved objections, as the responses have not yet been formally reviewed by the Council. Moreover, policies in the draft plan may be subject to change after examination. I therefore consider that limited weight should be given to the emerging policies in the draft Local Plan at the current time. For these reasons, my determination of this appeal is made against the current development plan policies.

Background and Main Issue

3. Planning permission was granted in 1978 for the conversion of the barn to a dwelling now known as The Cider Press. The approval was subject to a condition which restricts the occupancy of the dwelling to a person solely or mainly employed, or last employed, locally in agriculture or forestry or a dependent of such a person. The appeal seeks to remove the condition to allow unrestricted occupancy of the property.

4. The main issue is whether condition B) of the planning permission remains necessary and reasonable, having regard to the development plan, the need for rural worker dwellings in the local area and other material considerations.

Reasons

5. The appeal property comprises a 4 bedroom dwelling located within an attractive group of converted agricultural buildings, set within the surrounding agricultural land. The condition to restrict the occupancy of the dwelling was imposed as the original planning permission was granted in an area where permission for development unrelated to the essential needs of agriculture and/or forestry would not normally be granted.
6. Policy H5 of the East Devon Local Plan 2013-2031, adopted January 2016 (LP) sets out that proposals to relax occupancy conditions will only be permitted where it has been demonstrated that economic circumstances have changed such that there is no long term functional need for the dwelling for a rural worker, and satisfactory evidence has been provided that the dwelling has been offered for sale or rent with its occupancy restriction, at a realistic price for a reasonable period of time, and regularly advertised in specialist agricultural publications as well as local media and the internet. The Council indicate that, in the absence of a Housing Needs Survey the remaining parts of Policy H5 are not relevant in this instance.
7. The appellant confirmed at the Hearing that he is now retired and lives elsewhere, and that the appeal property is currently vacant. The land from which he previously operated his dairy enterprise is now leased to Mr Glanvill and his family who are farmland business tenants of Winslade Barton Farm and live a short distance away at Rydon Farm. While there may no longer be a need for a dwelling in relation to the enterprise at Winslade Barton Farm, Policy H5 of the LP requires the property to be marketed, in order to establish whether there is a need for rural workers dwellings in the wider area.
8. The property has been advertised for sale with a guide price of £475,000, which the appellant advised takes account of the attractive setting and the fact it is a converted agricultural building. The appellant also explained at the Hearing the valuation was provided by an estate agent and was informed by the occupancy condition. However, there is no detailed justification or clear reasoning as to how this figure was derived. In contrast, while I appreciate it is a desk-based assessment, the Council suggest that the average house price in the area for this size of property would be in the region of £429,000. In addition, it contends that the valuation should be subject to a 25/30% discount having regard to the agricultural tie. Based on this approach, the Council put forward that a property valuation in the region of £318,000 would be more realistic.
9. Consequently, there is no convincing evidence to demonstrate that £475,000 is an appropriate guide price for a property of this size in this area, particularly given the effect of the agricultural occupancy condition on the valuation of the property.
10. The appellant contends that the property, either at the current asking price or the reduced price, would not be affordable to a rural worker, given the annual salary would need to be in the region of £70,000 pa. However, in the absence of any clear evidence of the average income of a rural worker in the area, there is no compelling evidence that this would be the case, or that a mortgage could not be

secured, perhaps for a couple with a shared income, from a specialist mortgage provider, or a farmer with sufficient funds necessary to purchase the dwelling to accommodate an employee.

11. Policy H5 of the LP sets out a marketing period for sale or rent of at least 18 months and up to 2 years, depending on market conditions. The appellant confirmed at the Hearing that the appeal property was advertised for sale for a 7 month period from July 2024, after which it was taken off the market in response to the suggestion by the estate agent that the asking price could be reduced. In addition, it is currently advertised for rent and has been since January 2025. Despite several inquiries, there was only one from an eligible buyer, and none of the potential tenants who expressed an interest in the property satisfied the occupancy condition.
12. It was explained by the appellant at the Hearing that it was not considered suitable to advertise the property for both sale and rent simultaneously as this would deter potential buyers, if there was a tenant in situ, and also potential tenants, given the uncertainty regarding the future sale of the property. Nonetheless, there is no substantive reason why advertising the property for both sale and rent at the same time would discourage a potential buyer or dissuade a tenant from taking up the property, which could then be taken off the market. Even when taken together, the total marketing period of the property for sale and rent, falls significantly short of the minimum period of 18 months set out in Policy H5.
13. An email from the estate agent¹ confirms that the market towards the end of 2024 had been steady, with properties generally moving at a reasonable rate. However, it was agreed at the Hearing that an extended period of marketing would be expected for a property subject to an agricultural occupancy condition, when compared to that for an open market dwelling. Nonetheless, the appellant set out that marketing the property for sale for a period of 7 months was felt to be adequate in this case due to the location of the appeal property, in an area where people are employed in agriculture, so if there was a need, a buyer would have been forthcoming.
14. Even if this were to be the case, and notwithstanding the guide price, the property was only advertised for sale with one estate agent and on Rightmove, and not specifically to the farming community in specialist agricultural publications for example, which the appellant acknowledged at the Hearing may have increased the likelihood of finding a potential buyer.
15. In addition, the Council's submissions include a list of 33 applications for rural workers dwellings in the district for which planning permission has been granted since 2020. While there is no detail of the specific locations or circumstances, which I appreciate may be for accommodation close to livestock in some cases, this would nonetheless appear to demonstrate that there is an ongoing need in the wider area for housing for rural workers, which the appeal property could potentially meet.
16. I therefore conclude that there is insufficient evidence to demonstrate, through appropriate marketing of the property, that the dwelling is no longer needed to meet the needs of a rural worker employed in the locality, and in that regard the proposal would fail to accord with Policy H5 of the LP. Accordingly, there is no

¹ Appendix 3, appellant's Statement of Case

compelling reason for me to conclude that condition B) of the planning permission is no longer necessary or reasonable, having regard to the development plan, the need for rural worker dwellings in the local area and other material considerations.

Other Matters

17. The appellant contends that, as the property has been occupied in breach of the disputed condition in excess of 10 years, the condition is immune from enforcement action. However, whether the use has become lawful is not a matter before me for consideration in the context of this appeal.
18. The Council confirmed at the Hearing that it is unable to demonstrate a 5 year supply of housing land. In such cases, paragraph 11(d) of the National Planning Policy Framework (the Framework) indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. While the removal of the condition would not result in a net gain in overall units, it would mean that, instead of providing housing exclusively for a rural worker, the unit would contribute to the general housing supply. However, given there would be no overall net gain in the number of units, the benefit in terms of housing stock would be limited. Furthermore, the Framework requires housing to address the needs of specific groups, and as the absence of any need for the type of dwelling has not been demonstrated, the adverse impacts of the proposal would significantly and demonstrably outweigh the very small benefit when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
19. The removal of the condition would conflict with Policy H5 of the LP. The proposed development would therefore conflict with the development plan as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it.
20. I note the appellant's frustration with the way in which the Council dealt with the application and the information that it required to be submitted. However, the Council's conduct during the application process has little to do with the planning merits of the case.

Conclusion

21. For the foregoing reasons the appeal should be dismissed.

Emma Worley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Yvonne Hunt BSc - (Hons), DipArb	Rural Planning Consultant, HL Rural
Mr R Giles and Mrs Pizey	Appellant and partner

FOR THE LOCAL PLANNING AUTHORITY:

Jamie Quinton	Senior Planning Officer, East Devon District Council
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INTERESTED PERSONS:

Councillor Mike Howe	Ward Member
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