



Appeal Decision

Hearing held on 29 April 2025

Site visit made on 29 April 2025

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2025

Appeal Ref: APP/U2235/W/25/3358985

Merrymaids Farm, Couchman Green Lane, Staplehurst, Kent, TN12 0RR

- 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 Charles Hathorn against the decision of Maidstone Borough Council.
 - The application reference is 24/502154/FULL.
 - The application sought outline planning permission *'for the erection of a cattle yard and a new agricultural dwelling, with means of access to be considered at this stage and all other matters reserved for future consideration as shown on A4 site location plan and A3 block plan received on 15 July 2025'* without complying with a condition attached to planning permission Ref MA/05/1408 dated 8 September 2005.
 - The condition in dispute is No 7 which states that: *'the occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined in Section 336 (1) of the Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, and to any resident dependants.'*
 - The reason given for the condition is: *'the site is in an area where new residential development is not normally permitted unless essentially required for the proper functioning of the enterprise concerned in accordance with policy H34 of the Maidstone Borough-Wide Local Plan 2000.'*
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal seeks to remove the condition to allow unrestricted occupancy of the property. The main issue therefore is whether the disputed condition is necessary and reasonable, having regard to local and national planning policies which seek to restrict housing development in the countryside.

Reasons

3. The appeal relates to a detached, three bedroom dwelling, which has a double garage. The appeal property lies in a rural location, some distance away from the nearest settlement boundary. The site adjoins an area of agricultural land. There is a large cattle barn adjacent to the appeal site.
4. Policy LPRCD3 of the Maidstone Borough Council Local Plan Review 2021 – 2038, adopted March 2024 (the Local Plan Review) refers to accommodation for rural workers. It recognises that residential development in the countryside may be justified when there is an essential need for a rural worker to live permanently at,

or in the immediate vicinity of their place of work. There are no policies within the Local Plan Review or the National Planning Policy Framework (the Framework), which specifically relate to the removal of a condition restricting the occupation of a dwelling to an agricultural or forestry worker.

5. There is dispute between both main parties in respect to the relevance of Policies LPRSS1 and LPRSP9 of the Local Plan Review to this appeal. These policies seek to focus new development within the urban areas and protect the rural character of the Borough. I appreciate that the proposal would not result in a new dwelling in the countryside and that the use would be the same (residential – Use Class C3) and unlikely to result in a significantly greater reliance on the private motor vehicle for day to day trips. However, the planning condition was deemed necessary given the site's rural location, where the Council's adopted development plan policies would not normally permit new residential development. Therefore, this appeal turns on whether there is sufficient evidence to demonstrate that the dwelling is no longer required for an agricultural or forestry worker.
6. At the time that outline planning permission was granted, the site was part of a 112 acre holding, which also formed part of a larger farming enterprise that totalled 438 acres. The appeal property was completed in August 2011. After completion it was let to various tenants until the property was sold in November 2022. Both main parties agree that the appeal property had been let in breach of the occupancy condition. A Certificate of Lawfulness for Existing Use of Development¹ to regularise the occupation of the dwelling in breach of the occupancy condition was refused in 2022 because the previous owner had concealed the breach from the Council.
7. The appeal property along with the adjacent cattle barn and farmland (totalling 27 acres) were sold off from the wider agricultural holding and purchased by the appellant in November 2022. The appellant asserts that the land holding is now too small to sustain an agricultural enterprise and that the remaining land is of poor soil quality and susceptible to water logging/seasonal flooding due to its position within Flood Zone 3.
8. The appellant considers that the land is only suitable for pasture for the grazing of livestock. However, the Council ascertains that much of the land in the locality falls within the same flood zone and is being used for agricultural purposes. I observed on my site visit that the adjacent farmland was being used for crops. I have not been advised that the adjacent land is of a different quality or less susceptible to flooding when compared to the appeal site. There is no compelling evidence before me that the land quality or drainage issues would hamper the productive use of the land for other agricultural activities, including horticulture.
9. Based on the evidence before me, I find that the size of the agricultural holding on its own, is unlikely to sustain a full-time agricultural worker or be financially viable to support an agricultural business. I appreciate that if an application for the appeal property was lodged today, the Council may not be able to support it based on the viability of the associated holding. However, the condition does not preclude any future agricultural or forestry worker from farming the land in conjunction with other land in the locality. Not all agricultural or forestry enterprises require an on-site presence. In addition, there is nothing to stop an agricultural or forestry worker

¹ Ref: 22/500453/LDCEX

from supplementing their income with a part-time job, as the condition stipulates that a person should be 'solely or mainly working' in agriculture or forestry. The condition also allows a retired agricultural or forestry worker to occupy the dwelling, who would not require a large land holding.

10. The appeal property was not marketed with the adjacent agricultural land. The appellant advised at the hearing that the adjacent land could not be marketed with the dwelling due to its waterlogged condition and because the additional land would make the appeal property unaffordable to an agricultural worker. However, marketing the appeal property with the adjacent land could have appealed to a wider pool of agricultural and forestry workers. While the appellant states that prospective purchasers could have enquired whether any land was available, the absence of any agricultural land in the marketing details may have deterred compliant individuals from making further enquiries.
11. The appellant ascertains that the dwelling is too large and too expensive for an agricultural worker and is far larger in size than the technical space standards for a three bedroom dwelling. The Council advises that due to a change in development plan policies, they may struggle to justify the size of the floorspace today, unless it contained office space. In this case, the appeal property contains a study, which could be used as a farm worker's office. While I appreciate that there are smaller and cheaper dwellings in the locality, the appeal property would be ideally suited to an agricultural or forestry worker who has a family. In such circumstances the partner of an agricultural or forestry worker may also be able to contribute financially towards the property; as is the case with many open market dwellings. I am not convinced that the dwelling has been marketed to reflect its agricultural nature, or to best attract it to agricultural workers.
12. Prior to placing the property on the market, the appellant received valuations from local estate agents. The appellant states that a reasonable discount in this situation taking into consideration the occupancy condition would be around 20%. The appellant advised at the hearing that discounts typically range between 15-30%, with 30% being the absolute highest. However, the appellant has provided me with an appeal decision, which was allowed, where a 31.2% discount was applied to reflect the occupancy condition². The appellant advises that a high discount is normally applied where there is little or no potentially compliant parties and there is much lesser demand; which is a matter I turn to later in my decision.
13. The appellant advises that the appeal property has a market value of £750,000 to £850,000. The appellant marketed the appeal property for a period of 14 months, which I find is a reasonable length of time. The appeal property was first marketed in March 2023 seeking offers in excess of £695,000 (which is a 18% reduction based on the higher figure and 7% reduction based on the lower figure). The price was reduced on 11 September 2023 to £625,000 and then to £585,000 on 6th February 2024 (which equates to a 31% reduction when compared to the higher market price and 22% reduction when compared to the lower market price). The property ceased to be marketed on 7th May 2024. The only enquiries made about the property were after the price had been reduced for the second time. All of these enquiries were from individuals who could not comply with the occupancy condition.

² Appeal ref: APP/F1230/W/17/3178024

14. At the hearing, the appellant advised that when the property was first marketed, house prices had sky rocketed which was fuelled by stamp duty changes, but the property market has now slowed. Consequently, the valuation given by the estate agents may be out of date. Given that there was not one enquiry at the higher prices (even by individuals that would not comply with the occupancy condition), in my mind means that the appeal property has not been marketed for a sufficient time at a price that is competitive in the market. While I appreciate that individuals could make a lower offer, the price of the property may have deterred viewings. I acknowledge that a lower price may attract non-compliant parties who may seek to remove the condition and profit from any uplift in value; however, I do not find that this is sufficient justification for not marketing the property at an appropriate price for a sufficient length of time.
15. The appeal property was marketed on Rightmove, Onthemarket, Zoopla and marketing details were sent out to individuals on the BTF Partnership's database (an agent that specialises in rural and agricultural property in the South East). Nevertheless, the appeal property was not marketed in any agricultural publications, which could have attracted agricultural workers, including those from other parts of the country who are looking to relocate to the area. A targeted mailout was sent to agricultural businesses within 5km of the appeal property that were deemed to have a more labour-intensive use. The targeted marketing did not identify any interested purchasers, nor any demand for additional agricultural workers accommodation. However, the Council advises that there are many other smaller, agricultural holdings within the locality that were not contacted, which may have precluded an interested individual. I do not find that the marketing was sufficient in terms of its spread or its direction towards the agricultural community.
16. The appeal property was marketed as a three bedroom dwelling, which is 'in need of modernisation'. Nevertheless, the appeal property is a modern dwelling, which was completed in 2011. The appellant advised at the hearing that 'in need of modernisation' related to the need for a 'lick of paint'. The asking price and the fact that the property has been advertised as being 'in need of maintenance' (which would require additional expense) may have deterred prospective purchasers from enquiring. The appeal property is also located adjacent to a large cattle barn that has an open side facing towards the appeal property. While the cattle barn is not currently in use, there is nothing to stop its use resuming. The Council raises concerns that the asking price does not reflect the proximity of the site to the cattle barn and agricultural land, which have the potential to cause noise, disturbance and odour issues. I agree that the relationship of the appeal property to the cattle barn is likely to suppress its attractiveness and value.
17. The appellant has provided details of a number of properties that are for sale in the locality. The appellant considers that the property most comparable to the appeal property is Lavender Cottage, which has the same floor area and is located on the same lane. However, given the differences between the two houses it is of limited use as a comparison and provides no confidence that the appeal property is valued accurately.
18. The Council advises that they are still receiving applications for rural workers' accommodation within the Borough. However, there is limited information before me on the other schemes and I therefore give them limited weight in my decision. Nevertheless, it appears from discussions at the hearing that the majority of the

other schemes sought to provide on-site accommodation for security or animal welfare reasons; the appeal property would not fulfil these requirements.

19. The Council confirms that it currently has a five year housing land supply and the appellant has provided no compelling evidence to the contrary. Nonetheless, the appeal property is currently vacant and removal of the condition would bring a family-sized dwelling onto the open market, which would be a benefit, albeit of limited weight.
20. In the absence of a thorough marketing exercise, which includes marketing the appeal property with the adjacent agricultural land at an appropriate price and more targeted marketing at the farming community, I am not fully convinced that the appeal property is not required for an agricultural or forestry worker or someone last working in these sectors. Accordingly, I find that the condition restricting the occupancy of the dwelling remains necessary and reasonable. To remove the condition would be contrary to the spatial strategy of the Borough as set out in Policies LPRSS1 and LPRSP9 of the Local Plan Review. The condition also complies with the tests set out in paragraph 57 of the Framework and the advice set out in the Planning Practice Guidance.

Other Matters

21. In support of the appeal the appellant has referred me to appeal decisions where Inspectors allowed the removal of an agricultural occupancy condition³. However, these other cases were in different parts of the country with differing site-specific circumstances and with different policy considerations. Therefore, I find that these other cases do not provide a direct comparison to the appeal before me.
22. The appellant has directed me to Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) and Circular 11/95. Both of these documents are no longer extant and have no status within national policy. As a result, I give them limited weight in my decision.

Conclusion

23. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, which would outweigh that conflict. Therefore, the appeal is dismissed.

A James

INSPECTOR

³ Appeal refs: APP/D0840/W/23/3335267 and APP/F1230/W/17/3178024

APPEARANCES

FOR THE APPELLANT:

Harry Kenton MRICS FAAV	Associate Director and Head of Rural Valuation at BTF Partnership.
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John Collins MRTPI	Director of DHA Planning
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Hannah McLaughlin MRTPI	Associate of DHA Planning
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FOR THE LOCAL PLANNING AUTHORITY:

Francis Amekor	Planning Officer, Maidstone Borough Council
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