



Appeal Decision

Site visit made on 27 May 2025

by **JJ Packman MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 July 2025

Appeal Ref: APP/Y3940/W/25/3360072

97 East Gomeldon Road, Wiltshire, Gomeldon, SP4 6LZ

- 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 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Laura Maher against the decision of Wiltshire Council.
 - The application Ref is PL/2024/10490.
 - The application sought planning permission for demolition of an agricultural barn, the erection of a bungalow and associated change of use of land without complying with a condition attached to planning permission Ref PL/2021/05622, dated 14 December 2021.
 - The condition in dispute is No 5 which states that: 'The dwelling hereby permitted shall not be sold, rented or separated from the property known as 97 East Gomeldon Road as the new dwelling has only been granted solely due to the family tie between the two dwellings. The two dwellings shall remain tied in perpetuity.'
 - The reasons given for the condition is: 'The proposed dwelling (for the applicants son) is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit a wholly separate dwelling other than for the specific needs of the applicant son which requires the applicants themselves to live in close proximity at the existing bungalow known as 97 East Gomeldon Road'.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of an agricultural barn, the erection of a bungalow and associated change of use of land at 97 East Gomeldon Road, Wiltshire, Gomeldon, SP4 6LZ in accordance with application PL/2024/10490, dated 19 November 2024 without compliance with condition No. 5 set out in planning permission Ref PL/2021/05622, dated 14 December 2021 by Wiltshire Council, but otherwise subject to the conditions set out in the schedule attached to this decision.

Background and Main Issue

2. During my unaccompanied site visit on 27 May 2025, I saw that works have started on site.
3. Planning permission was granted in 2021 for the demolition of a barn and erection of a bungalow. Condition 5 of that permission sought to prevent the dwelling being sold, rented or separated from 97 East Gomeldon Road.
4. In approving the scheme members readily acknowledged that this was an exceptional case, explaining the rationale behind Condition 5 within the 'reason' section below the condition, stating that the Council 'would not permit a wholly separate dwelling other than for the specific needs of the applicant's son'.

5. The appellant seeks to remove Condition 5 because the link with the existing dwelling has resulted in the appellant being unable to claim back VAT on the construction costs of the house.
6. The main issue is whether the current condition meets the requirements set out in para. 57 of the National Planning Policy Framework (the Framework), specifically whether the condition is:
 - Necessary;
 - Relevant to planning and to the development to be permitted, and
 - Enforceable, precise and reasonable in all other respects.
7. I have considered the condition in light of these.

Reasons

Necessary

8. The application property is situated on agricultural land just to the north of East Gormeldon Road in Gormeldon. Gormeldon is a dispersed linear settlement that does not have a settlement boundary, and therefore is considered countryside for the purposes of planning. I note that the Case Officer's policy assessment within the committee report for the original application (PL/2021/05622) concluded that the proposal was 'in an unsustainable location where there is a presumption against new unsustainable development' and therefore concluded the proposal was contrary to core policies within the Wiltshire Core Strategy.
9. This corresponds broadly with the applicant's own planning case, which did not seek to claim universal compliance with the Council's adopted policies. Instead, a special planning case was advanced based on the special requirements of the applicant's son.
10. Condition 5, however, does not relate to the use or occupancy of the dwelling. The condition simply seeks to prevent the sale, rental or subdivision of the dwelling. Whilst the application was justified and approved with reference to the specific needs of the applicant's son, the wording of the condition does not restrict the occupancy of the dwelling to the applicant's son. Under the terms of the permission, the dwelling could be feasibly occupied by anyone.
11. As the condition appears to not achieve what the Council intended or any other useful planning purpose, I find that it is not necessary.

Relevant to planning and to the development to be permitted

12. Condition 5 seeks to bind the planning permission for the dwelling to the special circumstances provided by the applicant to justify it. The intended purpose of the Condition was to prevent an unrestricted residential use being permitted within an unsustainable location in accordance with the Council's own policy objectives.
13. The condition does not achieve this aim. Providing the property is not sold, rented or separated from No. 97 East Gormeldon Road, it could, under the terms of Condition 5, be occupied by anyone, including people unrelated to the family. The condition is therefore not relevant to the development permitted.

14. Furthermore, in seeking to prohibit the sale, rental or separation of the property the condition does not relate to the use of the property, and therefore is not relevant to planning.
15. Consequently, I consider condition 5 to be neither relevant to planning nor the development permitted, conflicting with Para. 57 of the Framework.

Enforceable, precise and reasonable in all other respects

16. The condition is precisely worded, a breach could be readily detected through simple investigative work and subsequently enforced against.
17. However, given that the condition is neither relevant to planning or the development permitted, the restriction placed upon the property preventing its sale, rent or separation is considered unreasonable.
18. Notwithstanding my findings on wording and enforceability, I find Condition 5 not necessary and not relevant to planning or the development to be permitted. Condition 5 therefore fails to comply with the requirements of Para. 57 of the Framework.

Conditions

19. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
20. Parties have provided evidence that conditions 3 (Materials), 6 (Demolition and Construction Plan) and 8 (Letter of historical uses) have been discharged. I have excluded the two conditions that have been fully discharged (3 & 8) and have updated the construction management plan condition to simply require the construction/demolition phase of the development to be carried out in accordance with the submitted plan. As the development has started, it is not necessary to impose a condition requiring commencement or hours of construction.

Conclusions

21. For the reasons given above, and having had regard to all other matters raised, the appeal is allowed.

JJ Packman

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Application form received 28/05/2021 Planning statement received 28/05/2021 Phase 1 survey, reptile survey and Mitigation strategy by Bourne Ecology dated July 2021 received 15/07/2021 Location of Biodiversity Mitigation and Enhancements 95 East Gomeldon Road (PL/2021/05622) received 29/09/2021 Location plan and site plan received Drg no WM/01/21 received 28/05/2021 and Plans and elevations Drg no WM/02/21 received 28/05/2021.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or reenacting or amending those Orders with or without modification), no development within Part 1, Classes A-H inclusive shall take place on the dwellinghouses hereby permitted or within their curtilage.
3. The construction/demolition phase of the development will be carried out fully in accordance with the demolition and construction statement received 26/07/2022 at all times.
4. Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.
5. The development will be carried out in strict accordance with the following documents: The submitted 'Location of Biodiversity Mitigation and Enhancements 95 East Gomeldon (PL/2021/05622)' plan. Section 5 of the submitted Phase I Survey, Reptile Survey and Mitigation Strategy report prepared by Bourne Ecology, July 2021.
6. No part of the development hereby approved shall be first occupied until the parking and turning area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.
7. Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.