
Appeal Decision

Hearing held on 5 November 2025

Site visit made on 5 November 2025

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/J1915/W/25/3367102

2 Astonbury Lane, Aston, Hertfordshire, SG2 7EG

- 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 and Mrs Williams against the decision of East Herts District Council.
 - The application Ref is 3/25/0338/VAR.
 - The application sought planning permission for the erection of a dwelling without complying with a condition attached to planning permission Ref 3/05/0417/FP, dated 18 April 2005.
 - The condition in dispute is No. 10 which states that: The occupation of the dwelling hereby permitted shall be limited to persons:- i) obtaining at least the current minimum agricultural wage from employment in agriculture as defined in Section 336(1) of the Town and Country Planning Act 1990, or in forestry ii) who having reached retirement age, have retired from employment in the locality in agriculture or forestry iii) being resident dependants of persons falling within (i) or (ii) above iv) being a widow or widower of persons falling within (i) or (ii) above.
 - The reason given for the condition is: The proposed dwelling is situated in a rural area where the Local Planning Authority would not normally grant permission for such development and this permission is granted solely in order to fulfil an essential agricultural need, in accordance with policy RA5 of the East Herts Local Plan.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The parties agreed a Statement of Common Ground prior to the hearing and this (inter alia) set out that the only test, having regard to the advice on conditions in the Planning Practice Guidance (PPG), was whether the condition was necessary.

Background and Main Issue

3. Planning permission was originally granted for a detached dwelling on 18 April 2005 (the 2005 permission). Condition 10 of the permission restricted the occupation of the dwelling, in summary, to a person employed in agriculture or forestry. A later planning permission, ref: 3/09/0126/FP dated 25 March 2009 (the 2009 permission), for the change of use of agricultural land to residential extended the garden area to the property.
4. The main issue is therefore whether the condition is necessary in order to limit the occupancy of the dwelling to an agricultural or forestry workers dwelling having regard to:

- 1) whether there is a need for the dwelling to be retained as accommodation for an agricultural or forestry worker, and
- 2) in the event that there is a need for an agricultural or forestry workers dwelling to be retained, whether any other considerations indicate that permission should be granted including; if the proposal would be in accordance with current development plan policy relating to development in villages, and, whether the 2009 permission has overridden the effects of condition 10 of the 2005 permission.

Reasons

Need for an agricultural or forestry workers dwelling

5. Policy HOU5 IV of the East Herts District Plan 2018 (EHDP) sets out the Council's approach to applications for the removal of an occupancy condition related to rural workers. The policy explains this will only be permitted in exceptional circumstances where it can be demonstrated that, in summary, (a) there is no longer a need for the accommodation, (b) the dwelling has been marketed for a reasonable period at a price which reflects the existence of the occupancy condition, and, (c) the dwelling cannot make a contribution towards meeting local affordable housing needs.
6. The appellant did not make a detailed case based upon criterion IV (a) of policy HOU5 of the EHDP as the case rests upon other considerations. The proposal has not demonstrated that there is no longer a need for the accommodation as is required by this criterion and thus the proposal conflicts with this element of the policy.
7. In relation to criterion IV (b) of the policy, there is evidence to show that the property was placed on the market between March 2016 and October 2018. Due to the period of time that has elapsed since this marketing exercise, there was limited detail on its scope but, it was indicated that details were sent to 390 buyers and no offers received. The appellant estimates that the discount on the price of the property due to the occupancy condition was 25% below market rates at that time. Informal discussions with professional agents more recently indicated that the results of a similar marketing exercise, were it to be conducted now, would not yield differing results due to the occupancy condition. No evidence of this was presented. It was however accepted that the price would nevertheless be likely to have increased since the 2016-2018 marketing exercise.
8. The parties were in broad agreement that due to the elapsed time since the marketing exercise, this does limit the weight that can be attached to it. Indeed, there have no doubt been changes to farming and the local property market in the intervening period and without an up-to-date marketing exercise, the results of this historic exercise cannot be entirely relied upon. Even so, this exercise was conducted over a period of two and a half years, well in excess of the 12 months required by policy HOU5 IV (b). Whilst there is no requirement under the policy for the exercise to have been conducted recently the relevance of it will diminish over time.
9. In this instance, despite the passage of approximately seven years, the marketing that was conducted does remain relevant as the core issue. However, on balance, given the elapsed time since the marketing exercise was carried out, I am not

satisfied that sufficient recent and relevant marketing was carried out. Although the previous exercise did indicate limited to no interest in the property, the elapsed time since it was undertaken means that the proposal fails to accord with criterion IV (b) of policy HOU5 of the EHDP.

10. Turning to criterion IV (c), it was noted that even with the occupancy condition, the property still remains out of reach of an agricultural worker due to its price. Indeed, this figure is likely to have increased since the marketing exercise. It was put to me that examples of more reasonably priced accommodation are available in the locality and although no specific evidence to support this was presented, it is not an illogical argument given the size and setting of the site, and I have no reason to disagree. Nevertheless, the Council did highlight that no consideration had been made to putting the property forward to, or in conjunction with, an affordable housing provider and this was not disputed by the appellant.
11. The proposal, therefore, does not accord with policy HOU5 as it has not been demonstrated that the condition is no longer necessary under the terms of this policy.

Other considerations – that a new dwelling would be acceptable in principle

12. The appeal site is located within the Green Belt. However, since the grant of planning permission for the dwelling in 2005, the adoption of the 2018 version of the EHDP saw the alteration of the settlement boundary for Aston which brought the property within its envelope. The parties were not fully cognisant of the reasons for this extension to the settlement boundary but there remained broad agreement that this was due to the building's presence forming a visual addition to the village.
13. Although it is unclear where the settlement boundary was previously drawn, there is no dispute that the site now falls within the settlement limits. Even so, this re-drawing of the boundary did not remove the site from the Green Belt, it merely places it within the village envelope.
14. The appellant's case here rests upon this redrawing of the boundary rendering a proposal for a replacement dwelling or new dwelling in this location acceptable in principle.
15. Even if a replacement dwelling were to come forward it would need to be considered favourably in accordance with policies DPS2, GBR1 and VILL2 of the EHDP. Whilst the parties did not dispute this, in this scenario, there is no reason why the requirements of policy HOU5 would cease to apply and there is nothing before me to suggest otherwise. The loss of an agricultural workers dwelling would still have to be considered under policy HOU5 IV unless any replacement was restricted by a similar condition.
16. In the alternative, were a new dwelling to be proposed on this site or elsewhere within the settlement boundary as a previously developed, but vacant, piece of land; there are questions as to whether this could comply with the policies of the EHDP. In particular, it was noted by the Council that this site is set at the edge of the village and therefore would likely conflict with policy VILL2 II and VILL2 V (e) as it would not constitute infilling. This is due to its location on the edge of the village with no surrounding development on more than one side and projecting into the countryside as a form of ribbon development. For similar reasons, the parties

agreed that there were no elements of paragraph 154 of the National Planning Policy Framework (the Framework) that such a development could accord with.

17. The parties did agree however, that such a proposal could fall within the remit of paragraph 155 of the Framework. This is because it would utilise grey belt land, that – with a housing land supply of between 3.4 and 3.7 years – there is demonstrable unmet need for the proposal, and, that the site is in a sustainable location having regard to paragraphs 110 and 115 of the Framework.
18. Even so, this argument is moot, as this is not the scenario that is before me. There is an existing dwelling on the site and it is subject to the provisions of condition 10 of the 2005 permission that restricts the occupancy to persons employed in agriculture or forestry. Whilst there are number of possible scenarios that could occur in the development of the site, no applications for planning permission have been considered on this basis and therefore in terms of a fall back position, this can only be given limited weight. It has not been demonstrated that the condition is not necessary and thus the conflict with policy HOU5 of the EDHP remains.
19. The appeals at Stoke Farm House¹ and Wycke View Farm² are relevant here. Both these decisions related to occupancy conditions which were removed on the basis that the properties in question had transitioned to being within a settlement boundary. However, there is a significant distinction between these decisions which are not within the Green Belt. This adds a different set of considerations to the cases presented to me by the appellant. Moreover, in both these scenarios, the Councils did not have specific policies on the removal of occupancy conditions and were satisfied that a new dwelling would be acceptable in principle on those sites. This is not the case here.

Other considerations – the effect of the 2009 permission

20. The appellant has nominated that the 2009 permission which was for the change of use of land from agricultural to residential has superseded the 2005 planning permission including condition 10. This is because the application site was drawn around and included the dwelling at 2 Astonbury Lane and, moreover, that conditions removing permitted development rights for residential works were imposed on this permission.
21. However, whilst I accept that the ‘red edge’ of the application site was drawn around 2 Astonbury Lane, this was clearly annotated on the plans as existing residential. This is an accurate representation as, despite the occupancy condition, there is no dispute that the land is in a residential use. The permitted development rights that were removed related to outbuildings and hardstanding. It therefore follows that the intent of these conditions was directed at the expansion of the residential use of the land surrounding the parent dwelling. If anything, these conditions indicate that this permission was solely directed at this expansion of the garden area to the property. Indeed, the decision notice makes no reference to the existing occupancy condition. Accordingly, I conclude that this permission merely sits alongside the 2005 permission, and its effects have not been overridden by the 2009 permission.

¹ APP/M2840/W/22/3313880

² APP/X1545/W/23/3328131

Other Matters

22. The issue of the Council's housing land supply position was raised at the hearing. However, the proposal would not result in an increase in the overall number of dwellings. Whilst the removal of the condition would invariably expand the number of potential occupants, it would not alter the overall land supply.

Conclusion

23. It is within my gift to allow the appeal but to retain the occupancy condition with a variation to the wording of condition 10 so as to bring in line with modern standards. However, the appellant indicated that they would wish to retain the condition as originally imposed. Indeed, I find that varying the condition could make it more, or less, onerous on either one of the parties and thus potentially result in procedural unfairness were I to do so. As such, I have concluded that the existing condition would, on balance, meet the relevant tests set out within the PPG.
24. The proposal has not demonstrated the exceptional circumstances required for the removal of condition 10 of planning permission 3/05/0417/FP as is required by policy HOU5 IV of the EDHP. The other considerations presented to me are of insufficient weight to warrant the removal of the condition which remains necessary in accordance with the guidance contained in the PPG and paragraph 57 of the Framework. Therefore, for the reasons given above the appeal should be dismissed.

N Bowden

INSPECTOR

Appearances

For the Appellant:

Mr Chris Lane BA (Hons) MSc MRTPI - Principal Planner, RCA Regeneration Limited

For the Local Planning Authority:

Mr Nicholas Reed BSc - Senior Planning Officer, East Herts Council
Ms Hannah Weston MSc BA(Hons) MRTPI - Development Management Team Leader, East Herts Council