



Appeal Decision

Site visit made on 6 November 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 December 2025

Appeal Ref: APP/Y1138/W/25/3368847

**Leigh Haven, Road from Leigh Cross To West Sidborough, Loxbeare, Devon
EX16 8DA**

- 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 RW Berry against the decision of Mid Devon District Council.
 - The application Ref is 24/01701/OUT.
 - The application sought planning permission for dwelling and garage without complying with a condition attached to planning permission Ref EN.12164/X, dated 4 December 1973.
 - The condition in dispute is (c) which states that: *the dwelling hereby permitted shall be occupied only by persons employed or last employed full-time locally in agricultural or forestry work, as defined by Section 290 of the Town and Country Planning Act 1971 and the dependants of such persons as aforesaid.*
 - The reason given for the condition is: *to ensure that the dwelling is occupied by persons connected with agriculture or forestry, as the site is located in open country where residential development would not normally be permitted.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal scheme seeks to remove the condition in dispute referred to in the heading above to allow unrestricted occupancy of the appeal property. The main issue is, therefore, 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, 3-bedroomed bungalow with a detached outbuilding/store and large maturely landscaped garden to the rear. It lies within open countryside about 4km north-west of Tiverton.
4. Outline permission for the property was granted in December 1973 subject to the condition that it shall only be occupied by persons employed or last employed full-time locally in agricultural or forestry work and the dependents of such persons. The applicant at that time was 'Mr R W Berry' who is the appellant in respect of this appeal.

5. Detailed plans for the property were approved in September 1974¹ and a later car port addition in October 1983². The appellant was the applicant in the case of the former application and the appellant and 'Mrs R W Berry' were the applicants for the latter. The appellant has confirmed that he has occupied the property as his primary place of residence since its construction in 1975. The first 25 years of occupation was while he was employed as a farm worker. From 2000 onwards until the present the dwelling has continued to be occupied by the appellant following his retirement.
6. As such, there has been no breach of the disputed occupancy condition, and the current occupation of the property accords with it.
7. The disputed condition was deemed necessary on the original permission since the site was located outside of any identified settlement boundary where new-build open-market dwellings were not permitted. Whilst a notable amount of time has elapsed since the original approval, the current development plan policies have maintained the same approach to new-build housing in the appeal site location.
8. Policies S1 and S2 of the *Mid-Devon Local Plan 2013-2033* (July 2020) (the LP) set out the Council's locational strategy for new housing in the district. This steers it towards the 3 main towns of Tiverton, Cullompton and Crediton with a more limited level of development in identified villages, rather than in open countryside.
9. This approach is supported by LP Policy S14 which expressly states which forms of development are appropriate within the open countryside outside of the settlement limits of the main towns and villages. These do not include additional new-build open-market housing.
10. LP Policy DM8 is specifically relevant to rural workers' dwellings, permitting them as an exception to normal policy to support the rural economy. Approval requires compliance with several criteria, as well as being subject to an occupancy condition. The policy states that the removal of such a condition will only be allowed where there is clear evidence that there is no need for the condition to remain in place.
11. The above policies align with the *National Planning Policy Framework 2024* (the Framework) which, in seeking to promote sustainable development, requires that housing is located where it will enhance or maintain the vitality of rural communities. The site is a significant distance away from the nearest facilities and services and there is no evidence before me of any well-established public transport networks serving the appeal site, so that there is high dependence upon the private car as a means of transport to and from the appeal site. Paragraph 84 makes it clear that isolated homes in the countryside should be avoided unless specified circumstances apply. One of these is that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
12. There is no evidence before me that the appeal site currently forms part of a wider agricultural holding, or that this was previously the case. The appellant has confirmed that he was an agricultural worker during the first 25 years of occupation of the dwelling. However, neither the Council nor the appellant have provided

¹ LPA Ref 74/00537

² LPA Ref 4/34/83/1635

precise details as to the identified need locally for a rural worker dwelling which existed at the time of the approval of the appeal property.

13. The appellant believes it likely that the original permission related to needs arising from an agricultural operation that existed at the nearby site of 'Leigh Cottage' where the appellant lived at that time. However, there is no substantive evidence that this was the case, such as council reports in respect of the aforesaid planning approvals or the provision of information from the appellant, his family or other local third parties based upon their personal knowledge of the situation that existed at that time.
14. Notwithstanding the above, the appellant has confirmed that the appeal site is not currently connected with any nearby agricultural holdings and that it is in separate ownership to Leigh Cottage so that any previous agricultural link to that property, if it existed, would have been terminated.
15. However, accepting that the appeal site does not currently have a direct connection with a current farming enterprise does not provide sufficient grounds to remove the agricultural occupancy condition.
16. The condition requires occupation by persons employed or last employed full-time *locally* (my emphasis) in agricultural or forestry work. As such, the appeal therefore turns on whether there is sufficient evidence to demonstrate that the dwelling is no longer required for an agricultural or forestry worker in the local area, not just specifically in connection with the appeal site itself.
17. Since the retirement of the appellant in 2000, the property has been occupied with no connection to agriculture or forestry. This accords with the condition in question, the wording of which reasonably also allows continued occupation by retired rural workers in line with established practice for such conditions.
18. The supporting text to policy DM8 confirms that the occupancy condition ensures the dwelling remains tied to the agricultural or other appropriate occupational use and is not sold or rented to unsuitable occupants. Moreover, it confirms that, to prevent abuse of the exception for rural workers dwellings, the removal of such conditions will require strong evidence to demonstrate that the occupancy by a rural worker is no longer justified, such as evidence of marketing at an appropriate price for a period of 18 months and an assessment of demand for rural dwellings in the area.
19. Having regard to marketing, the evidence from the appellant is that the property has been marketed for sale for a period in excess of 18 months during which the original guide asking price on 26 May 2023 of £475,000 was lowered to £450,000 on 4 August 2023 and then to £395,000 on 22 August 2023 until it was taken off the market on 26 April 2025. The marketing agent has confirmed that during this period there were 4 viewings and no offers.
20. The marketing period exceeds that stipulated in LP Policy DM8 and the sales particulars include reference to the attached agricultural tie condition. However, without additional further analysis to support the marketing exercise, I am unable to conclude that it has been carried out in a manner which satisfactorily addresses the requirements of this policy.

21. No clear and detailed evidence has been provided to demonstrate that the property was marketed at an appropriate price. Whilst the appellant suggests that a 30% reduction below open market value maybe appropriate, it has not been demonstrated what reduction has been applied in the case of the appeal property. Such supporting information would reasonably include an analysis of comparative sales prices of other similar open-market and occupancy-restricted properties, or in the absence of information in respect of the latter, details of how a price reduction to reflect the occupancy condition was factored into the sales price.
22. No detailed information has been provided by the marketing agent in respect of feedback received after the viewings to establish why so few viewings resulted and why no offers were subsequently received. As such, whilst the appellant suggests that the resulting low amount of market interest may have been due to the lack of agricultural land associated with the property, there is no substantive evidence before me to support this conclusion.
23. In addition, based on the information before me, I am not satisfied that there is compelling evidence that the marketing was sufficient in terms of its spread or its direction towards the agricultural community. No details have been provided in respect of how and where the property was marketed, for example whether it involved internet, telephone and email marketing as well as via the agent's offices, and, significantly whether or not the marketing specifically attempted to target agricultural individuals who would be more likely to be seeking accommodation in accordance with the disputed condition.
24. The appellant cites data in relation to gross annual pay figures for rural workers rendering the property as marketed to be outside the affordable range of the average agricultural worker considering standard mortgage lender annual salary multipliers. However, the appeal property is a 3-bedroomed dwelling with a large garden and 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. With this in mind and having regard to a lack of conclusive evidence before me that the property was marketed at a suitable price, I am unable to conclude that a rural worker would be unable to afford the property.
25. Moreover, the Courts have held that the possibility of letting is material to the issue of whether there is any demand for an agricultural worker's dwelling. (Thomas v NAW and Monmouthshire CC 1999). There is no evidence before me that, in addition to considering the potential sale of the property to a bona fide occupant, the option of renting the dwelling has been pursued through the appellant's marketing of the site.
26. Additionally, LP Policy DM8 requires an assessment to be provided of the demand for rural dwellings in the area. Whilst the appellant has provided details of two other nearby dwellings that are subject to an agricultural occupancy condition, no further analysis has been provided to justify why this satisfies the demand for rural dwellings in the area and the removal of the condition in question, such as an analysis of existing local farm enterprises and evidence of existing rural worker dwellings further afield within the local area.
27. Neither am I persuaded that mechanisation and technical improvements to agricultural practices that have taken place since the grant of the original planning

permission have reduced the demand for farm worker accommodation within the local area to the extent that the condition is no longer useful.

28. The appellant has referred to unrestricted residential development that has been approved³ near the appeal site since the approval of the appeal property. However, such development accords with national and local planning policies (paragraph 84 of the Framework and LP Policy S14) which permit the conversion of rural buildings into residential. As such, I do not consider that this undermines the usefulness of the disputed condition.
29. Having regard to all of the above, the evidence presented does not lead me to find that the disputed condition is not reasonable or necessary in relation to the tests set out in paragraph 57 of the Framework or that it does not still serve a useful purpose having regard to the need to meet a local agricultural need and having regard to the aforesaid local and national policies relating to rural housing.

Other Matters

30. The Council has confirmed that it cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework. As such, paragraph 11 d) of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date. Paragraph 11d) states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a strong reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, and providing affordable homes, individually or in combination.
31. I have not been informed as to the extent of the Council's housing deficit. However, even if it were acute, any social and economic benefits resulting from the future occupation of the property as an open-market dwelling and the contribution of the dwelling towards the Council's housing supply would be minimal given that an occupied rural worker dwelling already exists on the appeal site.
32. Weighed against these benefits, the proposal would seriously undermine the spatial strategy of the LP, which aligns with that of the Framework, so that its social and environmental objectives of sustainable development in respect of accessible services and moving to a low carbon economy would not be met.
33. Accordingly, having carefully considered the balance of factors, I consider that, when assessed against the policies in the Framework taken as a whole, the significant harm that would arise from the proposal would significantly and demonstrably outweigh the benefits.
34. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

³ LPA Ref 21/01884/FULL

Conclusion

35. I therefore conclude that the condition should be retained and that the appeal should be dismissed.

S Leonard

INSPECTOR