



Appeal Decision

Site visit made on 22 September 2026

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 October 2026

Appeal Ref: APP/X1118/C/25/3363842

Worthy Farm, Tiverton, Devon EX16 8EF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Michael Davey against an enforcement notice issued by North Devon District Council.
- The enforcement notice was issued on 17 March 2025.
- The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref 24754 granted on 29 July 1998.
- The development to which the permission relates is: Conversion of barn to form 3 no. units of holiday accommodation together with improvements to existing access.
- The condition in question is no 6 which states that: The development hereby approved shall be occupied for the purposes of holiday accommodation only.
- The notice alleges that the condition has not been complied with in that: Within the last 10 years, permanent residential occupation of the three units of holiday accommodation.
- The requirements of the notice are to:
 1. Cease permanent occupation of the three units of holiday accommodation outlined in red on the attached plan¹;
 2. Comply with Condition 6 attached to planning permission reference 24754.
- The period for compliance with the requirements is: 12 months from the date when the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Ground (a)

1. In connection with an appeal against an enforcement notice alleging a breach of condition, ground (a) is that the condition ought to be discharged. In effect that would result in 3, unrestricted, permanent dwellings at the site. The main issue is whether the site is in an appropriate location for permanent residential accommodation, with regard to local and national planning policy.
2. The site is located some distance from the village of Rackenford. Although there is a cluster of buildings including two houses at Worthy Farm, the area is defined as countryside for planning purposes in the North Devon and Torridge Local Plan 2018 ("LP"). In such locations, LP Policy ST07 sets out that development should be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location.
3. The accommodation, subject of the enforcement notice ("the Notice"), has been formed from the re-use of rural buildings. There may be some policy support for

¹ Reference here to an attached plan is reference to a plan attached to the enforcement notice.

the formation of new permanent residential accommodation in this way, and the Council have permitted permanent residential conversions of other buildings nearby. I also understand that the Council have encouraged the use of some holiday lets for this purpose.

4. However, LP Policy ST18 sets clear criteria for the removal of occupancy conditions on existing holiday accommodation. It has not been demonstrated that there have been cases where existing holiday accommodation conditions have been discharged in comparable circumstances to this one. There is, therefore, no reason not to determine the appeal before me on its own merits in accordance with the policy and other material considerations, on the evidence presented.
5. There is no dispute around the first criterion of LP Policy ST18, that the accommodation should not need major extension or alteration. There has been no alteration to the property and no obvious reason why any would be required. Nevertheless, the second criterion requires compelling evidence to demonstrate that the restriction is no longer justified.
6. It may well be that there is a lack of local tourist attractions in the area, and visitors would have to travel significant distances by private car to reach amenities and popular destinations. However, it is not claimed that there is a lack of demand.
7. I understand that the appellant found it stressful accommodating the needs, demands, and behaviours of holiday makers, along with incidences of children and pets wandering into farm buildings and the like. However, while he might have found it personally challenging, the planning system operates in the public interest through the implementation of adopted planning policy. In any event, I saw that the building subject to the Notice stands apart from, and its access doors face away from the active agricultural activities and yards at the site. There is no obvious reason why a holiday accommodation use is inherently unsuitable or impractical at this site.
8. There has been full and continuous permanent residential occupation since the holiday use ceased. However, while that demonstrates some demand for permanent occupation, there is no suggestion that the occupiers have been unable, or would be now unable, to find accommodation elsewhere, such that it is serving a specific, identifiable local need. Nor is there any substantive evidence that the current occupiers, or appellant, would suffer particular hardship if the condition and Notice, were complied with.
9. Therefore, on the evidence before, me, none of the reasons presented are sufficient to be the compelling evidence demanded by LP Policy ST18. Accordingly, the discharge of the occupancy condition would be contrary to the development plan.
10. The National Planning Policy Framework ("the Framework"), at Policy S5, also permits the reuse of buildings outside settlements, but does not favour open residential uses over holiday uses. Although there would be no obvious conflict with the policy, as the building would remain in an active use with or without the condition, I find no compelling support from Policy S5 either. Nor has it been shown that there would be substantial benefits in respect of other policies of the Framework, including those relating to climate change, or preserving or enhancing natural assets.

11. There would be some contribution to the supply of permanent housing. However, it has not been shown that, with the condition in place, the building would be underused or redundant other than, perhaps, through any personal choice of the owner. In that context, the unjustified loss of the holiday accommodation, alongside allowing permanent residential use in a location where occupiers are likely to be dependent on private vehicles for access to services and facilities, would be adverse effects that substantially outweigh the benefits.
12. I, therefore, find that neither the Framework, nor any other material consideration presented, indicate that the decision should be taken otherwise than in accordance with the development plan. Accordingly, the condition should not be discharged and the appeal on ground (a) fails.

Ground (f)

13. The Notice seeks to remedy the breach of planning control. In that context, ground (f) is that the steps required exceed what is necessary to meet that aim. While the appellant may have no intention of evicting his tenants, that is not a reason to find the steps excessive if lesser steps are not available. Even though the appellant feels personally unable to continue operating a holiday letting business and wishes to be retired, the Notice does not require the carrying out of the holiday let use, only that permanent residential occupation ceases and any continued occupation complies with the disputed condition.
14. I note that the appellant was happy to make a planning application had the Council sent him the relevant application forms. A successful outcome might have avoided the need for the Notice, but requiring a planning application to be made is not a lesser step that would remedy the breach of planning control.
15. In any event, I have found on ground (a) that, on the evidence before me, the condition should not be discharged. The steps are straight forward and no lesser steps have been suggested that would satisfactorily remedy the breach of planning control.
16. I, therefore, find that the appeal on ground (f) should fail.

Formal Decision

17. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

M Bale

INSPECTOR