



Appeal Decision

Site visit made on 7 April 2026

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

an Inspector appointed by the Secretary of State

Decision date: 7th May 2026

Appeal Ref: 6005326

Little Place, Flexford Lane, Sway, Hampshire SO41 6DN

- 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 a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Robinson against the decision of New Forest National Park Authority.
 - The application Ref is 25/01244VAR.
 - The application sought planning permission for erection of dwelling for agricultural worker and conversion of existing dwelling into pig sties without complying with a condition attached to planning permission Ref NFR11325/1, dated 16 May 1967.
 - The condition in dispute is No.3 which states that: *The occupier of the dwelling shall be a person employed or last employed in agriculture, as defined by Section 221(1) of the Town and Country Planning Act, 1962, or in forestry, or the dependent of such a person.*
 - The reason given for the condition is: *Because of the special circumstances of the applicant.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal scheme seeks to remove the condition in dispute 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 and in the interests of the meeting the needs of the rural economy and conserving and enhancing the natural beauty and cultural heritage of the New Forest National Park (NFNP).

Reasons

3. The appeal relates to a large, detached, 4-bedroomed house which has been enlarged by two single storey extensions so that it has a floorspace of approximately 196 sqm. It sits within a 2.1 acre site which includes a large garden, paddocks, and two barn/stable outbuildings.
4. The site is located south of Flexford Lane within open countryside between Sway, Lymington and New Milton and within the NFNP. The site locality is characterised by sporadic residential properties, farm buildings and rural enterprises amongst undeveloped fields.

5. The appeal site lies outside the settlement boundaries of the four “Defined Villages” as designated in Policy SP4 of the *New Forest National Park Local Plan 2016 – 2036* (2019) (the Local Plan) and is not within any of the Local Plan allocated sites.
6. As such, Local Plan Policies SP4 and SP19 only permit new build residential development on the appeal site if there is an essential need for a countryside location, or it comprises a Rural Exception Site, or it meets the specific locational needs for New Forest Commoners, Estate Workers or agricultural or forestry worker dwellings.
7. To ensure dwellings that have been permitted specifically to meet the needs of the rural economy stay available for that purpose, Local Plan Policy DP32 only allows for the removal of agricultural occupancy conditions provided the National Park Authority (NPA) is satisfied that the long-term need for the dwelling has ceased and there is no evidence of a continuing need for housing for persons employed or last employed in the locality in these categories, or practising commoning. This applies to not only the needs of the holding, but also the need for workers’ dwellings in the surrounding area.
8. This policy sets out the requirements for demonstrating that the long-term agricultural need has ceased by showing that the property has been appropriately marketed to try to sell it with the occupancy condition intact.
9. These policies accord with objectives of the *National Planning Policy Framework 2024* (the Framework) which seek to promote sustainable development, requiring 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.
10. 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.
11. Moreover, agriculture plays a significant part in the cultural heritage and landscape of the NFNPP. The National Park Partnership Plan¹ acknowledges that the New Forest’s working landscape based on farming and forestry, including an historic commoning system, as well as communities with a strong cultural identity, are included within the identified qualities that make the New Forest special, and which are fundamental to the two statutory purposes of the NPA² and the underlying reason for its designation.
12. As such, the aforesaid Local Plan policies also align with the Framework in so much as it seeks to recognise the intrinsic character and beauty of the countryside, including giving great weight to conserving and enhancing landscape, scenic beauty and cultural heritage in National Parks (paragraphs 187 and 189).
13. The appellants suggest that the condition was unreasonably imposed

¹ New Forest National Park Partnership Plan 2022-2027 (July 2022)

² a) to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park; and b) to promote opportunities for the understanding and enjoyment of the special qualities of the area by the public

because the scheme related to the replacement of an unencumbered dwelling. Based on the available planning application documented evidence in relation to the condition of the replaced property this is not an unreasonable assumption.

14. However, there is no substantive evidence before me to corroborate without a doubt that the original property had no rural worker tie attached. Neither is there any substantive evidence before me such as the case officer report and/or the relevant development plan policies in place at the time, to verify the '*special circumstances*' of the original applicant which justified the disputed condition.
15. It is clear that the original dwelling did accommodate a rural worker in association with the pig breeding activities taking place on the site at the time of the application in 1967 and there is no evidence that the applicant objected to the imposition of the condition at that time. Also, condition 5 of the original permission appears to require the removal of the building should it cease to be required for agricultural purposes.
16. As such, in the absence of any substantive evidence to the contrary, and given that the original replaced building no longer exists, there is no reason for me to find that the disputed condition was unreasonably imposed. Accordingly, its removal would result in a new open market dwelling in the countryside contrary to the aforesaid development plan policies.
17. Permission was granted for the property in May 1967 on the basis that it was required in connection with the agricultural use of the land at a time when the site comprised an approximately 4.8-acre pig farm holding which was part of the wider agricultural and forestry related Hazlehurst Estate. The appeal property was a replacement dwelling and the permission also included the conversion of an existing dwelling into pig sties.
18. Since then, the original commercial agricultural business has ceased. Approximately half of the original holding comprising a parcel of land to the east of the appeal site has been sold off and the group of farm buildings which occupied this land has been demolished.
19. There is no dispute between the main parties that the appeal site does not currently have a direct connection with an existing farming enterprise. But this does not in itself provide sufficient grounds to remove the agricultural occupancy condition.
20. The appeal site holding has been reduced to approximately 2.1 acres. The appellants state that, when taking out the dwelling and associated domestic garden and residential structures, only approximately 1.3 acres of potentially useable farmland remain, and that this is of a clay soil which restricts the potential livestock which could be accommodated.
21. The appellants' view is that the appeal site is no longer able to accommodate full-time agricultural employment as the remaining farmland is too small to generate an income which would be sufficient to support the mortgage and running costs associated with a dwelling of the size of the appeal property, which, as a result of being recently extended, is larger and much less affordable to local agricultural workers. However, this fails to consider the potential for renting additional farmland nearby to add to the existing agricultural holding.

22. The appellants state that they have been unable to find a local agricultural job which would be capable of supporting the mortgage and running costs associated with the existing dwelling. However, notwithstanding references to a national decline in UK agricultural and forestry jobs and the national average salary for an agricultural worker, this assertion has not been substantiated by details of the available local jobs and corresponding salaries at the time of their search.
23. Moreover, the appellants have also failed to take account of the potential for two salaries in the case of the reasonable assumption that more than one working age adult would be occupying the large family-sized dwelling. Also, notably, they fail to take into account the potential for the rental of the property to other rural workers and/or the possibility that it could be sold or rented to a retired rural worker or the dependents of such.
24. The information before me is that the appellants bought the appeal property in August 2021, at which time it had been unoccupied since its previous sale in 2019. They renovated it, including the construction of two single storey extensions in accordance with permissions which the previous owner had secured,³ and moved into the house in June 2022.
25. The appellants state that at the time of purchase of the property, they believed that one of them complied with the condition due to having an agricultural and land management qualification and having previously been employed by forestry-related product and countryside management companies and currently being employed in estate management for an educational establishment.
26. The NPA disagree as the aforesaid employment history does not relate to primary agricultural or forestry activities. I have no substantive reason to disagree with the NPA on this matter, but, for the avoidance of doubt, whether the premises are currently lawfully occupied is not for me to determine under this appeal which is made under section 78 of the Town and Country Planning Act 1990.
27. This would be for the appellants to demonstrate through other mechanisms, and the appeal has been determined based on what has been applied for, that is the removal of the rural worker condition.
28. Local Plan Policy DP32 is clear that in seeking to remove the condition, consideration needs to be given to the need for rural worker dwellings in the surrounding area in the interests of the rural economy. 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 or those practising commoning, in the local area, not just specifically in connection with the appeal site itself.
29. In accordance with Local Plan Policy DP32 the marketing undertaken by the appellants included contacting other local land and estate owners to establish whether they had any need for the property. This was found to generate no interest for reasons including the contracting out of most agricultural work and/or a diminishing workforce with no need for dwellings to support agricultural workers.
30. Also, as required by Policy DP32, the appellants placed advertisements in local newspapers and other specialist publications including Farmers Weekly, Farming

³ LPA Ref 20/00153 Certificate of Lawfulness granted 5 May 2020 and LPA Ref 20/00388 planning permission granted 5 August 2020

UK social media, Forestry Journal, Shooting Times and the Commoners Defence Association Newsletter.

31. The evidence from the appellants is that the property has been marketed for sale with a local estate agent, Woolley and Wallis, for a period of at least 16 months from 8 October 2024, and that this included advertising through a number of its regional offices. The rural worker occupancy condition was made clear in the property particulars.
32. It is not in dispute that the marketing period exceeds that stipulated in Local Plan Policy DP32, the property has been advertised both locally and in specialist areas, and the sales particulars include reference to the attached rural worker tie condition.
33. The NPA's main concern is that a resulting lack of interest during the marketing exercise was due to the advertised market guide price not adequately reflecting the rural worker occupancy condition.
34. Policy DP32 requires the property to be advertised at a '*substantially discounted price*' below open market value (OMV). The precise amount of discount is not specified in order to allow for variations in market conditions over time, location, and types of property. I concur with the NPA that the applied price discount should primarily be derived having regard to the attached condition and the aim of finding a future occupant who meets the requirements of the condition.
35. The appellants established an OMV for the property of IRO £1,620,000 in the Autumn of 2024 after having researched comparable properties and taken professional advice from their estate agent. Although this was not supported by substantive evidence such as an analysis of comparative sales prices of other similar open-market properties at that time, this figure was derived from a local estate agent and does not appear to be disputed by the NPA. Accordingly, based on the available evidence before me, I have no reason to dispute this figure.
36. From 8 October 2024 it was marketed at 20.1% below this price at £1,295,000 for an initial period of 3 months. The marketing discount was then subsequently increased several times to 26.2% for 6 months, 29.3% for 4 months, 32.1% for 2 months and then finally to 35.2%, with a guide price of £1,050,000, from 4 December 2025 until the time of writing.
37. During the first 13 months there were 3 reported viewings (January 2025, September 2025 and November 2025). The feedback from the first two being that more outbuildings were required for vehicles and the amount of land was inadequate for the price of the property. No feedback was provided from the third viewing.
38. No offers (either at the guide price or lower) were made during the marketing period. The appellants' view is that this demonstrates that there is no longer any need or demand for the property. The NPA disputes this considering the reason why no offers have been received is that the market guide price was too high.
39. The main objective of the marketing exercise is to ascertain whether there is a need within the local area for agricultural workers dwellings and as such, notwithstanding that local property prices are high, the marketing needs to be set at an appropriate level that is likely to generate interest from agricultural workers.

40. Notwithstanding that another inspector may have taken a different view on a different case, in the circumstances of the case before me, I do not consider it appropriate to rely upon prospective purchasers making a lower offer if they consider the sales price to be a barrier to purchase. In my view, this would not be sufficient reason to market the property at a price that is too high to serve the aforesaid purpose of the marketing exercise, since the guide price would reasonably reflect the sellers' expectations regarding the property's market value. It would assist buyers in establishing whether a property is likely to realistically lie within their budget and should usually be set in accordance with generating initial interest and viewings.
41. In support of the amount of below OMV discount applied in their marketing, the appellants have cited three allowed appeal decisions⁴ where marketing discounts of between 25% and 30% were considered to reflect a reasonable level of discount for rural worker tied properties.
42. I acknowledge that in the latter stages of the appellants' marketing, the above figures were exceeded. Moreover, I do not doubt that the figures may be considered acceptable in appropriate circumstances. However, the cited decisions relate to different planning authority areas where market conditions may be different. There is nothing in the decisions to suggest that the prevailing property values of open market housing in the areas concerned, the full details of the marketing exercises undertaken, the property history, size and condition of the dwellings in question and the relevant development plan policies for those areas are sufficiently comparable to the case before me to reach a similar decision.
43. Such information would reasonably affect the appropriate below market value discount applied, and in the absence of such, I cannot be satisfied that these cases are directly comparable to the appeal scheme. Moreover, I must determine this appeal on the merits of the appeal scheme before me and the relevant current development plan policies.
44. The evidence before me is that the appeal property had been unoccupied for several years prior to its purchase by the appellants and that it was uninhabitable at that time. The alterations and extensions carried out by the appellants improved and enlarged the ground floor living space, as well as providing better garaging facilities.
45. The improved and enlarged property remained a 4-bedroomed family-sized dwelling. However, these works resulted in an increase in floor area of over 30%. In my view these works comprised a substantial addition to the property which went significantly beyond what would be considered to be reasonably necessary to bring the building back into a habitable use.
46. Moreover, it is evident from the initial marketing letter from the appellants' agent⁵ that the initial marketing guide price of £1,295,000 was clearly informed by works that had been undertaken to the property by the appellants since their purchase of the house in 2021, including extensions, internal modernisation and the installation of energy efficient measures.

⁴ APP/P2365/W/19/3235297, APP/M9496/W/24/3355121 and APP/W3330/W/23/3326347

⁵ Woolley and Wallis dated 29 August 2024

47. The dwelling prior to these additions already exceeded the floor space permitted by current Local Plan Policy DP31 in respect of new or extended agricultural dwellings (149 sqm compared to 100 sqm). However, it nonetheless comprised a reasonably sized family dwelling suitable for accommodation by a rural worker with associated family. The existing dwelling with a floor area of 196 sqm significantly exceeds this.
48. With this in mind, and notwithstanding prevailing high property prices within this part of the NFNP, in order to ensure that the marketing is correctly targeted and financially realistic having regard to its aforesaid stated purpose, I find that there is justification for significantly increasing the level of discount below OMV, so that that the property price takes greater account of a value minus the recent single storey extensions.
49. The appellants have submitted marketing details for two other properties within the Sway area which have agricultural ties attached. However, based on the evidence before me, these properties are not directly comparable with the appeal site having regard to factors including the amount of land within the sites, their location and the building particulars. Moreover, evidence of marketing at a certain price does not in itself mean that the marketing price is appropriate, noting that the NPA recently refused planning permission⁶ for the removal of the agricultural occupancy condition in respect of one of the cited properties, considering the advertised price of the dwelling to be inappropriate.
50. The appellants cite 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 4-bedroomed dwelling with a large garden and would be ideally suited to a rural worker who has a family. In such circumstances the partner of the rural 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.
51. 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 appellants' marketing of the site.
52. In addition, Local Plan Policy DP32 requires there to be no evidence of a continuing need for housing for persons employed or last employed in the locality in agriculture or forestry or practising commoning. The appellants have not provided an analysis of the availability of other local rural workers dwellings. They state that there are many properties in Flexford Lane which were previously subject to agricultural ties but are no longer restricted. However, this has not been corroborated by substantive evidence, such as property addresses and relevant planning history.
53. Neither am I persuaded that a general reduction in agriculture forestry and fishing jobs in the UK since the grant of the original planning permission have reduced the

⁶ NPA Ref 25/01237VAR

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

54. The appellants have confirmed that they have contacted the Commoners Defence Association (CDA) who advertised the property for sale to its members through its newsletter and that this elicited no responses. However, I am not persuaded that a lack of response alone comprises sufficient cogent evidence to demonstrate that the appeal property would be considered to be unsuitable by the CDA to meet the requirements of a New Forest commoner in housing need, particularly having regard to the high marketing price and the fact that no response has been reported from the CDA confirming that the appeal site would not be suitable for commoning use.
55. Moreover, although the property is notably larger than the size stipulated in NPA guidance on its Commoners Dwelling Scheme (CDS), which refers to a maximum dwelling size of 120 sqm, this guidance is mainly aimed at proposed new build dwellings. The site lies close to the open forest, and it also has an overall land area comprising building and back-up grazing which is akin to the CDS 2-acre minimum land size stipulation. Also, there is agricultural land adjacent to the appeal site which, in the absence of evidence to the contrary, may reasonably be considered available for inclusion within potential commoner land.
56. 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 and furthering the statutory purposes of the NFNP.

Other Matters

57. I have taken account of the personal circumstances of the appellants including their initial understanding that there was no conflict with the rural worker condition, as well as the large investment they have made into the appeal property. However, it is not unreasonable to assume that compliance or not with the disputed condition could have been ascertained through due legal diligence at the time of the property purchase. Moreover, the decision to carry out the improvements to the dwelling was at the appellants choosing.
58. The appellants' intention to remain living in the local area to which they have become connected is understood. However, there is no compelling evidence before me that the appellants are tied to the appeal site, such that Mr Robinson would have to give up his current job with associated consequences for a change of school for his children. Also, there is no substantive evidence of a lack of alternative suitable houses for family occupation within in the local area, including those without attached agricultural land, noting that the appellants are not employed in agriculture in connection with the appeal site. As such, I find that these personal circumstances are not sufficient in themselves to override the relevant planning policy considerations in this case.
59. Nor does a low amount of third party interest in the proposal amount to a reason for me to take a different view, as I must determine the appeal on the merits of the case before me.

60. The appellants' willingness to provide additional tree and hedge planting on the site in the interests of furthering the statutory duty of conserving and enhancing the natural beauty, wildlife and cultural beauty of the New Forest is acknowledged but this would not outweigh or mitigate the aforesaid harm I have identified.

Conclusion

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

S Leonard

INSPECTOR