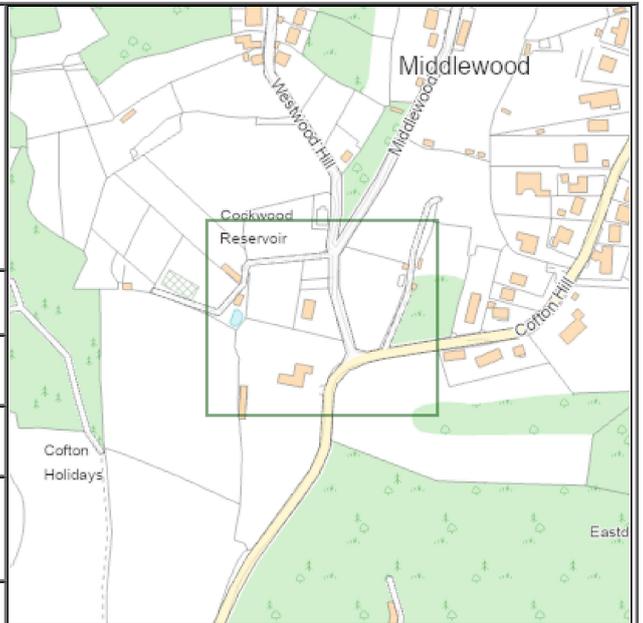


**Planning Committee Report**

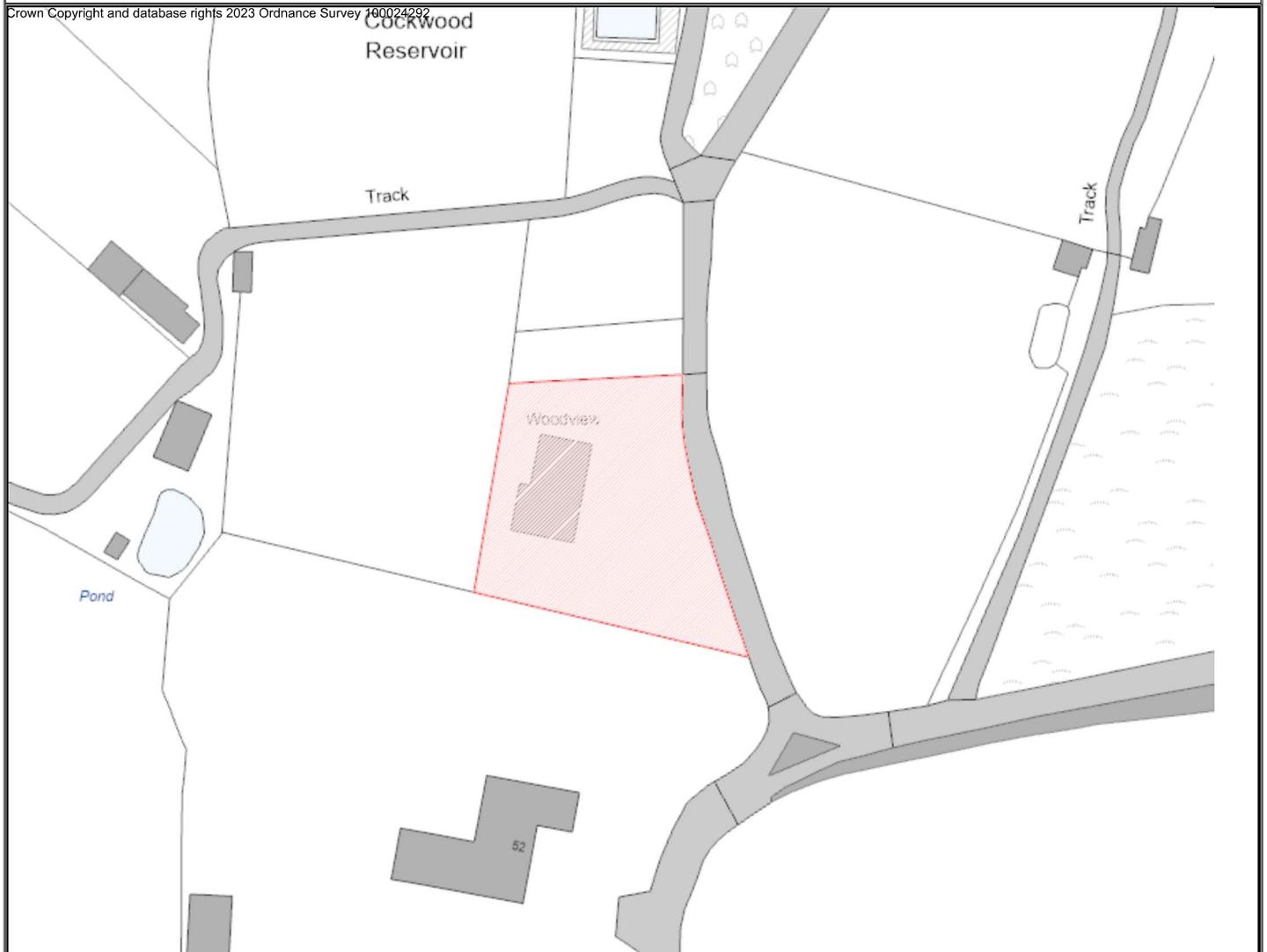
**Chairman: Cllr Colin Parker**

<b>Date</b>	19 September 2023
<b>Case Officer</b>	Niki Warner
<b>Location</b>	Woodview Cofton Hill Cockwood Devon EX6 8RB
<b>Proposal</b>	Removal of condition 2 on planning permission 5/4/1326/29/2 (agricultural dwelling) relating to agricultural tying condition
<b>Applicant</b>	Mr & Mrs Thorne
<b>Ward</b>	Dawlish North East
<b>Member(s)</b>	Cllr Linda Goodman-Bradbury, Cllr Rosie Dawson, Cllr Martin Wrigley
<b>Reference</b>	23/00483/VAR



[Online Details and Documents](#)

**RECOMMENDATION: VARY CONDITION APPROVAL**



## 1. REASON FOR REPORT

The application has been brought to Planning Committee for determination by Dawlish Town Council if Officer recommends approval for the following reasons:

- 1.1 It is an agricultural dwelling and has land attached and should be kept like that
- 1.2 Farmland should be available to local farmers and residents
- 1.3 The dwelling is outside the settlement limit

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

Retention and reinstatement of boundary treatments to clearly delineate the property from the surrounding agricultural land

## 3. DESCRIPTION

- 3.1 The application site is a bungalow, at the top of Cofton Hill, to the south west of the settlement of Cockwood, in open countryside.
- 3.2 The property was constructed in 1977 and is subject to an agricultural tie condition that was imposed on the original permission which stated:
  - i. *2. 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 County Planning Act 1971, and the dependents of such persons as aforesaid.*
  - ii. *REASON: 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*
- 3.3 Condition 1, related to construction material is now obsolete.
- 3.4 The site is adjoining fields that were in the ownership of the father of the applicant and which have been divided from the dwelling through Probate. The applicant is one of 4 beneficiaries of Probate and purchased the dwelling and has a share in some of the adjoining fields.
- 3.5 The business that was associated with the bungalow ceased operation some years ago and little of the structures associated with the business remains on site, having been left as grassland for occasional horse grazing for some time.

## 4. APPLICATION PROPOSAL

The applicant seeks to remove the agricultural tie condition from the original permission, allowing an open occupation or sale

- 4.1 Planning History

**77/00257/OUT** Agricultural dwelling and garage at part OS 129 **APPROVED**

**77/01326/REM** Agricultural dwelling **APPROVED**

**22/01406/VAR** Removal of condition 2 on planning permission 5/4/1326/29/2 (Agricultural dwelling) relating to agricultural tie **WITHDRAWN**

**5. KEY CONSIDERATIONS**

**5.1 Site History**

- 5.1.1 While this application only related to the bungalow and immediately associated residential gardens, context is provided to the wider site and the original need for an agricultural workers dwelling, and how the situation has evolved.
- 5.1.2 The site is located within open countryside and was approved in 1977 as an Agricultural Workers Dwelling. Then, as now, residential dwellings were only permitted under specific situations in open countryside, and an agricultural worker's dwelling is one such situation.
- 5.1.3 The property was part of a wider small holding and the justification for the dwelling was based on the needs of the horticultural activities of the applicant's grandfather, who at the time used the wider land for growing fruit and flowers.
- 5.1.4 The ownership passed to the son of the original owner and the father of the applicant, who resided at the property and continued the horticultural business for 20 years. Several buildings and polytunnels, glasshouses and packing sheds were erected over that time, the frame of one polytunnel remains on site, with sheds further back.
- 5.1.5 The applicant's father retired, and the land was returned to grass and used for the grazing for horses. The structures, polytunnels and equipment on site for the effective running of the business have either been removed or have degenerated to unusable conditions. The applicant's father died in 2020 and the estate went into Probate to be divided between his four daughters.
- 5.1.6 Under probate the site has been split into different units and the bungalow was offered for sale.
- 5.1.7 The property was marketed with a guide price of £525,000 via Kivells'. The price was reduced in September 2021 to £500,000 and then October 2021 to £485,000.
- 5.1.8 During this period two offers were made on the property, neither were compliant with the AOC condition.
- 5.1.9 The property was then purchased by the applicants in May 2022 for £400,000; Mrs Thorne, is one of the four daughters of the late owner, and was one of the beneficiaries of the late owner, who was the last person engaged in agricultural activity on the site.
- 5.1.10 Neither of the applicants fulfil the AOC requirements.
- 5.1.11 An application was submitted (22/01406/VAR) to remove the agricultural tie and the Planning Officer raised concerns about the guide price and the lack of a market reduction to reflect the AOC.

5.1.12 Objections have been made relating to the separation of these units of land, but it is assessed that this does not alter the process of evaluation for the agricultural occupancy condition.

5.1.13 The Planning Officer requested that the applicant remarket the property, following a valuation process by no less than 2 independent agents and remarketed on the open market, including Rightmove or Zoopla at 30% less than the assessed market Value for a period of no less than 4 months.

5.1.14 This was agreed to by all parties and the application was withdrawn.

5.1.15 The property was then valued by two agents and was assessed to have a market value of £575,000. A discount of 30% was applied in line with the requests of the Planning Officer.

5.1.16 The property was relaunched for sale in November 2022 for £400,00 and was marketed on:

- Acorus Website
- Zoopla platforms
- Farmers weekly

5.1.17 The marketing generated 4 expressions of interest and only 1 proceeded to request a viewing of the property. As this person was not compliant with the agricultural tie conditions, the viewing did not take place and they withdrew their interest in the property.

5.1.18 The property was marketed until 13th March 2022, completing the 4 months requested by the Planning Officer and no formal offers were received.

## 5.2 Principle of Development

5.2.1 Development in open Countryside is strictly limited and the LPA strongly advocates for the protection of dwellings for agricultural workers, to be offered at a reduction of open market value, to facilitate the vitality of agricultural and forestry enterprises that are essential elements of the function of the rural economy in Teignbridge. However, there is a process established through our adopted Policy to remove conditions imposed on rural workers dwellings via Policy WE10.

5.2.2 WE10 (Removal of Conditions Imposed on Rural Workers Dwellings) of the Teignbridge Local Plan 2013-2033 states:

*The removal or variation of an occupancy condition on dwellings for agricultural, forestry or other rural businesses will only be permitted where:*

*a) it was inappropriately imposed;*

*b) there have been significant relevant changes in circumstances since the condition was imposed; or*

*c) the business does not need the dwelling for its current or future labour needs and it has been offered on the open market for a reasonable period of time at a price reflecting the restrictive condition*

- 5.2.3 WE10a does not apply to this application
- 5.2.4 WE10b does not apply to this application, the probate division of the land does not constitute a significant change in circumstances
- 5.2.5 WE10c is assessed below.
- 5.2.6 It is accepted that the business on the wider site has ceased to operate and the commercial viability of establishing a new horticulture business on the land would be limited, if the holding were looked at as a whole. This is still considered to be the case – it is unlikely that use of the land for horticulture would now demonstrate a need for a full time worker living on site - and the subdivision of the estate during the probate process is not assessed to alter the material planning considerations in this assessment.
- 5.2.7 During the previous application, 22/01406/VAR, it was considered that the bungalow had been offered for sale at an above market value and with no consideration of the market price reduction that officers would need to see to be able assess that WE10c is fulfilled.
- 5.2.8 As it had not been demonstrated that the property had been offered on the open market for a reasonable period of time and at a price reflecting the restrictive condition, the Officer liaised with the applicant and agent to agree a reasonable period of time to remarket the property and it is assessed that that has been fully complied with, the application was withdrawn, the property was remarketed in line with the recommendations of the LPA; no offers were made. The current application was submitted, following the correct demonstration of the fulfilment of the marketing requirements, having sufficiently demonstrated that no persons engaged in agricultural or forestry labour has need for that specific property.
- 5.2.9 It is assessed that the provisions of WE10c are therefore met and that the principle to remove the condition is satisfied

### 5.3 Land separation and boundary treatments

- 5.3.1 We have received representations concerning the separation of the surrounding land and it must be noted that this application is not able to deal with that that. It is also noted that the need for dwellings for agricultural workers is not uniquely for properties that come with attached land, more to give homes, at below market value to workers employed in agriculture in the area. In this instance the property was marketed at 70% of assessed market value and would represent an achievable and desirable home for a locally employed agricultural or forestry worker, but no such worker cited an interest in the property. As the property was marketed on the open market for 11 months in total without a single applicant who might comply with the agricultural tie, it is considered the correct process has been followed.
- 5.3.2 The associated land, which remains in the ownership of the applicant and her wider family, are not granted any degree of residential use and are not considered within this application. It is not assessed that the separation of the land previously associated with the bungalow would necessarily make this site more appealing to local agricultural workers, as there is no ongoing viable agricultural activity on the land that would represent an ongoing business.

5.3.3 The associated land, which is currently used for occasional horse grazing, remains in agricultural use and in open countryside and with no policy justification suggested to indicate that it might be possible to use it for any other purpose than agricultural use.

5.3.4 It is noted that the bungalow is surrounded by mature hedges and if the condition is removed, these would need to be conditioned to remain, but the land associated with the bungalow actually extends to the north to take in a septic tank and there was a boundary hedge here. It is considered to be important that that boundary treatment is reinstated to clearly delineate the domestic confines / curtilage of the bungalow from the associated agricultural land.

#### 5.4 Conclusion

Given the evidence submitted, it is assessed that the measures undertaken by the applicant to market the property accord with the requirements of WE10c of the Teignbridge Local Plan 2013-2033 and demonstrate that there is no market need for the agricultural worker dwelling in this location.

It is concluded that there is no planning reason to deny the removal of the agricultural tie.

#### **POLICY DOCUMENTS**

- Teignbridge Local Plan 2013-2033:
- S21A Settlement Limits
- S22 Countryside
- WE10 Removal of Conditions Imposed on Rural Workers Dwellings
- National Planning Policy Framework
- National Planning Practice Guidance

## 6. REPRESENTATIONS

- 3 objections were made from members of the public who made the following points:
- The property has been purchased and is now lived in by the purchasers who don't have any links to agriculture and don't meet the qualifying criteria to purchase the property.
- As the property still has associated land and enough to run it as a smallholding, the agricultural tie should stay.
- This is the second time the application has been made and the same objections apply.
- There is insufficient low cost housing for agricultural workers in the area
- The property was not offered at a reasonable price (it has been overvalued)
- The property has had land removed to make it less attractive
- The objective appears to be to remove the agricultural tie to develop the property as an investment

- The marketing could have been more mainstream

## 6.1 Officer comment:

- 6.1.1 The above comments have been noted and are responded to here.
- 6.1.2 It is clear that the applicant purchased the property despite non-compliance with the AOC condition, following a period of marketing. As they do not comply with the AOC, they are seeking the removal of the condition.
- 6.1.3 The land associated is not in the sole ownership of the applicant and is of a small scale – unlikely to be sufficient to support a rural worker or deliver compliance with the condition.
- 6.1.4 This is the second application and the applicant has remarketed in accordance with Policy WE10c and has satisfied officers that all reasonable attempts to market it appropriately and at a price appropriate to the AOC have been satisfied.
- 6.1.5 The land has been divided between four siblings. The opportunities to develop the property are not within the remit of consideration, we are only able to assess against policy and policy is satisfied in this instance.
- 6.1.6 The marketing was offered on Zoopla, prime location and on specialist sites.

## 7. **DAWLISH TOWN COUNCIL'S COMMENTS**

- 7.1 Resolved that this Council Recommends Refusal on the grounds that it is an agricultural dwelling and has land attached and therefore should be kept like that to look after the farmers and agriculture in Devon, keeping farmland available for the farmers and local residents.
- 7.2 The Committee further Resolved that if the Planning Officer is minded to approve the application, the Town Council Planning Committee requests that the application is called-in to the Teignbridge Planning Committee for determination, especially as the dwelling is outside of the settlement limit.

## 8. **COMMUNITY INFRASTRUCTURE LEVY**

This development is not liable for CIL because it is a variation of condition with no increase in floor space on an existing permission granted before the implementation of CIL

## 9. **ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

## 11 **HUMAN RIGHTS ACT**

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been

balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

## **Business Manager – Strategic Place**