

Recent decision from East Devon

		Committee Date: 14 th June 2021	
Dunkeswell Otterhead (Sheldon)	And	21/0077/VAR	Target Date: 09.03.2021
Applicant:	Doug and Sharon Trickett		
Location:	Valley Farm Sheldon		
Proposal:	Removal of condition 2 (agricultural occupancy tie) of planning consent 06/2312/FUL (Agricultural Workers Dwelling)		

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This matter is brought before the Committee in view of a difference of opinion between officers and the commenting ward member.

The application seeks the removal of an agricultural occupancy condition (an agricultural tie) attached to planning permission ref. 06/2312/FUL, granted in 2007, relating to the construction of a dwelling at Valley Farm, Sheldon.

It follows the recent grant of a certificate of lawfulness (ref. 20/1191/CPE) relating to occupation of the property in breach of the agricultural occupancy restriction for a period in excess of 10 years and is submitted to formally seek its removal from the relevant planning permission in the light of the issuing of the certificate.

Whilst it is clear that the dwelling has not been, or intended to be, offered for sale or rent to another rural worker in line with the provisions of Policy H5 of the Local Plan, given that it is now established that it has been occupied in an unrestricted manner for in excess of ten years, and the certificate of lawfulness has been issued to this effect, there is no justification for insisting that the building remained tied to occupation by people in agriculture.

It is simply the case that the property can now be lawfully occupied with no restriction. In practical terms therefore, there is no longer any such restriction that is capable of being enforced or used to justify application of the Policy H5 tests for its removal.

Moreover, as a result of the grant of the certificate of lawfulness, the unrestricted residential use of Valley Farm in breach of the agricultural occupancy condition is immune from any enforcement action. It is therefore the case that condition 2