

REPORT TO PORTFOLIO HOLDER: PLANNING AND TRANSPORTATION

AGRICULTURAL WORKERS' DWELLINGS – ADVISORY NOTE ON THE IMPLEMENTATION OF LOCAL PLAN POLICIES CS21 AND DM21

1. INTRODUCTION

- 1.1 The Council publishes a range of documents to assist in the interpretation and application of the Council's planning policies. The need for additional guidance has been identified with regard to how the adopted Local Plan policies (CS21 and DM21), which in some circumstances allow agricultural/forestry workers' dwellings in the countryside to be developed, are to be applied. These proposals can be sensitive applications requiring careful judgement as they seek consent for additional homes in highly desirable locations in the area, where planning policies would not normally permit development to take place.
- 1.2 Detailed guidance on how such policies should be implemented (and the need for a dwelling tested) was historically provided by detailed national government advice available in Annex A of the former Planning Policy Statement 7 (now superseded by the National Planning Policy Framework). This defined the functional and financial viability tests that would be applied to temporary and permanent agricultural dwellings.
- 1.3 While the previous government advice provided sufficient assistance relating to the criteria to be applied to the consideration of applications for temporary and permanent agricultural workers' dwellings, that guidance is no longer available to use leaving a gap in this Council's policies, particularly with regards to the tests to be applied to newly created agricultural units.
- 1.4 Members are now considering revisions to the Council's Local Plan and recent discussions have highlighted this gap in policy guidance. Members have indicated, informally, that they would like early action to be taken to introduce guidance on the functional and financial viability tests. This can be achieved through agreeing and publishing the proposed Advisory Note on the Implementation of Local Plan Policies CS21 and DM21, which is set out in Appendix 1 of this report.

2. CRIME AND DISORDER, EQUALITY AND FINANCIAL IMPLICATIONS

- 2.1 None arising directly from this report.

3. ENVIRONMENTAL IMPLICATIONS

- 3.1 The control of development in the countryside is essential to protect the character of the area.

4. RECOMMENDED

- 4.1 That the Portfolio Holder for Planning and Transportation adopts the Advisory Note on the Implementation of Local Plan Policies CS21 and DM21, attached as Appendix 1 to

this report, as a material consideration in the assessment by the Local Planning Authority of applications for temporary and permanent agricultural dwellings.

Portfolio Holder's endorsement: I agree the recommendation

SIGNED: CLLR E J HERON

Date: 2nd March 2016

Date Notice of Decision given: 2 March 2016

Last Day for call-in: 9 March 2016

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Background Papers:

Published documents.
PPS7(National Archive)

Advisory Note on the Implementation of Local Plan Policies CS21 and DM21

The assessment of proposals for temporary and permanent dwellings for agricultural and forestry workers.

INTRODUCTION

i) Policy CS21 of the Council's Local Plan Part 1 (The Core Strategy adopted in 2009) sets out a strategy for the rural economy. The strategy makes provision for development which is essential to support a rural workforce, including agricultural workers' dwellings. Policy DM21 of the Council's Local Plan Part 2 (Sites and Development Management 2014) sets out the circumstances in which new permanent dwellings will be allowed in order to support existing agricultural/forestry activities on well-established agricultural or forestry enterprises. The policy states:

Policy DM21: Agricultural or forestry workers dwellings

New permanent dwellings will be allowed to support existing agricultural/forestry activities on well-established agricultural or forestry enterprises, where:

- (i) there is a clearly established existing functional need;**
- (ii) the need relates to a full-time worker, or one who is primarily employed in the agriculture/forestry enterprise and does not relate to a part-time requirement;**
- (iii) the unit and the agricultural/forestry activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;**
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.**

Where the need is established, the dwelling should be sited so as to meet the identified functional need and be well-related to existing farm buildings or other dwellings. All dwellings permitted under this policy will be subject to an appropriate restrictive occupancy condition.

An occupancy condition restricting the occupancy of a dwelling to a person employed or last employed in agriculture or forestry will not be removed unless the local planning authority 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.

The policy is consistent with the advice at paragraph 55 of the National Planning Policy Framework (NPPF 2012) which states that local planning authorities should avoid new isolated houses in the countryside unless there are special circumstances such as the essential need for rural workers to live permanently at or near their place of work in the countryside.

ii) Neither the Council's local policies, nor national planning policies give further advice on the type of assessment that will be carried out for proposals for *temporary* agricultural workers'

dwellings which allow newly formed rural enterprises to become established. In particular, there is no advice as to how a local planning authority should assess the *need* for a dwelling in the first few years of the business.

iii) Like many other local planning authorities, this Authority has previously relied on the advice provided at Annex A in Planning Policy Statement 7 as to how applications for both temporary and permanent agricultural dwellings should be assessed. That advice was withdrawn with the coming into force of the NPPF.

iv) The Local Planning Authority considers that in many agricultural workers' dwelling cases, whether for permanent or temporary consent, the advice contained in the previous guidance particularly in relation to the functional and financial tests to be applied is a sensible way of assessing the issue of "essential need" as required by the NPPF and local plan policies. The Local Planning Authority will have regard to the guidance previously contained at Annex A in PPS 7 and as now reproduced below, as a material consideration in reaching decisions on planning applications for temporary and permanent agricultural and forestry workers dwellings.

v) For the avoidance of doubt, the application of the advice set out below does not preclude demonstration of an essential agricultural need by evidence that does not seek to or cannot show that all the Annex A tests of the former PPG7 have been met. The 'tests' as set out in the advice will inform the Local Planning Authority's judgement and will be given appropriate weight having regard to all the circumstances of each individual case.

AGRICULTURAL, FORESTRY AND OTHER OCCUPATIONAL DWELLINGS

1. Paragraph 55 of the NPPF¹ makes clear that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. It will often be as convenient and more sustainable for such workers to live in nearby towns or villages, or suitable existing dwellings, so avoiding new and potentially intrusive development in the countryside. However, there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is essential in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.

2. It is essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse (e.g. through speculative proposals) the concession that the planning system makes for such dwellings. In particular, it will be important to establish whether the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period of time. It will also be important to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.

Permanent agricultural dwellings

3. New permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- (i) there is a clearly established existing functional need (see paragraph 4 below);
- (ii) the need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so (see paragraph 8 below);
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

¹ 55.Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside;..

4. A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

(i) in case animals or agricultural processes require essential care at short notice;

(ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems.

5. In cases where the local planning authority is particularly concerned about possible abuse, it should investigate the history of the holding to establish the recent pattern of use of land and buildings and whether, for example, any dwellings, or buildings suitable for conversion to dwellings, have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need.

6. The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one. Requirements arising from food processing, as opposed to agriculture, cannot be used to justify an agricultural dwelling. Nor can agricultural needs justify the provision of isolated new dwellings as retirement homes for farmers.

7. If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant.

8. New permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. A financial test is necessary for this purpose, and to provide evidence of the size of dwelling which the unit can sustain. In applying this test (see paragraph 3(iii) above), authorities should take a realistic approach to the level of profitability, taking account of the nature of the enterprise concerned. Some enterprises which aim to operate broadly on a subsistence basis, but which nonetheless provide wider benefits (e.g. in managing attractive landscapes or wildlife habitats), can be sustained on relatively low financial returns.

9. Agricultural dwellings should be of a size commensurate with the established functional requirement. Dwellings that are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long-term, should not be permitted. It is the requirements of the enterprise, rather than those of the owner or occupier, that are relevant in determining the size of dwelling that is appropriate to a particular holding.

10. Local planning authorities may wish to consider making planning permissions subject to conditions removing some of the permitted development rights under part 1, schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for development within the curtilage of a dwelling house. For example, proposed extensions could result in a dwelling whose size exceeded what could be justified by the functional requirement, and affect the continued viability of maintaining the property for its intended use, given the income that the agricultural unit can sustain. However, it will always be preferable for such conditions to restrict the use of specific permitted development rights rather than to be drafted in terms which withdraw all those in a Class

11. Agricultural dwellings should be sited so as to meet the identified functional need and to be well-related to existing farm buildings, or other dwellings.

Temporary agricultural dwellings

12. If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

(i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);

(ii) functional need (see paragraph 4 of this Annex);

(iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;

(iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and

(v) other normal planning requirements, e.g. on siting and access, are satisfied.

13. If permission for temporary accommodation is granted, permission for a permanent dwelling should not subsequently be given unless the criteria in paragraph 3 above are met. The planning authority should make clear the period for which the temporary permission is granted, the fact that the temporary dwelling will have to be removed, and the requirements that will have to be met if a permanent permission is to be granted. Authorities should not normally grant successive extensions to a temporary permission over a period of more than three years, nor should they normally give temporary permissions in locations where they would not permit a permanent dwelling.

Forestry dwellings

14. Local planning authorities should apply the same criteria to applications for forestry dwellings as to those for agricultural dwellings. The other principles in the advice on agricultural dwellings are equally relevant to forestry dwellings. Under conventional methods of forestry management, which can involve the use of a peripatetic workforce, new forestry dwellings may not always be justified, except perhaps to service intensive nursery production of trees.

Other occupational dwellings

15. There may also be instances where special justification exists for new isolated dwellings associated with other rural-based enterprises. In these cases, the enterprise itself, including any development necessary for the operation of the enterprise, must be acceptable in planning terms

and permitted in that rural location, regardless of the consideration of any proposed associated dwelling. Local planning authorities should apply the same stringent levels of assessment to applications for such new occupational dwellings as they apply to applications for agricultural and forestry workers' dwellings. They should therefore apply the same criteria and principles in paragraphs 3-13 of this Annex, in a manner and to the extent that they are relevant to the nature of the enterprise concerned.

Occupancy conditions

16. Where the need to provide accommodation to enable farm, forestry or other workers to live at or near their place of work has been accepted as providing the special justification required for new, isolated residential development in the countryside, it will be necessary to ensure that the dwellings are kept available for meeting this need for as long as it exists. For this purpose planning permission should be made subject to appropriate occupancy conditions. DCLG Circular 11/95 provides model occupancy conditions for agricultural dwellings and for other staff accommodation.

17. Changes in the scale and character of farming and forestry may affect the longer-term requirement for dwellings for which permission has been granted subject to an agricultural or forestry occupancy condition. Such dwellings, and others in the countryside with an occupancy condition attached, should not be kept vacant, nor should their present occupants be unnecessarily obliged to remain in occupation simply by virtue of planning conditions restricting occupancy which have outlived their usefulness. Local planning authorities should set out in LDDs their policy approach to the retention or removal of agricultural and, where relevant, forestry and other forms occupancy conditions. These policies should be based on an up to date assessment of the demand for farm (or other occupational) dwellings in the area, bearing in mind that it is the need for a dwelling for someone solely, mainly or last working in agriculture or forestry in an area as a whole, and not just on the particular holding, that is relevant in the case of farm or forestry workers' dwellings.

Information and appraisals

18. Planning authorities should be able to determine most applications for occupational dwellings in the countryside, including cases involving the imposition or removal of occupancy conditions, on the basis of their experience and the information provided by the applicant and any other interested parties. If this is not the case, agricultural or other consultants may be able to give a technical appraisal. This should be confined to a factual statement of the agricultural, or other business considerations involved and an evaluation of the specific points on which advice is sought; no recommendation for or against the application should be made.