

Agricultural Dwellings & Occupancy Conditions



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Planning and
Environment Services

Bromsgrove District Council
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Planning Policy Guidance Notes

This Supplementary Planning Guidance Note is one of a series, published to help those preparing planning applications produce good designs. The Guides do not aim to remove the need for skilled professional advice but to supplement the services of the professional.

This series of Supplementary Planning Guidance Notes are to be treated as described in central government advice note PPG12 entitled "Development Plans and Regional Planning Guidance" published by the Department of the Environment in 1992. The contents of this series have been cross-referenced to the Bromsgrove District Local Plan policies where appropriate, have been prepared in consultation with the public and have been formally adopted by the Council.



Topics covered in this series are:

- 1 **Residential Design Guide**
- 2 **Shopfronts and Advertisements**
- 3 **Car Parking Standards**
- 4 **Conversion of Rural Buildings**
- 5 **Agricultural Buildings Design Guide**
- 6 **Agricultural Dwellings and Occupancy Conditions**

PLEASE NOTE

This document was originally published in March 1995. Guidelines may well have been updated or changed since this date and therefore we take no responsibility for any inaccuracies contained herein.

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SECTION 1

Agricultural Dwellings & Occupancy Conditions

Introduction

1.0 The majority of Bromsgrove District lies within the Green Belt where development will not normally be allowed and where permission will only be given for a new agricultural dwelling if a genuine agricultural need can be demonstrated.

These guidelines explain the reasons why an exception to general Green Belt policy may be justified in the case of an agricultural or forestry dwelling, the policy context within which proposals are considered and certain viability tests that the District Council will apply when considering these types of planning applications.

1.1 Changes in agricultural policy and practices over recent years have led to farm sizes becoming more polarised. At one end of the spectrum larger units have been created through amalgamation and are often managed by agricultural contractors. At the other end of the spectrum many small units have been created by those trying their hand at agriculture for the first time and by those made redundant by the decline of medium-sized family farms.

Normally, these smaller units are based on modern intensive farming practices or on more specialised forms of farming such as the growing of organic foods. These trends have led to the improved viability of some organic based smallholdings which in the past could not justify a dwelling. Equally, there are small intensive farms based entirely on one product, such as calf rearing, where there is no dependence on the land for the enterprise as foodstuffs are all imported and the need for a dwelling is difficult to justify.

1.2 Often it will be as convenient for farm and forestry workers to live in nearby towns or villages as it will be for them to live where they work. This would help in minimising intrusive development in the countryside. Even so, there will be some instances where the demands of the farming or forestry activity make it essential for one or more people to live at or very close to the site of their work. This may happen where reorganisation of the farm unit leaves dwellings in the wrong place for efficient supervision of the holding. In cases where smaller units are created, holdings may have no associated housing yet stock supervision or security needs must be catered for. Whether these needs are essential in any particular case will depend on the needs of the individual farm or forestry enterprise and not on the personal preferences or circumstances of any of the individuals involved.

The Need for an Agricultural Dwelling

2.0 Planning Policy Guidance Note 7, 'The Countryside and the Rural Economy' published in January 1992, (Annex E), states that the need for an agricultural dwelling must be based on the needs of the farm or forestry enterprise concerned.

In general, personal issues such as health, legal or financial matters will not be decisive matters in the consideration of such applications. It is important to establish that stated intentions to engage in farming or forestry are genuine; are reasonably likely to materialise and are capable of being sustained for a reasonable period of time. It is also necessary to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby. Proven viability is a necessary but not by itself sufficient criteria for overriding normal planning policies for controls over intrusive development in the Green Belt.

2.1 Four main factors will be considered in assessing whether there is a need for an agricultural dwelling at a particular farm:

- a) the viability of the farming enterprise;
- b) the labour requirements of the enterprise;
- c) how many workers actually need to live on the farm;
- d) an examination of the existing accommodation on the farm and the reasons why it does not meet the needs shown in c).

2.2 The District Council will apply various viability 'tests' in order to ascertain whether the need for an agricultural worker to live on the site is sufficiently strong to override general planning objections. The tests will involve an initial assessment by the District Council as to viability of the enterprise based on information provided by the applicant and any other interested parties and further advice will be sought from the Ministry of Agriculture.

In cases where a dwelling house formerly attached to an agricultural holding has been sold off, that fact will be taken into account when assessing need.

2.3 Non-agricultural uses such as ornamental fish rearing and horse keeping do not justify agricultural dwellings in the countryside. Planning applications will be considered in the context of relevant Structure Plan and Local Plan policies which make provisions for dwellings at established businesses which have an affinity with the countryside and provided a proven on-site residence need is shown.

Viability Tests

Financial Test

Functional Test

3.0 The District Council will apply a 'financial test' to provide evidence of genuine intention to engage either in farming or forestry or to assess the size of dwelling which the unit can sustain. This test can be used to consider the land use implications for the location where the development is proposed and the size of dwelling required. Applicants who can demonstrate that an existing farm or forestry business is financially sound or that a proposed business has been planned on a sound financial basis are more likely to be considered favourably.

3.1 Financial evidence will normally be taken into account where it is intended to set up a completely new farm business. Such evidence may include a business plan that should show a reasonable standard of living for the occupier of the proposed dwelling is possible without compromising the agricultural unit's ability to meet all normal outgoings including the interest on capital invested and the setting aside of an amount for necessary reinvestment. Financial evidence is also relevant where an application relates to an existing farm business and is associated with a major change in the nature or scale of the business. Significant investment in new farm buildings may be a good indication of intentions in this respect.

3.2 Where applications relate to units where only part of the land forming an agricultural unit is owned by the farmer, the District Council will require evidence of land being held on a secure basis or the ready availability of suitable land. For example, where grazing arrangements can be bought and sold easily, this should not be a drawback to the financial viability test.

3.3 The District Council will examine whether a worker, for which an agricultural dwelling is required, needs to live on the holding for the efficient operation of the farm or whether housing in a nearby settlement may be equally suitable. The District Council will normally expect a current technical appraisal from the Ministry of Agriculture through its A.D.A.S. arm to accompany the planning application. The cost of this appraisal will be the responsibility of the applicant. In essence, for a dwelling on a holding, there must be a proven need 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:

- in case animals or agricultural processes require essential care or maintenance at short notice;
- 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.

3.4 The protection of livestock from theft or injury may contribute to the need for an agricultural dwelling, although it will not by itself be sufficient to justify one.

Caravans and Mobile Homes

3.5 When the functional test has been proved, the number of workers needed for operating purposes will be based on the scale and nature of the enterprise and the extent to which existing accommodation in the area is both suitable and available. In order to justify a new agricultural dwelling an applicant must be able to demonstrate that all other potentially available dwellings on the holding are totally committed or unsuitable.

3.6 New dwellings should be of a size commensurate with the established functional requirement. In the case of farm cottages with poor access, which are unextendable, such dwellings may be deemed unsuitable for a farm manager. Here replacement of the original building may be considered. Dwellings which 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, will not normally be permitted.

3.7 Rural protection policies generally seek to minimise the impact of all development in the countryside. Whilst the precise siting of a dwelling may be justified on supervisory or security grounds it may prove unsuitable for amenity reasons. Preference, as stated in Local Plan policies, will be given to locations in settlements or within an existing farm complex for amenity reasons. In addition, a sympathetic design will be required especially where a proposal would affect a traditional or listed building or where an area is designated as of special landscape quality. The District Council is able where necessary, to control the siting of agricultural buildings erected under permitted development rights as described in Annexes B and C of PPG7. In considering the siting of such buildings, the possible need for an agricultural dwelling in connection with them may be a material consideration. Further advice is contained in the Council's Policy Guidance Note 5 "Agricultural Buildings Design Guide".

4.0 For new agricultural holdings where no existing dwelling exists, temporary accommodation in the form of a caravan or mobile home on the site may be given planning permission to allow time for the sustainability of the proposed enterprise to be proved. This will be an interim measure and the District Council will specify in such cases the requirements that will have to be met to justify a permanent dwelling once a temporary permission expires. Normally these requirements will relate to the agricultural case in support of a dwelling on a more permanent basis and also the level of fixed investment which has been made in the holding. Limited permissions of up to three years will be considered and in all cases the District Council will ensure that the enterprise is one with a reasonable chance of success with ongoing investment and commitment on the part of the applicant. Permissions for temporary caravans will not be granted in locations where a permanent dwelling would not be permitted.

Planning Conditions

4.1 Very short-term use of a caravan for personal use by a person engaged in farming or forestry operations on land that is in the same use may be permitted development under the General Development Order 1988 but the terms of permitted use require the removal of a caravan at all other times.

Caravans to be used as a dwelling require a site licence under the Caravan Sites and Control of Development Act 1960 and such a licence is not obtainable without planning permission.

5.0 The District Council will attach an occupancy condition to any permission for an agricultural dwelling as outlined in Circular 11/95 "The Use of Conditions in Planning Permissions" and Planning Policy Guidance Note 7 1992. This is as follows:

"The occupation of the dwelling shall be limited to a person solely or mainly working or retired through old age or ill health from forestry or agriculture (the latter as defined in Section 336 of the Town and Country Planning Act 1990) in the locality, or spouse or dependant of such a person residing with him or her, or widow or widower of such a person".

5.1 The addition of the phrase 'or spouse' reflects modern attitudes to equality and joint ownership of property since normally husband and wife are 'in occupation' of the house that they live in and either could fail to comply with a condition excluding the word "spouse" if he or she has not been employed in agriculture and is not dependant on the other. The occupancy condition ensures that the dwelling is kept available to meet the needs of farms or forestry businesses in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside.

5.2 The District Council will impose a condition requiring the period for a planning permission for an agricultural worker's dwelling to be implemented as one year. Such a condition will ensure that the agricultural enterprise begins in that time and minimises the effects of changes in market conditions resulting in failure to implement fully the agricultural enterprise expected prior to planning permission. Other conditions which the District Council may consider include the prior completion of agricultural buildings such as intensive breeding units used as justification for an agricultural dwelling and the removal of permitted development rights in sensitive locations. In the case of a planning permission for a temporary caravan/mobile home, a planning condition ensuring a personal consent will be appropriate since the permission is for a limited period of three years and relates to a specialised enterprise by a particular individual.

Legislative Procedures and Policies

Structure Plan

HWCC Structure Plan Policy H17 Restrictions in Green Belt

5.3 Occupancy conditions will seek to prevent the severance of a dwelling from the farm area whilst allowing for some flexibility in its occupancy as detailed in the occupancy condition referred to above. However, such conditions will not seek to control the structure of the farm enterprise or the size of the holding managed. In some cases the District Council may seek to extend agricultural occupancy conditions to other properties on an agricultural holding at the same time that permission is granted for a supplementary agricultural dwelling as stated in Local Plan Policy C23. Such restrictions will be implemented by the use of planning obligations. The Authority may consider it particularly necessary in terms of the needs of a particular farm and where there appears to be a significant threat of severance or farm asset stripping. Similarly, agricultural occupancy restrictions may be imposed where a new dwelling is proposed to replace one not encumbered with such a restriction. Occupancy conditions will not be imposed if rural settlement policy requirements are met such as infill development in existing settlements.

6.0 Existing Government advice on agricultural workers' dwellings is specified in three Department of the Environment Circulars: The Annex to Circular 24/73 'Agricultural Dwellings'; Circular 11/95 'The Use of Conditions in Planning Permissions'; Circular 16/87 'Development involving agricultural land'. Policy guidance is contained in PPG7 'The Countryside and the Rural Economy' 1992.

DEVELOPMENT PLANS

6.1 The relevant Structure Plan policies are contained in the Hereford and Worcester County Structure Plan Written Statement (1986-2001) published in 1993 as follows:

RESIDENTIAL DEVELOPMENT WILL NOT NORMALLY BE PERMITTED IN THE GREEN BELT (THE EXTENT OF WHICH IS DEFINED IN POLICY GB1 AND AS INDICATED ON THE KEY DIAGRAM) UNLESS:-

- A) IT IS CLEARLY NECESSARY FOR THE PURPOSES OF AGRICULTURE OR FORESTRY; OR
- B) IT RESULTS FROM THE ENVIRONMENTALLY ACCEPTABLE CONVERSION OF A SUBSTANTIAL OR ATTRACTIVE REDUNDANT AGRICULTURAL BUILDING; OR

HWCC Structure Plan Policy A4 Agricultural Dwellings

Local Plan

- C) IT IS ADDITIONAL SMALL SCALE HOUSING PRESERVED FOR LOCAL NEEDS WITHIN THE PRESENT BOUNDARY OF EXISTING SETTLEMENTS IN THOSE MORE EXTENSIVE AREAS OF GREEN BELT AWAY FROM THE URBAN FRINGE, IN ACCORDANCE WITH POLICY H2D; OR
- D) IT IS LIMITED INFILL WITHIN THE PRESENT BOUNDARY OF THE SETTLEMENT.

IN ALL CASES DEVELOPMENT WILL ONLY BE PERMITTED IF IT IS COMPATIBLE WITH THE OBJECTIVES OF THE GREEN BELT AS SET OUT IN POLICY GB1, AND WITH THE REQUIREMENTS FOR DEVELOPMENT IN RURAL AREAS SET OUT IN POLICY H16A.

PLANNING APPLICATIONS FOR DWELLINGS FOR PERSONS EMPLOYED FULL-TIME IN AGRICULTURE WILL BE CONSIDERED IN RELATION TO THE CRITERIA ESTABLISHED IN THE SETTLEMENT POLICIES WHERE AGRICULTURAL NEED CAN BE SHOWN.

SUCH DWELLINGS SHOULD BE SITED WITHIN A SETTLEMENT, OR WITHIN THE FARM COMPLEX, WHEREVER POSSIBLE AND ARRANGEMENTS MADE TO ENSURE THAT THE DWELLING REMAINS FOR AGRICULTURAL USE.

Other relevant Structure Plan policies include Policy H16A which sets out the criteria which must be satisfied by all types of development in rural areas and policy H20 which relates to residential development in the open countryside outside the Green Belt.

6.2 The Bromsgrove District Local Plan contains policies emphasising that a proven need must be demonstrated in order for planning permission to be granted for an agricultural dwelling. In the first instance siting should be within a settlement or secondly within an existing farm complex making use of redundant buildings in preference to the construction of a new building. Only if these options are not feasible will consideration be given to a new building.

Local Plan policies also relate to legal agreements and conditions that will be applied to any planning permission.

Provisions are made for temporary accommodation where the need for an agricultural dwelling is proven, allowing for evidence of sustained viability before a permanent dwelling is considered.

BDLP Policy C21

Applicants proposing a new dwelling for the use of a person employed in agricultural activities (agricultural dwelling) will need to demonstrate to the District Council that a genuine need exists. Information in support of a proposal will be necessary. This will need to indicate the extent of assistance needed and the reasons why it is needed (whether for animal husbandry, safety, agricultural emergencies or other reasons). In some instances financial information may also be required.

BDLP Policy C22

The District Council will require that new agricultural dwellings are well related to the rural environment. The siting of such dwellings will normally be expected within a nearby settlement as opposed to the open countryside. Dwellings for essential agricultural workers must be in scale and character with the site and surroundings and must be of a size and cost appropriate to the extent and nature of the holding and the general needs of the local agricultural sector.

BDLP Policy C23

Where consent is given for the construction of an additional dwelling unit on an agricultural holding, the District Council may, in appropriate circumstances, require the applicant to enter an agreement under Section 106 of the Town and Country Planning Act 1990, to retain any existing dwellings on the holding for agricultural use.

BDLP Policy C24

The District Council will not remove an agricultural occupancy condition unless it is satisfied that the property is no longer required for the holding and for the wider agricultural needs of the area.

BDLP Policy C25

Where the need for an agricultural worker's dwelling is proven to the satisfaction of the local planning authority the temporary siting of a caravan or mobile home may be considered.

BDLP Policy C26

The siting of any proposed temporary accommodation must not lead to the creation of an obtrusive feature in the landscape.

SECTION 2

Removal of Agricultural Occupancy Conditions

Introduction

National Guidance and Policies

Examining Correct Imposition

1.0 The uncertain and volatile state of the agricultural industry with falling numbers of agricultural workers and the amalgamation of farms has led to an increasing number of planning applications relating to the lifting of agricultural occupancy conditions. The high demand for rural dwellings for commuters, second or holiday homes provides the financial incentive for seeking removal of occupancy conditions in addition to the fact that such properties may not be mortgageable.

2.0 It is considered that in areas where there is a demand for agricultural dwellings, any reduction in the supply of the accommodation available to the farming community generally will create pressure elsewhere for new dwellings in the countryside. In line with Circular 11/95 and PPG7 1992, the District Council will not normally grant the discharge of agricultural occupancy conditions.

However consideration will be given in any application for discharge, to the long term need for agricultural dwellings both at the particular farm in question and in the locality bearing in mind any changes in scale and character of agriculture in response to market trends.

It is not the intention of the District Council that such agricultural dwellings should be kept vacant because of restrictions in occupancy conditions which have outlived their usefulness.

2.1 The policies relevant to this matter are policy A4 of the Hereford and Worcester County Structure Plan, Written Statement, 1986-2001, and policy C24 of the Bromsgrove District Local Plan.

3.0 When considering the removal of an occupancy condition, the District Council will have regard as to whether such a condition was correctly imposed originally.

In certain cases an occupancy condition may have been properly imposed but subsequent policy change may have resulted in the site being now part of the built-up area of a village.

In such cases the dwelling is no more suited to serving the agricultural community than neighbouring properties and the condition could be removed.

Summary

3.1 A decision on any removal of conditions will be made on the current state of the land.

If a farm unit is not viable due to volatile markets and specialist advice confirms this then the removal of the occupancy condition will be considered.

However, the District Council will need to satisfy itself, in the case of land severance, whether there is still an agricultural need for a dwelling stemming from the original farm which justified the dwelling or any land left to it as a result of severance.

3.2 The District Council will always give consideration to the general need for agricultural dwellings in the District and all applicants will need to provide evidence of unsuccessful attempts to sell the property in question with the encumbrance and prove that marketing has been correctly targeted, financially realistic and sustained for at least twelve months.

It is recognised that large properties may be particularly difficult to sell with an agricultural occupancy condition.

3.3 Personal factors such as ignorance of occupancy conditions will not be accepted by the District Council as a justifiable reason for appropriate discharge and this is the responsibility of owners and their solicitors.

4.0 There will be a strong presumption against the removal of agricultural occupancy conditions.

It will be necessary to prove, by detailed and conclusive evidence that there is no existing or foreseeable future demand for a dwelling with the condition attached.

In addition, proof must be provided that the property has been adequately marketed with agricultural occupancy conditions for not less than 12 months and that the price asked for the property adequately reflects the encumbrance, before consideration will be given to the discharge of occupancy conditions.



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