



AGRICULTURAL WORKERS' DWELLINGS AND OCCUPANCY CONDITIONS

POLICY GUIDANCE NOTE

SEPTEMBER 2006

1.0 INTRODUCTION

- 1.1 This Guidance Note provides clarification on the District Council's policies regarding both the provision of new agricultural workers' dwellings and the removal of occupancy conditions from existing agriculturally-tied dwellings; i.e. those subject to agricultural occupancy conditions.
- 1.2 It is a long-held aim of both national Government policy and development plan policy at County and District level to resist new residential development in the open countryside, which is essentially protected for its own sake. One of the few exceptions to this rule is the provision of agricultural workers' dwellings, where it can be clearly demonstrated that such are essential to the needs of a viable agricultural enterprise. Whilst permanent employment rates in the agricultural sector have declined consistently for several decades, new dwellings are occasionally required following, for example, a reorganisation of land holdings, the establishment of a new agricultural enterprise or to enable the close supervision of livestock.
- 1.3 In addition, it is recognised at both a national and a local level, that there is an increasing demand for residential properties in rural areas. This often leads to increasing pressures for the relaxation of occupancy conditions.
- 1.4 The District Council is cognisant of the fact there is the potential for abuse of its regulatory development control powers regarding the provision of new agricultural dwellings in the open countryside. This is recognised at national level in PPS7 'Sustainable Development in Rural Areas'. It is equally becoming increasingly concerned regarding an identifiable and marked increase in the numbers of applications that are being received for the removal of occupancy conditions on existing dwellings.

- 1.5 This Guidance Note outlines the policies of the District Council towards the justification behind and the provision of new agricultural workers' dwellings. It explains clearly the circumstances needed to justify the building of a new agricultural dwelling. It also establishes the criteria that must be satisfied to remove occupancy conditions from an existing agriculturally-tied property. It needs to be read in conjunction with relevant Development Plan policies and in the light of national advice contained in Planning Policy Statement 7: Sustainable Development in Rural Areas.

2.0 ASSESSING THE NEED FOR AGRICULTURAL WORKERS' DWELLINGS

- 2.1 Structure Plan policies in the form of Policy H4 to the Lincolnshire Structure Plan (Adopted September 2006), seek to resist new residential development in the open countryside unless there is an essential need to house farm, forestry or certain other workers who are essential for the effective and safe operation of rural based enterprises near to their place of work.
- 2.2 Local Plan policies in the form of SG4 to the South Holland Local Plan 2006, seek to protect the countryside for its own sake unless such development is essential in the proposed location or accords with other policies of the Plan. Policy HS12 deals specifically with proposals for new agricultural workers dwellings and states:

Policy HS12 - Agricultural Workers Dwellings

Proposals for new permanent agricultural workers dwellings outside defined settlement limits will only be permitted where all of the following criteria are satisfied:-

- 1) it can be demonstrated that the accommodation needs cannot be met or located within defined settlement limits or through the re-use of a suitable traditional building or the extension of or adaptation of another dwelling on the unit. The history of the original holding will be investigated to establish whether any disposal of dwellings or buildings capable of conversion has taken place which would constitute evidence of a lack of functional need for a further dwelling;**
- 2) it can be demonstrated that the proposed accommodation is essential to the functioning of a financially sound enterprise which has been established for at least three years and that the dwelling is proposed to be located on and used in connection with that unit;**
- 3) the size and specification of the dwelling are commensurate with the functional requirements of the unit;**
- 4) the proposal would not cause harm to the character and appearance of the landscape and is sited close to existing buildings.**

2.3 This policy seeks to ensure that new permanent dwellings for agricultural or forestry use in the open countryside will only be permitted where there are well established grounds for such a dwelling. Applicants will be required to demonstrate that the proposals accord with the thrust of the Guidance contained within Annex A to PPS7 'Sustainable Development in Rural Areas' which requires that:

- (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 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;
- (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.

2.4 Annex A to PPS7 further clarifies that the protection of livestock from theft or injury may contribute on animal welfare grounds to the need for an agricultural dwelling, although it will not by itself be sufficient grounds to justify one. Requirements arising from the processing of food, as opposed to agriculture, cannot be used to justify an agricultural dwelling. Furthermore, whilst the personal circumstances of applicants will be viewed sympathetically, they will not normally be treated as a major consideration or a decisive factor in the determination of a planning application.

2.5 Finally, if the functional and financial tests are met, it needs to be stressed that agricultural dwellings are required to be of a size which is 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.

2.6 All proposals to construct agricultural workers' dwellings need to be accompanied by a statement by a suitably qualified independent expert demonstrating the functional need which necessitates the presence of an additional worker on site. Such a requirement may arise, for example, where workers are needed to be on hand day and night:

- in case animals or agricultural processes require essential care 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.

The District Council will give due regard to such a statement, and will independently take up additional advice of its own from a suitably qualified agricultural consultant prior to coming to a judgement based upon all the evidence available, including the past history of the site and experience gained from elsewhere in the District.

2.7 If a new dwelling is deemed to be essential to 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 or a wooden structure or other temporary structure which can be easily dismantled, or other temporary accommodation. The same functional and financial tests apply to these facilities and are dealt with separately in Policy HS13 which deals with Temporary Agricultural Workers Accommodation. This states as follows:

Policy HS13 - Temporary Agricultural Workers Accommodation
Proposals for temporary agricultural workers dwellings will only be permitted where:

- 1) **The proposal is to satisfy the needs of a new agricultural activity or expansion where clear evidence exists of a firm intention and ability to develop the business concerned, together with evidence of sound financial planning; and**
- 2) **There is a functional need for the accommodation proposed; and**
- 3) **The need could not be met by:**
 - (i) **An existing dwelling on the holding; or**
 - (ii) **The conversion of an existing suitable building on or adjoining the holding; or**
 - (iii) **Any available dwelling elsewhere in the vicinity; and**
- 4) **It is sited to minimise its impact on the landscape - preferably adjacent to existing buildings - and would not cause unacceptable harm to the character or appearance of the area.**

The temporary accommodation will need to be removed from the site when not in use unless it can be shown that there is no alternative reasonable and acceptable location for storage out of season.

Operators will be required to keep a register of all workers living in the accommodation.

- 2.8 When permission is granted for an agricultural dwelling in line with the provisions of either of those policies identified above, such permission will always be subject to an appropriately worded agricultural occupancy condition restricting occupation of the dwelling to an essential worker.

3.0 AGRICULTURAL OCCUPANCY CONDITIONS

- 3.1 Where the need for a dwelling permitted by either Policies HS12 or HS13 to the Local Plan has been clearly established, and planning permission is therefore granted, consent for such a dwelling would be made subject to a condition limiting the occupancy of the dwelling to a person solely or mainly employed, or last employed, in agriculture as defined in Section 336(i) of the Town and Country Planning Act 1990, or in forestry or a dependant of such a person residing with him/her or a widow/widower of such a person. This accords with the provisions of government advice in the form of PPS7 'Sustainable Development in Rural Areas'. The condition itself will not normally be tied to the specific use that merited the new dwelling, but will be a general condition, which may be used in future to ensure that the dwelling is used to meet a need in the wider area.
- 3.2 The mechanism of tying agricultural dwellings to agricultural workers through occupancy conditions is one which is an established tenet of the British land use planning system. In this regard, there are a good number of agriculturally-tied dwellings throughout rural areas and South Holland is not unusual in this context.
- 3.3 However, and as stated above at paragraph 1.03, pressure is often brought to bear on rural authorities to remove agricultural ties where these are deemed to be no longer required by the particular holding or where financial considerations are involved which fetter the ability of the owner of the dwelling to dispose of the property on the open market. In a national context, many local authorities operate policies which are aimed at resisting the removal of agricultural occupancy conditions in order to ensure that there remains an established stock of rural properties in appropriate locations for rural workers.

- 3.4 Policy HS15 to the Local Plan considers agricultural occupancy clauses and states:

Policy HS15 - Agricultural Occupancy Clauses

Where planning permission has been granted subject to an agricultural occupancy condition, restricting occupation to certain persons, removal of the condition will only be permitted if it can be demonstrated that there is no longer a need for the dwelling on the holding/business or in the locality.

- 3.5 In essence, prior to consenting to the removal of an agricultural occupancy condition the District Council will need to be sure that the agricultural occupancy condition is redundant and can no longer be justified. It will also be necessary to demonstrate to the satisfaction of the District Council that there is no possibility of the dwelling being required to house an agricultural/forestry worker in the future either on the site itself or within the wider area. The District Council will only consider the removal of an agricultural occupancy condition after a reasonable period of time has elapsed from the date of the imposition of the initial condition and when every attempt has been made to explore the need in the locality through the advertising of the dwelling in the local press at regular intervals over a minimum period of twelve months at a price which adequately reflects the existence of the agricultural occupancy condition. The property should be advertised for sale and/or rent.
- 3.6 Currently, departmental advice requires the marketing of the tied dwelling at a realistic price for a period of some 6 months. If no need is demonstrated, and the price is deemed to be realistic, then the condition may be removed. There is independent assessment of this process since the price at which the property is marketed is assessed by a local valuation agent with knowledge of the District. This process is somewhat

at odds with the advice given in PPS7 'Sustainable Communities in Rural Areas', which states that assessment of the demand for agricultural dwellings in the area should be based on up-to-date information of the wider area and assessment should not be based solely on particular holding the subject of the application.

- 3.7 Nationally, local authorities tend to require marketing at a price between 20% and 50% below open market value for a period of at least twelve (12) months. In addition, marketing must be targeted towards the likely client group. It should in this context include marketing which is aimed at the agricultural sector and particulars which describe the holding in detail as well as the wider area in general. This is particularly important when the property in question is devoid of an attendant or realistic holding.
- 3.8 An analysis of appeal decisions in this arena would suggest that marketing at around 30% below open market value is realistic whereas attempts to promote policies which seek greater reductions up to and including 50% are unrealistic and rarely achieve the support of the Inspectorate.
- 3.9 In the context of the above, and prior to considering a request to remove an agricultural occupancy condition, the District Council will require the following information to be supplied with the application itself:
 - a. Details of the disposal(s) of the agricultural land/unit(s), which has extinguished the original or subsequent need for the dwelling and/or a statement from an independent consultant, indicating that there are valid reasons why the original or subsequent agricultural need for the dwelling is now redundant.
 - b. Details of the scope of the advertisement for sale and the price requested. Advertisements for sale shall be made in an appropriate

publication, including in related agricultural publications (such as 'The Grower' or 'Farmers Weekly') and not just the local press, over a reasonable period of time (usually a minimum period of 12 months) and at a value which reflects the existence of the occupancy condition. This value would normally be expected to fall in the range of 25-40% below open market value and the property must be actively marketed.

- 3.10 When considering applications for the removal of agricultural occupancy conditions it is important that such applications are independently assessed. Currently, the District Council seeks the independent advice of a suitably qualified agricultural consultant on all applications for planning permission to construct a new dwelling in the open countryside. Applications which involve the potential removal of an agricultural occupancy condition must properly be the subject of the same procedure and this will enable independent assessment of the information submitted by the applicants' consultant.
- 3.11 Furthermore, the independent assessment of the marketing exercise by a valuer with local knowledge should also include parallel independent assessment by a valuer operating within the wider region. Information gained from the procedures outlined above will assist the District Council in its assessment of cases concerning the removal of agricultural occupancy conditions. The District Council will expect comprehensive and detailed information relating to the circumstances which have resulted in the application to remove the condition. Advertisements for sale or rent will need to highlight the existence of the occupancy condition, outline the extent of the holding (if any) and should be published in a selection of acknowledged agricultural journals and local papers. If these conditions are not met in full then it is unlikely that the District Council will have sufficient evidence on which to consider the removal of an occupancy

condition. This will result in refusal of the application on the basis of the submission of insufficient information to enable the District Council to properly determine the proposals, irrespective of the merits or otherwise of the case itself.