

South Norfolk Council (SNC)

Agricultural Occupancy Restrictions and Removal of Occupancy Conditions– UPDATE 2024

1. Agricultural Occupancy Conditions

- 1.1 South Norfolk Council (SNC) policy is to concentrate most new residential development within the development boundaries as shown in the Policies Maps of the Local Plan in accordance with **South Norfolk Development Management Plan (DM) Policy 1.3 The sustainable location of new development**. This policy helps to promote sustainable development and to ensure that the intrinsic character and beauty of the countryside is respected.
- 1.2 However, South Norfolk Council does recognise that certain activities require someone connected with it to live close to it, and that in some cases this activity takes place in the countryside. The Council therefore have included within the Local Plan, a policy giving criteria for assessing planning applications for residential development outside of the development boundaries.
- 1.3 New dwellings in the countryside can be permitted where they are necessary in connection with rural enterprises such as agriculture or forestry operations, if they meet the criteria listed in **DM Policy 2.11: Dwellings Connected with Rural Enterprises** as well as the requirements of the National Planning Policy Framework (NPPF) (2023).

DM POLICY 2.11 Agricultural and other occupational dwellings in the Countryside

(1) Proposals for development in the Countryside to meet the housing needs of full-time workers in agriculture, forestry and other essential workers connected with that land will be permitted only where they comply with the following criteria.

In the case of all enterprises:

- a) There is a demonstrated functional need for one or more fulltime workers to be readily available at all times for the enterprise; and
- b) The functional need could not be met by another existing dwelling in the area that is available and suitable;

In the case of established enterprises:

- c) The enterprise has been established for at least 3 years and is likely to remain financially viable for the foreseeable future; and
- d) The proposal does not represent a replacement of another dwelling on the site (or the former holding of which the site formed a part) that has been sold on the open market in the last five years; and

e) The proposed dwelling is no larger than that required to meet the functional needs of the enterprise and is affordable from a viable income derived from the enterprise in the long term.

In the case of new enterprises:

f) New permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable and is likely to remain viable for the foreseeable future. If there has been insufficient time to demonstrate financial soundness, permission may be granted for a temporary dwelling in the form of a residential caravan, mobile home or other prefabricated structure which can easily be dismantled and removed from the site.

(2) Occupational dwelling planning conditions:

g) Planning conditions will be applied in all cases restricting use of the occupational dwelling to the purpose for which it was approved.

h) A proposal to remove an 'occupancy condition' will only be approved where it is demonstrated that the occupational dwelling is no longer required and cannot be re-let or sold following the marketing required under DM Policy 3.16 and within the terms of the condition.

- 1.4 Any planning application for a new dwelling connected with rural enterprises such as agriculture and forestry will need to be accompanied by a report that clearly demonstrates how the proposal meets the requirements of Policy 2.11, including the functional and financial tests as outlined below.

Functional Test

- 1.5 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 of the 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.
- 1.6 With any application for new agricultural or forestry workers dwellings the Council will take due diligent steps to 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 the conversion to dwellings, have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need.
- 1.7 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 need justify the provision of isolated new dwellings as retirement homes for farmers.

- 1.8 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.

Financial Test

- 1.9 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 the Council will take a realistic approach to the level of profitability, taking account of the nature of the enterprise concerned.
- 1.10 Dwellings that are unusually large in relation to the agricultural need of the unit, or unusually expensive to construct in relation to the income it can sustain in the long-term would 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 dwellings that is appropriate to a particular holding.
- 1.11 Where planning permission is granted for such a dwelling, in addition to imposing occupancy restrictions (see section below).

Temporary agricultural dwellings

- 1.12 If a temporary dwelling is essential to support a new farming activity, it should normally for the first three years, be provided by a caravan, or other temporary accommodation which can be easily dismantled and removed from the site. You will be expected to accompany any application for temporary accommodation with a similar report to that required for permanent dwellings.

Occupancy Conditions

- 1.14 Where the need to provide either permanent or temporary 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, South Norfolk Council will ensure that the permanent or temporary dwellings are kept available for meeting this need. Planning permissions will be subject to the appropriate occupancy restrictions on who can live in the dwelling and will link it to the operation concerned. Such restriction will be either through imposing appropriate planning conditions or through the completion of a legal Section 106 Obligation.

2. Removal of agricultural occupancy conditions

- 2.1 Whilst it seeks to limit the number of new dwellings in the countryside the Council also recognises that circumstances change, and that the reason behind granting planning permission may no longer be applicable. Section h) of Policy 2.11 (see above) relates to the removal of occupancy conditions and states that 'a proposal to remove an 'occupancy condition' will only be approved where it is demonstrated that the occupational dwelling is no longer required and cannot be re-let or sold following the marketing required under DM Policy 3.16 and within the terms of the condition'.

- 2.2 Section 1b) of policy 3.16 requires the applicant to demonstrate no reasonable prospect of continued viable use through:
- i) Six months of marketing for the permitted and similar uses, using an appropriate agent;
 - ii) Confirmation that it has been offered on a range of terms agreed to be reasonable on the advice of an independent qualified assessor.
- 2.3 It will be helpful to agree the marketing strategy with the relevant case officer. When assessing whether there is any reasonable prospect of continued viable use the Council will take into account things such as:
- i) Whether there have been other recent applications for such dwellings in the locality
 - ii) Whether any person who meets the restriction is on the Council's Housing List
 - iii) Whether there are any vacant dwellings with a similar restriction on occupancy in the locality.
- 2.4 Where an applicant is seeking to prove that the operation is no longer financially viable or no longer has a requirement for the dwelling the Council will expect to see full detailed evidence to substantiate the claim. This evidence must be produced by a suitably qualified independent assessor. In the case of viability the evidence must demonstrate that the holding is no longer capable of providing a full time living. In the case of operational requirements it must explain how the operation has changed its business practice in such a manner as to no longer require the dwelling. It will not be sufficient to attempt to justify the claim merely on the ground of preference in operational practice. When assessing the evidence provided the Council will carry out due diligence to confirm the validity of the claims made.

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<https://www.southnorfolkandbroadland.gov.uk/planning-applications/pre-application-planning-advice-south-norfolk>



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