

Broadland District Council (BDC) Agricultural Occupancy Restrictions and the Removal of Occupancy Conditions– 2024

1. Agricultural Occupancy Restrictions

- 1.1 Broadland District Council (BDC) policy is to concentrate most new residential development within Settlement Limits as shown on the Policies Maps of the Local Plan in accordance with **Broadland Development Management (DM) DPD (2015) Policy GC2 – 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, Broadland District 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 Local Plan therefore includes a policy giving criteria for assessing planning applications for residential development outside Settlement Limits.
- 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 H1: Dwellings connected with rural enterprises** as well as the requirements of the National Planning Policy Framework (NPPF) (2023).

DM POLICY H1: Dwellings connected with rural enterprises

Outside settlement limits planning permission will be granted for dwellings associated with an enterprise which justifies a rural location where it can be demonstrated that:

- i. **There is a demonstrable functional need which relates to a full-time worker that cannot be fulfilled by an existing dwelling; and**
 - ii. **The enterprise has been established for at least 3 years, is financially sound, and has a clear prospect of remaining so.**
- 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 H1, 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 most of the time. 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 a 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 dwelling that is appropriate to a particular holding.

Temporary agricultural dwellings

- 1.11 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.
- 1.12 Paragraph 4.14 of the Broadland DM DPD states that temporary permission may be considered in some cases to enable the Council to assess the requirements for accommodation on the site. This approach will also enable the applicant to establish the enterprise the point where the policy is satisfied and permission for a permanent dwelling can be granted.

Occupancy Conditions

- 1.13 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, Broadland 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 recognise that circumstances change, and that the reason behind granting planning permission may no longer be applicable. The Broadland DM DPD includes **Policy H2: Removal of Occupancy Conditions** which is used to assess any planning application seeking to remove an agricultural restriction.

DM Policy H2 -- Removal of Occupancy Conditions

Application for the removal of occupancy conditions should demonstrate why an occupancy condition is no longer relevant.

Information needed to support the removal of an agricultural occupancy condition

- 2.2 Any planning application seeking to remove an agricultural occupancy restriction will have to satisfy the Council that it meets the criteria given below. It will require statements demonstrating that:

a) The operation no longer needs the dwelling.

Or

- b) the operation to match the dwelling is connected is no longer viable; and (for situations corresponding to either a or b) that
 - c) There is no demand to purchase or let the dwelling by someone who could fulfil the restriction in the locality.
- 2.3 There is no prescribed definition of 'locality', as each individual case will be different. However, the Council will take into account factors such as the distance that could be reasonably expected to travel to work time for someone employed in agriculture. All applications will have to satisfy point c. additionally, all applications will have to satisfy either a or b.

Statement (A) - Operational

- 2.4 Where an applicant is seeking to prove that the operation no longer has a requirement for the dwelling the Council will expect full detailed evidence to substantiate the claim. These details should be produced by a suitably qualified independent assessor. The statement 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 grounds of preference in operation practice. When assessing such statements, the Council will carry out due diligence to confirm the validity of the claims made.

Statement (B) - Viability

- 2.5 Where an applicant is seeking to prove that the operation is no longer financially viable the Council will expect to see full financial evidence to substantiate the claim. This evidence must be produced by a suitably qualified independent assessor and must demonstrate that the holding is no longer capable of providing a full time living. When assessing this aspect, the Council will take into account the Statutory Minimum Wage.

Statement (C) - Required for all applicants

- 2.6 In respect of criteria c, Broadland District Council will expect the following information to be included within supporting statements that accompany any application:
- (i) the dwelling to be marketed for at least 12 consecutive months;
 - (ii) the marketing exercise to be carried out with the purpose of getting a realistic offer to purchase or let the property;
 - (iii) the dwelling to be valued at a price which reflects the occupancy condition and the statement to include evidence that a professional valuation has been obtained, along with details of the value;
 - (iv) the marketing exercise to include advertising in the local press, appropriate trade magazines or professional journals and through a local estate agent;
 - (v) the statement to include details of all offers received during the marketing period, together with full reasons as to why any offer has not been

accepted.

- 2.5 It will be helpful to agree the marketing strategy with the relevant case officer. This can avoid having to re-market the property for a further 12 months should the initial exercise be deemed inadequate. In assessing a statement seeking to prove that there is no demand for such dwellings the Council will take into account:
- (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.

For further information about how to get pre-application planning advice visit our website

<https://www.southnorfolkandbroadland.gov.uk/planning-applications/planning-advice-broadland-district>



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