

# Council's response to Inspector's discussion document D4

## Inspector's discussion document D4 – September 2018

My Q2(xvi) raised concerns about the clarity and hence, effectiveness of the plan through duplication or statement of policy in supporting text, not included in the policy itself. The Council's response considered that there was an appropriate balance but recognised that paragraph 5.37 should be included in the policy. The response gave rise to no further question from me but I remain concerned about the effectiveness of this section of the plan and so I have looked more closely at the apparent focus of each paragraph of what is, at four and a quarter pages, an exceptionally long discourse. I have endeavoured to separate out three strands; (i) statements or summaries of policy which, if left in the justification, would rival the policy itself and so cause confusion in the mind of the reader as to what the policy actually is, (ii) true justification, and (iii) supplementary advice. Following my analysis, I set out a suggested Modification for the Council's consideration, using the conventional notation of underline for additions and ~~cross through~~ for deletions.

### Analysis

- Paragraph 5.19 is justification.
- Paragraph 5.20 is unnecessary.
- The four bullets of paragraph 5.21 duplicate H3(a), H3(b) and (c) and paragraph 5.27, H3(d) and
- H3(e) and should be deleted.
- Paragraph 5.22 is justification but is incomplete and duplicates paragraph 5.39.
- Paragraph 5.23 duplicates H3(h) and (q) and should be deleted.
- Paragraph 5.24 is justification.
- The first two sentences of paragraph 5.25 are justification. The third sentence is supplementary
- advice to H3(a). It could be included in the policy as a parenthesis or footnote. The final sentence
- duplicates H3(a) and should be deleted.
- Paragraph 5.26 is supplementary advice to H3(b).
- The first sentence of paragraph 5.27 duplicates H3(b) and (c) and paragraph 5.21 and should be
- deleted.
- Paragraph 5.28 justifies H3(b) and (k).
- Paragraphs 5.29 and 5.30 elaborate policy H3(b)
- Paragraph 5.31 duplicates paragraphs 5.25 and 5.26. It should be deleted.
- Paragraph 5.32 and the first sentence of paragraph 5.33 justify H3 (c) and (l).
- The remainder of paragraph 5.33 and the first and third sentences of paragraph 5.34 offer
- supplementary advice to H3(c) and (l).
- The second sentence of paragraph 5.34 justifies H3(c) and (l)
- The first sentence of paragraph 5.35 repeats policy H3(d) and should be deleted. The rest of
- paragraph 5.35 offer supplementary advice to policy H3(d).
- Paragraph 5.36 duplicates H3(g) and should be deleted.
- As the Council acknowledges, paragraph 5.37 duplicates H3(e) but goes further and should be

- incorporated within H3(e).
- Paragraph 5.38 duplicates H3(f) and should be deleted.
- The first sentence of paragraph 5.39 is justification but is incomplete and duplicates paragraph 5.22.
- The second sentence of paragraph 5.39 duplicates H3 (k) and (l).
- Paragraphs 5.40 and 5.41 repeat paragraphs 5.28-5.34 but adjusted for temporary buildings. They
- should be treated in similar fashion.
- The first sentence of paragraph 5.42 duplicates H3(n) and should be deleted
- Paragraph 5.43 is a statement of policy and should be included in H3
- The first sentence of paragraph 5.44 is justification
- The second sentence of paragraph 5.44 duplicates H3(h) and should be deleted.
- The first sentence of 5.45 duplicates policy H3(i) and should be deleted. The second sentence is justification.
- Paragraph 5.46 duplicates policy H3(p) and should be deleted or combined with it.
- Paragraphs 5.47 and 5.48 offers advice supplementary to policy H3(q) and could be included in it.
- Paragraph 5.49 is a process requirement; it sets a requirement for processing applications, rather than a requirement of the development itself.

## AVDC response

The council has considered the modifications proposed by the Inspector in discussion document D4. The council accepts most of the Inspector's proposals to delete supporting text which is duplicated and to move supporting text to the policy to avoid confusion.

In response to the discussion document, the council proposes its own modifications. It considers that the structure of the policy in the submission VALP, which separated temporary and permanent rural workers' dwellings, is clear and easy to follow when determining an application. On that basis, the Inspector's proposed wording has been re-ordered, and relevant headings have been added to the policy. These are: 'Requirements for all rural workers' dwellings', 'Temporary rural workers' dwellings' and 'Permanent rural workers' dwellings'. The heading 'Conditions' has also been renamed to 'Occupancy conditions and removal of conditions'.

The specific changes are detailed as follows:

- Paragraph 5.21 has been relocated to before paragraph 5.20, as the need for a full time worker applies to both temporary and permanent dwellings and the current order introduces full time workers in between temporary and permanent dwellings.
- Paragraph 5.20 (new paragraph 5.21) concerning temporary dwellings has been entitled and is named 'Functional need for a temporary dwelling' to match the structure of the policy.
- The council considers that paragraph 5.41 in the submission VALP is not a repetition of paragraphs 5.28-5.32 as it clarifies that a financial test will apply to temporary dwellings as well as permanent dwellings. It also provides differentiation, stating that the test for temporary dwellings will be an assessment of projected profits from the new enterprise rather than of previous profits from an established enterprise. The council's proposed modification is that reference should be made to this in paragraph

5.23 of the modified policy, and the paragraph should be renamed to 'Financial test for rural workers' dwellings'. Paragraph 5.41 sets out policy, and so the text has been moved to criteria 'f' in the council's proposed modification.

- The analysis in Inspector's discussion document D4 considers paragraph 5.49, Information and appraisals, in the submission VALP and concludes it to be 'process requirement' but the suggested modification neither makes reference to it nor suggests it as a deletion using crossed through text. The council has therefore included it as paragraph 5.25 in its proposed modification as the Inspector has not explicitly instructed that it should be deleted or incorporated into policy.
- Criteria a, b, d, f and g of the Inspector's modifications are overall requirements for all new rural workers' dwellings.
- Criteria c and e of the Inspector's modifications cover different elements applying to temporary and permanent dwellings and so have been split and relocated under the relevant heading.
- Criterion h of the Inspector's modifications is for occupancy conditions and removal of conditions and so has remained under the renamed conditions heading. It is also a statement of policy and not a criterion for applications for the removal of conditions to fulfil and so has not been numbered. The two sub-criteria under the first paragraph have been upgraded to main criteria (now j and k).
- Criterion i of the Inspector's modifications is for permanent dwellings and so has been relocated to the corresponding heading. It is also a statement of policy and not a specific requirement for new dwellings to fulfil and so has not been numbered.
- Criterion j of the Inspector's modifications is for temporary dwellings and so has been relocated to the corresponding heading. It is also a statement of policy and not a specific requirement for new dwellings to fulfil and so has not been numbered.

## Modifications

The modified policy and supporting text are set out on the following pages in the following versions: Inspector's modification ('clean' version – see [discussion document D4](#) for Inspector's amendments to the 2017 submission VALP), AVDC's proposed modification ('clean' version), and a comparison of AVDC's submission version 2017 and AVDC's proposed modification version 2019 (in the format of modification requested by the Inspector, using ~~strikethrough~~ for deletion of text and underline for addition of text).

## Inspector's Suggested Modification

### Rural workers' dwellings

- 5.19 National policy (National Planning Policy Framework paragraph 55) states 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.” Policy H3 applies this national policy. The definition of a rural worker is not limited to someone employed in agriculture or forestry. It can include for example, those employed in equestrian or other rural-based enterprises, water-based businesses, etc. The policy makes this explicit. The definition does not apply to someone whose business or occupation is carried out in a
- 5.20 Because a new farming, forestry or rural-based enterprise, whether on a newly created agricultural unit or an established one, may not be able to demonstrate the need for a permanent dwelling, the policy allows for temporary dwellings. By definition, these take the form of a caravan or structure which can easily be dismantled because any temporary permission will be granted for a specified period that will usually be for no longer than three years with conditions requiring removal at the end of the period.
- 5.21 The provision of a dwelling for occupational purposes in the countryside is an exception to normal planning policy. Consequently, the policy requires evidence clearly demonstrating that the scale and nature of an existing enterprise is sufficient to require one or more full-time workers to live at or near to the place of work. The particular assessments applied can be different depending on whether the application is for a dwelling for an agricultural, forestry or other essential rural worker and whether the application is for temporary or permanent accommodation.
- 5.22 The assessment of “functional need” establishes whether the proposed dwelling is essential to enable one or more workers to be readily available at most times to ensure the proper functioning of the existing enterprise, provided that such a requirement cannot be reasonably dealt with by any other means. For agricultural workers, such a requirement might arise, for example, if workers are needed to be on hand day and night, such as in case animals or agricultural processes require essential care at short notice.
- 5.23 Permanent accommodation cannot be justified on agricultural, forestry or business grounds unless the business enterprise is economically viable. A financial test is necessary to establish whether this is the case. To justify a new permanent dwelling as sustainable development, the rural business enterprise must be well established. Applying the financial test can also help to establish the size and design of the dwelling the farming, forestry or rural business unit can sustain.
- 5.24 Where a dwelling for a farm, forestry or essential rural worker has been permitted, the Council wishes to ensure that the dwelling is kept available for meeting this need for as long as it exists. Permitted development rights allow certain developments, such as extensions, within the curtilage of a dwelling house that could result in an occupational dwelling increasing to a size either not justified by the identified functional requirement of the unit, or becoming too expensive for any future potential occupier to buy or rent. Hence the policy makes provision for conditions and legal agreements to preserve the attributes of an occupational dwelling.

### H3 Rural workers dwellings

A new dwelling for an agricultural, forestry or rural worker will only be permitted if all of the following criteria are met:

- a. The need relates to a full-time worker (someone employed to work solely or mainly in the relevant occupation) and does not relate to a part-time requirement.
- b. For a permanent dwelling, there is an essential existing functional need or, for a temporary dwelling, it is essential to support a new rural business activity (considering the requirements of the activities, operations and security of the enterprise, not personal preferences or circumstances) for a worker to live at, or in the immediate vicinity of, their place of work. By itself, the protection of livestock from theft or injury by intruders does not establish need, nor do requirements arising from food processing or agricultural contracting, nor does a retirement home for a former farmer. Conventional methods of forestry management are unlikely to give rise to an essential functional need.
- c. For a temporary dwelling, the future economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by a sound business plan or, for a permanent dwelling, the economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by satisfying the “financial test” applied by the Council, demonstrating that the enterprise to which the application relates:
  - has been established for a continuous period of at least the previous three years and, in the case of an enterprise consisting of more than one activity, the three years shall apply to the latest activity relating to the application
  - has been profitable (in a realistic sense, taking account of the nature of the enterprise) for at least one of those three years and
  - is financially sound on that date and has a clear prospect of remaining so
- d. The functional need could not be fulfilled by any other means. (For example, applicants will need to demonstrate why agricultural, forestry or other essential rural workers could not live in nearby towns or villages, or make use of accommodation already existing on the farm, area of forestry or business unit. Where applicable, the Council will take into account the Town and Country Planning (General Permitted Development)(England) Order 2015 Schedule 2 Part 3 Class Q for changes of use from agricultural buildings to dwellings).
- e. For temporary dwellings, it takes the form of a caravan, a wooden structure, or other temporary accommodation of the minimum size required to support the proposed new rural business activity. A permanent agricultural, forestry or other occupational buildings should be commensurate in size to the established functional requirement. In determining the appropriate size of a dwelling, the Council will consider the requirements of the enterprise rather than those of the owner or occupier. New dwellings must be of the minimum size commensurate with the established functional requirement and reflective of the enterprise’s financial projections unless robustly justified. The council will not permit dwellings that are;
  - Unusually large in relation to the agricultural, forestry or rural business needs of the unit, with net useable floor space not normally larger than 180 sq cm for the initial dwelling and 120 sqm for each dwelling thereafter, excluding garaging but including associated offices such as a farm office, or

- Unusually expensive to construct in relation to the income the unit can sustain in the long term.
- f. It is sited so as to meet the functional need and is related to existing farm, forestry or rural business buildings, or other dwellings where these exist on or adjacent to the unit for which the functional need has been established. The Council will not normally give temporary permission in a location where a permanent dwelling would not be permitted.
- g. Suitable accommodation, including that which might have been converted, has not been sold separately from the land within the last five years.

### Conditions

- h. Planning permission will be granted subject to a planning condition or s106 obligation protecting its continued use by agricultural, forestry and other rural workers. An agricultural, forestry or rural worker occupancy condition will only be lifted if it can be demonstrated that both of the following criteria are met:
  - (i) A suitable sustained attempt has been made to advertise and market the dwelling for sale or rent without any unreasonable restriction and with amenity land proportionate to its size and at a price that reflects the occupancy restriction for a continuous period of at least 12 months or an appropriate period as agreed with the Local Planning Authority and
  - (ii) The rural worker dwelling no longer serves a need in connection with the holding to which it relates and there is no agricultural, forestry or rural worker occupational need elsewhere that it could reasonably service, nor it is likely that any such needs will arise in the foreseeable future.

The Council would not expect an occupational dwelling for an essential rural worker to be severed from the business unit to which it is tied, unless the business fails. In particular, the council would be unlikely to support any subsequent application to remove an occupational condition on such a severed dwelling or any future application for a new dwelling relating to the business. Even if the business to which the dwelling relates fails, the Council would expect every reasonable effort to be made to retain the occupational dwelling. The council would apply the same principles as it would to a proposal to remove an agricultural or forestry condition.

Proposals for the removal of an agricultural or forestry condition will be considered on the basis of an up-to-date assessment of the demand for farm or forestry dwellings in the locality and not just on the particular farm or forestry holding. When considering proposals to remove the occupancy condition for an essential rural worker, the Council will need to be convinced that the dwelling is no longer needed for the continuing rural enterprise or, in the event that the enterprise fails, is not needed for any proposed new use with planning permission or to meet a wider need in the locality for an occupational dwelling for an agricultural, forestry or essential rural worker.

- i. Permitted Development Rights may be removed in order to ensure that a dwelling is not subsequently extended to a size which exceeds its functional requirement.

- j. The Council will not normally grant extensions to a temporary permission over a period of more than three years. If permission for a permanent building is subsequently sought, the merits of the proposal will be assessed against the criteria in this policy relating to permanent occupational dwellings in the countryside.

## AVDC's Proposed Modification

### Rural workers' dwellings

- 5.19 National policy (National Planning Policy Framework paragraph 55) states 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'. Policy H3 applies this national policy. The definition of a rural worker is not limited to someone employed in agriculture or forestry. It can include, for example, those employed in equestrian or other rural-based enterprises, water-based businesses etc. The policy makes this explicit. The definition does not apply to someone whose business or occupation is carried out in a wide locality in the rural area, for example a tradesperson who does not require fixed premises.

#### The need for a full-time worker

- 5.20 The provision of a dwelling for occupational purposes in the countryside is an exception to normal planning policy. Consequently, the policy requires evidence clearly demonstrating that the scale and nature of an existing or intended enterprise is sufficient to require one or more full-time workers to live at or near to the place of work. The particular assessments applied can be different depending on whether the application is for a dwelling for an agricultural, forestry or other essential rural worker and whether the application is for temporary or permanent accommodation.

#### Functional need for a temporary dwelling

- 5.21 The policy allows for temporary dwellings because a new farming, forestry or rural-based enterprise (whether on a newly created agricultural unit or an established one) may not be able to demonstrate the need for a permanent dwelling. By definition, these take the form of a caravan or structure which can easily be dismantled as any temporary permission will be granted for a specified period. This period will usually be for no longer than three years, with conditions requiring removal at the end of the period.

#### Functional need for a permanent dwelling

- 5.22 The assessment of 'functional need' establishes whether the proposed dwelling is essential to enable one or more workers to be readily available at most times to ensure the proper functioning of the existing enterprise, provided that such a requirement cannot be reasonably dealt with by any other means. For agricultural workers such a requirement might arise, for example, if workers are needed to be on hand day and night, such as in case animals or agricultural processes require essential care at short notice.

#### Financial test for rural workers' dwellings

- 5.23 Occupational accommodation cannot be justified on agricultural, forestry or business grounds unless the business enterprise is economically viable. A financial test is necessary to establish whether this is the case for both temporary and permanent dwellings. New temporary dwellings will only be justified if the new enterprise is realistically expected to be profitable within a determined period. To justify a new permanent dwelling as sustainable development, the rural business enterprise must be well established. Applying the financial test can also help to

establish the size and design of the dwelling which the farming, forestry or rural business unit can sustain.

### Occupancy and other conditions

- 5.24 Where a dwelling for a farm, forestry or essential rural worker has been permitted, the council wishes to ensure that the dwelling is kept available for meeting this need for as long as it exists. Permitted development rights allow certain developments, such as extensions, within the curtilage of a dwelling house. These could result in an occupational dwelling increasing to a size either not justified by the identified functional requirement of the unit or becoming too expensive for any future potential occupier to buy or rent. The policy therefore makes provision for conditions and legal agreements to preserve the attributes of an occupational dwelling.

### Information and appraisals

- 5.25 Applicants must provide sufficient information to enable the council to determine any application for an occupational dwelling or the removal of an occupancy condition. The council may also seek the advice of agricultural or other consultants to give a technical appraisal of the case being put forward.

## H3 Rural workers' dwellings

### Requirements for all rural workers' dwellings

All new dwellings for an agricultural, forestry or rural worker will only be permitted if all of the following criteria are met:

- a. The need relates to a full-time worker (someone employed to work solely or mainly in the relevant occupation) and does not relate to a part-time requirement
- b. There is a functional need for a worker to live at, or in the immediate vicinity of, their place of work (considering the requirements of the activities, operations and security of the enterprise and not personal preferences or circumstances). For a temporary dwelling, the need is essential to support a new rural business activity and for a permanent dwelling, there is an essential existing functional need. By itself, the protection of livestock from theft or injury by intruders does not establish need, nor do requirements arising from food processing or agricultural contracting, and nor does a retirement home for a former farmer. Conventional methods of forestry management are unlikely to give rise to an essential functional need.
- c. The functional need could not be fulfilled by any other means. For example, applicants will need to demonstrate why agricultural, forestry or other essential rural workers could not live in nearby towns or villages, or make use of accommodation already existing on the farm, area of forestry or business unit. Where applicable, the council will take into account the Town and Country Planning (General Permitted Development)(England) Order 2015 Schedule 2 Part 3 Class Q for changes of use from agricultural buildings to dwellings.
- d. It is sited so as to meet the identified functional need and is related to existing farm, forestry or rural business buildings, or other dwellings where these exist on or adjacent to the unit for which the functional need has been established.

The council will not normally give temporary permission in a location where a permanent dwelling would not be permitted.

- e. Suitable accommodation has not been sold separately from the land within the last five years, including that which might have been converted

### Temporary rural workers' dwellings

New temporary dwellings for an agricultural, forestry or rural worker will only be permitted if all of the following additional criteria are also met:

- f. The future economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by a sound business plan. This should demonstrate that the proposed enterprise has been planned on a sound financial basis with a reasonable prospect of delivering a sustainable profit before or by the expiry of the temporary period that the proposal seeks to secure.
- g. it takes the form of a caravan, a wooden structure, or other temporary accommodation of the minimum size required to support the proposed new rural business activity.

The council will not normally grant extensions to a temporary permission over a period of more than three years. If permission for a permanent building is subsequently sought, the merits of the proposal will be assessed against the criteria in this policy relating to permanent occupational dwellings in the countryside.

### Permanent rural workers' dwellings

New permanent dwellings for an agricultural, forestry or rural worker will only be permitted if all of the following additional criteria are also met:

- h. The economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by satisfying the 'financial test' applied by the council. This should demonstrate that the enterprise to which the application relates:
  - i. has been established for a continuous period of at least the previous three years and in the case of an enterprise consisting of more than one activity, those three years shall apply to the latest activity relating to the application
  - ii. has been profitable (in a realistic sense, taking account of the nature of the enterprise) for at least one of those three years and
  - iii. is financially sound on that date and has a clear prospect of remaining so
- i. Agricultural, forestry or other occupational dwellings should be commensurate in size to the established functional requirement. In determining the appropriate size of a dwelling, the council will consider the requirements of the enterprise rather than those of the owner or occupier. New dwellings must be of the minimum size and an appropriate design commensurate with the established functional requirement and reflective of the enterprise's financial projections unless robustly justified. The council will not permit dwellings that are:

- i. unusually large in relation to the agricultural, forestry or rural business needs of the unit, with net useable floor space not normally larger than 180 sqm for the initial dwelling and 120 sqm for each dwelling thereafter. This threshold excludes garaging but including associated offices such as a farm office. Or
- ii. unusually expensive to construct in relation to the income the unit can sustain in the long term.

Permitted Development Rights may be removed in order to ensure that a dwelling is not subsequently extended to a size which exceeds its functional requirement.

### Occupancy conditions and removal of conditions

Planning permission will be granted subject to a planning condition or S106 protecting its continued use by agricultural, forestry and other rural workers. An agricultural, forestry or rural worker occupancy condition will only be lifted if it can be demonstrated that both of the following criteria are met:

- j. A suitable sustained attempt has been made to advertise and market the dwelling for sale or rent without any unreasonable restriction and with amenity land proportionate to its size and at a price that reflects the occupancy restriction for a continuous period of at least 12 months or an appropriate period as agreed with the Local Planning Authority. This should be evidenced through relevant documents such as marketing and valuation reports, which will be independently assessed at the expense of the applicant\*
- k. The rural worker dwelling no longer serves a need in connection with the holding to which it relates and there is no agricultural, forestry or rural worker occupational need elsewhere that it could reasonably service, nor is it likely that any such needs will arise in the foreseeable future.

The council would not expect an occupational dwelling for an essential rural worker to be severed from the business unit to which it is tied, unless the business fails. In particular, the council would be unlikely to support any subsequent application to remove an occupational condition on such a severed dwelling or any future application for a new dwelling relating to the business. Even if the business to which the dwelling relates fails, the council would expect every reasonable effort to be made to retain the occupational dwelling. The council would apply the same principles as it would to a proposal to remove an agricultural or forestry condition.

Proposals for the removal of an agricultural or forestry condition will be considered on the basis of an up-to-date assessment of the demand for farm or forestry dwellings in the locality and not just on the particular farm or forestry holding. When considering proposals to remove the occupancy condition for an essential rural worker, the council will need to be convinced that the dwelling is no longer needed for the continuing rural enterprise. Alternatively, in the event that the enterprise fails, it will need to be demonstrated that the dwelling is not needed for any proposed new use with planning permission or to meet a wider need in the locality for an occupational dwelling for an agricultural, forestry or essential rural worker.

\*the independent consultant who will assess the financial appraisal will be chosen by the council.

## Comparison between AVDC submission version 2017 and AVDC proposed modification version 2019

### Rural workers' dwellings

#### Rural workers dwellings

- 5.19 National policy (National Planning Policy Framework paragraph 55) states 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'. Policy H3 applies this national policy. The definition of a rural worker is not limited to someone employed in agriculture or forestry. It can include, for example, those employed in equestrian or other rural-based enterprises, water-based businesses, etc. The policy makes this explicit. The definition does not apply to someone whose business or occupation is carried out in a wide locality in the rural area, for example a tradesperson who does not require fixed premises.

#### The need for a full-time worker

- 5.20 ~~The following policy sets out the Council's approach to the provision of dwellings for agricultural, forestry and other full-time workers in the countryside where there is an essential need for them to live at or near their place of work. The provision of a dwelling for occupational purposes in the countryside is an exception to normal planning policy. Consequently, the policy requires evidence clearly demonstrating that the scale and nature of an existing or intended enterprise is sufficient to require one or more full-time workers to live at or near to the place of work. The particular assessments applied can be different depending on whether the application is for a dwelling for an agricultural, forestry or other essential rural worker and whether the application is for temporary or permanent accommodation.~~

#### Functional need for a temporary dwelling

- 5.21 ~~A new permanent occupational dwelling will only be permitted:~~

- ~~• for a full-time (rather than part-time) occupational worker~~
- ~~• if it can be justified on a functional and financial basis~~
- ~~• if the identified accommodation need cannot be met in any other way, and~~
- ~~• if it is of an appropriate size, design and is well-sited.~~

~~The policy allows for temporary dwellings because a new farming, forestry or rural-based enterprise (whether on a newly created agricultural unit or an established one) may not be able to demonstrate the need for a permanent dwelling. By definition, these take the form of a caravan or structure which can easily be dismantled as any temporary permission will be granted for a specified period. This period will usually be for no longer than three years, with conditions requiring removal at the end of the period.~~

#### Functional need for a permanent dwelling

- 5.22 ~~The Council may permit temporary agricultural, forestry operations or other rural-based enterprises workers' dwellings where the need for a permanent dwelling cannot currently be proved. The assessment of 'functional need' establishes whether the proposed dwelling is essential to enable one or more workers to be~~

readily available at most times to ensure the proper functioning of the existing enterprise, provided that such a requirement cannot be reasonably dealt with by any other means. For agricultural workers such a requirement might arise, for example, if workers are needed to be on hand day and night, such as in case animals or agricultural processes require essential care at short notice.

### Financial test for rural workers' dwellings

- 5.23 ~~The Council will control the occupancy of any occupational dwelling by condition or planning obligation. It will seek to secure such dwellings to support the rural economy unless it can be shown that an essential need on or within the vicinity of the site no longer exists. Occupational accommodation cannot be justified on agricultural, forestry or business grounds unless the business enterprise is economically viable. A financial test is necessary to establish whether this is the case for both temporary and permanent dwellings. New temporary dwellings will only be justified if the new enterprise is realistically expected to be profitable within a determined period. To justify a new permanent dwelling as sustainable development, the rural business enterprise must be well established. Applying the financial test can also help to establish the size and design of the dwelling which the farming, forestry or rural business unit can sustain.~~

### Definition of a rural worker Occupancy and other conditions

- 5.24 ~~The definition of a rural worker is not limited to someone employed in agriculture or forestry. It can include for example, those employed in equestrian or other rural-based enterprises, water-based businesses, etc. The definition does not apply to someone whose business or occupation is carried out in a wide locality in the rural area, for example a tradesperson who does not require fixed premises. Where a dwelling for a farm, forestry or essential rural worker has been permitted, the council wishes to ensure that the dwelling is kept available for meeting this need for as long as it exists. Permitted development rights allow certain developments, such as extensions, within the curtilage of a dwelling house. These could result in an occupational dwelling increasing to a size either not justified by the identified functional requirement of the unit or becoming too expensive for any future potential occupier to buy or rent. The policy therefore makes provision for conditions and legal agreements to preserve the attributes of an occupational dwelling.~~

### The need for a full-time worker Information and appraisals

- 5.25 ~~The provision of a dwelling for occupational purposes in the countryside is an exception to normal planning policy. Consequently, the Council will not permit such a dwelling unless available evidence clearly demonstrates that the scale and nature of an existing or intended enterprise is sufficient to require one or more full-time workers to live at or near to the place of work. Reference to full-time shall be construed as including a person who is employed to solely or mainly work in the relevant occupation. The Council will not permit a permanent occupational dwelling for a part-time worker. Applicants must provide sufficient information to enable the council to determine any application for an occupational dwelling or the removal of an occupancy condition. The council may also seek the advice of agricultural or other consultants to give a technical appraisal of the case being put forward.~~
- 5.26 ~~In considering whether the need is essential in any particular case, the Council will consider the requirements of the enterprise concerned and not the personal preferences or circumstance of any of the individuals involved.~~

## Functional need and financial test

~~5.27 The Council will seek functional and financial justification for all occupational dwellings in the countryside. The particular assessments applied can be different depending on whether the application is for a dwelling for an agricultural, forestry or other essential rural worker and whether the application is for temporary or permanent accommodation.~~

### Functional need for a permanent dwelling

~~5.28 The assessment of 'functional need' establishes whether the proposed dwelling is essential to enable one or more workers to be readily available at most times to ensure the proper functioning of the existing enterprise, provided that such a requirement cannot be reasonably dealt with by any other means. For agricultural workers, such a requirement might arise, for example, if workers are needed to be on hand day and night, such as in case animals or agricultural processes require essential care at short notice.~~

~~5.29 By itself the protection of livestock from theft or injury by intruders will not be sufficient to justify the need for a new agricultural dwelling. Requirements arising from food processing or agricultural contracting, as opposed to agriculture, also cannot be used to justify an agricultural dwelling, nor can agricultural needs justify the provision of isolated new dwellings as retirement homes for farmers.~~

~~5.30 It is unlikely that an essential functional need for a dwelling for a forestry worker could be justified given the nature of forestry due to its limited scale in the district, and having regard to conventional methods of forestry management (which can involve the use of a seasonal or peripatetic workforce). Special circumstances, such as the need to service the intensive nursery production of trees, may however do so.~~

~~5.31 There may also be instances where special justification exists for new isolated dwellings associated with other rural based enterprises. The essential need for a rural worker's dwelling should be justified in relation to the activities and operations of the business, not the personal preferences or circumstances of the individuals involved, or for security reasons. 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.~~

### Financial test for permanent dwellings

~~5.32 Permanent accommodation cannot be justified on agricultural, forestry or business grounds unless the business enterprise is economically viable. A financial test is necessary to establish whether this is the case.~~

~~5.33 To justify a new permanent dwelling as sustainable development, the rural business enterprise must be well established. When an application is submitted, it will need to be demonstrated that the enterprise to which the application relates:~~

- ~~• has been established for a continuous period of at least the previous three years and in the case of an enterprise consisting of more than one activity, the three years shall apply to the latest activity relating to the application~~
- ~~• has been profitable for at least one of those three years, and~~
- ~~• is financially sound on that date and has a clear prospect of remaining so.~~

~~5.34 A proposal should be supported by a business plan and accounts prepared by a suitably qualified person, and be accompanied by evidence of how the maintenance or growth of the enterprise will be funded. Applying the financial test can also help to establish the size and design of the dwelling the farming, forestry or rural business unit can sustain. In applying this test, the Council will take a realistic approach to the level of profitability, taking account the nature of the enterprise concerned.~~

### ~~Meeting need in other ways~~

~~5.35 Applicants will need to show that the identified needs could not be met in ways other than through a new permanent dwelling. For example, applicants will need to demonstrate why agricultural, forestry or other essential rural workers could not live in nearby towns or villages, or make use of accommodation already existing on the farm, area of forestry or business unit. Where applicable, the Council will take into account the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class Q for agricultural buildings to dwellings.~~

~~5.36 The Council will investigate if it believes genuine need may not exist. For example, the Council may look into the history of an agricultural holding, area of forestry or rural business to establish the recent pattern of use of land and buildings. This may include whether any dwellings, or buildings suitable for conversion to dwellings, have recently been separated from the farmland, area of forestry or rural business concerned. Such activity may indicate a lack of a genuine need and in such circumstances an occupational dwelling will not be permitted.~~

### ~~Dwelling size~~

~~5.37 Agricultural, forestry or other occupational dwellings should be commensurate in size to the established functional requirement. In determining the appropriate size of a dwelling, the Council will consider the requirements of the enterprise rather than those of the owner or occupier. New dwellings must be of the minimum size commensurate with the established functional requirement and reflective of the enterprise's financial projections unless robustly justified. The Council will not permit dwellings that are:~~

- ~~• unusually large in relation to the agricultural, forestry or rural business needs of the unit, with net useable floor space not normally larger than 180sqm for the initial dwelling and 120sqm for each dwelling thereafter, excluding garaging but including associated offices such as a farm office, or~~
- ~~• unusually expensive to construct in relation to the income the unit can sustain in the long term.~~

### ~~Siting of the dwelling~~

~~5.38 Agricultural, forestry or other occupational dwellings should be sited so the worker is conveniently located to undertake activities required to meet the established functional need. New agricultural or forestry dwellings must be well related to existing farm or forestry buildings, or other dwellings, where these exist on or adjacent to the unit for which the functional need has been established. Occupational dwellings associated with a rural business should be located on the site of the rural business and well related to existing buildings, or other dwellings, where these exist on the site for which the functional need has been established.~~

### Temporary rural workers' dwellings

- ~~5.39 The Council may permit a temporary dwelling for a full-time rural worker if it can be demonstrated that it is essential to support new farming, forestry or rural-based enterprise, whether on a newly created agricultural unit or an established one. The Council will assess the functional need and apply a financial test to any proposal for a temporary dwelling.~~
- ~~5.40 The functional need for temporary accommodation will need to be justified in the same way as the need for a permanent occupational dwelling, except that need will have to be demonstrated in relation to the new enterprise. Clear evidence of a firm intention and ability to develop the enterprise, such as significant investment in new buildings and equipment, will have to be available. The Council will also require evidence that the functional need could not be fulfilled in any other way.~~
- ~~5.41 In the case of assessing financial need, the Council will require the available evidence to demonstrate that the proposed enterprise has been planned on a sound financial basis with a reasonable prospect of delivering a sustainable profit before or by the expiry of the temporary period that the proposal seeks to secure.~~
- ~~5.42 The temporary dwelling should take the form of a caravan, a wooden structure or other temporary accommodation which can be easily dismantled. This is because any temporary permission will be granted for a specified period that will usually be for no longer than three years. Conditions will be imposed requiring its removal at the end of that period. Strong and clear justification will be required to support any proposals that a temporary period should be extended.~~
- ~~5.43 The Council will not normally give temporary permission in a location where a permanent dwelling would not be permitted, or grant successive extensions to a temporary permission over a period of more than three years. If permission for a permanent dwelling is subsequently sought, the merits of the proposal will be assessed against the criteria in this policy relating to permanent occupational dwellings in the countryside.~~

### Occupancy and other conditions

- ~~5.44 Where a dwelling for a farm, forestry or essential rural worker has been permitted, the Council wishes to ensure that the dwelling is kept available for meeting this need for as long as it exists. The Council may control the occupancy of dwellings for farm, forestry or essential rural workers by condition or S106 agreement.~~
- ~~5.45 Where a dwelling for a farm, forestry or essential rural worker is proposed, the Council will also usually seek to impose, as part of any permission, conditions removing permitted development rights to ensure the continued viability of the property for its intended use. Permitted development rights allow certain developments, such as extensions, within the curtilage of a dwelling house that could result in an occupational dwelling increasing to a size either not justified by the identified functional requirement of the unit, or becoming too expensive for any future potential occupier to buy or rent.~~

### Removal of occupancy conditions

- ~~5.46 The removal of an agricultural or forestry occupancy condition will only be permitted if it can be demonstrated that it has outlived its usefulness. In such cases the Council would expect evidence to demonstrate why the dwelling is no longer~~

required in connection with the related enterprise. The Council will also expect it to be evidenced that the dwelling has been:

- made publicly available without any unreasonable restriction and with amenity land proportionate to its size, and
- suitably advertised and marketed at a price reflecting its condition and the existence of the occupancy restriction for a continuous period of at least 12 months or an appropriate period as agreed with the LPA immediately prior to the date that an application is submitted.

5.47 The Council would not expect an occupational dwelling for an essential rural worker to be severed from the business unit to which it is tied, unless the business fails. In particular the Council would be unlikely to support any subsequent application to remove an occupational condition on such a severed dwelling or any future application for a new dwelling relating to the business. Even if the business to which the dwelling relates fails, the Council would expect every reasonable effort to be made to retain the occupational dwelling. The Council would apply the same principles as it would to a proposal to remove an agricultural or forestry condition.

5.48 Proposals for the removal of an agricultural or forestry occupancy condition will be considered on the basis of an up-to-date assessment of the demand for farm or forestry dwellings in the locality and not just on the particular farm or forestry holding. When considering proposals to remove the occupancy condition for an essential rural worker, the Council will need to be convinced that the dwelling is no longer needed for the continuing rural enterprise or, in the event that the enterprise fails, is not needed for any proposed new use with planning permission or to meet a wider need in the locality for an occupational dwelling for an agricultural, forestry or essential rural worker.

### Information and appraisals

5.49 Applicants must provide sufficient information to enable the Council to determine any application for an occupational dwelling or the removal of an occupancy condition. The Council may also seek the advice of agricultural or other consultants to give a technical appraisal of the case being put forward.

## H3 Rural workers dwellings

### Permanent rural workers' dwellings

A new permanent dwelling for an agricultural, forestry or rural worker will only be permitted if all of the following criteria are met:

- a. The need relates to a full-time worker and does not relate to a part-time requirement
- b. There is an essential existing functional need for a worker to live at, or in the immediate vicinity of, their place of work
- c. The economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by satisfying the 'financial test' applied by the Council
- d. The functional need could not be fulfilled by any other means

- e. ~~It is of the minimum size and an appropriate design commensurate with the established functional requirement and reflective of the enterprise's financial projections unless robustly justified~~
- f. ~~It is sited so as to meet the identified functional need and is related to existing farm, forestry or rural business buildings, or other dwellings~~
- g. ~~Suitable accommodation, including that which might have been converted, has not been sold separately from the land within the last five years~~
- h. ~~Planning permission will be granted subject to a planning condition or S106 protecting its continued use by agricultural, forestry and other rural workers~~
- i. ~~Permitted Development Rights may be removed in order to ensure that a dwelling is not subsequently extended to a size which exceeds its functional requirement.~~

### **Temporary rural workers' dwellings**

A new temporary dwelling for an agricultural, forestry or rural worker will only be permitted if all of the following criteria are met:

- j. ~~The need relates to a full time worker and does not relate to a part time requirement~~
- k. ~~It is essential to support a new rural business activity for which there is a clearly established functional need for the worker to live on or in the vicinity of the holding~~
- l. ~~The future economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by a sound business plan~~
- m. ~~The functional need could not be fulfilled by any other means~~
- n. ~~It takes the form of a caravan, a wooden structure, or other temporary accommodation of the minimum size required to support the proposed new rural business activity~~
- o. ~~Suitable accommodation, including that which might have been converted, has not been sold separately from the land within the last five years.~~

### **Removal of occupancy conditions**

An agricultural, forestry or rural worker occupancy condition will only be lifted if it can be demonstrated that both of the following criteria are met:

- p. ~~A suitable sustained attempt has been made to advertise and market the dwelling for sale or rent at a price that reflects the occupancy restriction for a continuous period of at least 12 months or an appropriate period as agreed with the LPA and~~
- q. ~~The rural worker dwelling no longer serves a need in connection with the holding to which it relates, and there is no agricultural, forestry or rural worker occupational need elsewhere that it could reasonably service, nor is it likely that any such needs will arise in the foreseeable future.~~

### **Requirements for all rural workers' dwellings**

All new dwellings for an agricultural, forestry or rural worker will only be permitted if all of the following criteria are met:

- a. The need relates to a full-time worker (someone employed to work solely or mainly in the relevant occupation) and does not relate to a part-time requirement
- b. There is a functional need for a worker to live at, or in the immediate vicinity of, their place of work (considering the requirements of the activities, operations and security of the enterprise and not personal preferences or circumstances). For a temporary dwelling, the need is essential to support a new rural business activity and for a permanent dwelling, there is an essential existing functional need. By itself, the protection of livestock from theft or injury by intruders does not establish need, nor do requirements arising from food processing or agricultural contracting, and nor does a retirement home for a former farmer. Conventional methods of forestry management are unlikely to give rise to an essential functional need.
- c. The functional need could not be fulfilled by any other means. For example, applicants will need to demonstrate why agricultural, forestry or other essential rural workers could not live in nearby towns or villages, or make use of accommodation already existing on the farm, area of forestry or business unit. Where applicable, the council will take into account the Town and Country Planning (General Permitted Development)(England) Order 2015 Schedule 2 Part 3 Class Q for changes of use from agricultural buildings to dwellings.
- d. It is sited so as to meet the identified functional need and is related to existing farm, forestry or rural business buildings, or other dwellings where these exist on or adjacent to the unit for which the functional need has been established. The council will not normally give temporary permission in a location where a permanent dwelling would not be permitted.
- e. Suitable accommodation has not been sold separately from the land within the last five years, including that which might have been converted

### Temporary rural workers' dwellings

New temporary dwellings for an agricultural, forestry or rural worker will only be permitted if all of the following additional criteria are also met:

- f. The future economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by a sound business plan. This should demonstrate that the proposed enterprise has been planned on a sound financial basis with a reasonable prospect of delivering a sustainable profit before or by the expiry of the temporary period that the proposal seeks to secure.
- g. it takes the form of a caravan, a wooden structure, or other temporary accommodation of the minimum size required to support the proposed new rural business activity.

The council will not normally grant extensions to a temporary permission over a period of more than three years. If permission for a permanent building is

subsequently sought, the merits of the proposal will be assessed against the criteria in this policy relating to permanent occupational dwellings in the countryside.

### Permanent rural workers' dwellings

New permanent dwellings for an agricultural, forestry or rural worker will only be permitted if all of the following additional criteria are also met:

- h. The economic viability of the enterprise to which the proposed dwelling relates can be demonstrated by satisfying the 'financial test' applied by the council. This should demonstrate that the enterprise to which the application relates:
  - i. has been established for a continuous period of at least the previous three years and in the case of an enterprise consisting of more than one activity, those three years shall apply to the latest activity relating to the application
  - ii. has been profitable (in a realistic sense, taking account of the nature of the enterprise) for at least one of those three years and
  - iii. is financially sound on that date and has a clear prospect of remaining so
- i. Agricultural, forestry or other occupational dwellings should be commensurate in size to the established functional requirement. In determining the appropriate size of a dwelling, the council will consider the requirements of the enterprise rather than those of the owner or occupier. New dwellings must be of the minimum size and an appropriate design commensurate with the established functional requirement and reflective of the enterprise's financial projections unless robustly justified. The council will not permit dwellings that are:
  - iv. unusually large in relation to the agricultural, forestry or rural business needs of the unit, with net useable floor space not normally larger than 180 sqm for the initial dwelling and 120 sqm for each dwelling thereafter. This threshold excludes garaging but including associated offices such as a farm office. Or
  - v. unusually expensive to construct in relation to the income the unit can sustain in the long term.

Permitted Development Rights may be removed in order to ensure that a dwelling is not subsequently extended to a size which exceeds its functional requirement.

### Occupancy conditions and removal of conditions

Planning permission will be granted subject to a planning condition or S106 protecting its continued use by agricultural, forestry and other rural workers. An agricultural, forestry or rural worker occupancy condition will only be lifted if it can be demonstrated that both of the following criteria are met:

- j. A suitable sustained attempt has been made to advertise and market the dwelling for sale or rent without any unreasonable restriction and with amenity land proportionate to its size and at a price that reflects the occupancy restriction for a continuous period of at least 12 months or an appropriate

period as agreed with the Local Planning Authority. This should be evidenced through relevant documents such as marketing and valuation reports, which will be independently assessed at the expense of the applicant\*

- k. The rural worker dwelling no longer serves a need in connection with the holding to which it relates and there is no agricultural, forestry or rural worker occupational need elsewhere that it could reasonably service, nor is it likely that any such needs will arise in the foreseeable future.

The council would not expect an occupational dwelling for an essential rural worker to be severed from the business unit to which it is tied, unless the business fails. In particular, the council would be unlikely to support any subsequent application to remove an occupational condition on such a severed dwelling or any future application for a new dwelling relating to the business. Even if the business to which the dwelling relates fails, the council would expect every reasonable effort to be made to retain the occupational dwelling. The council would apply the same principles as it would to a proposal to remove an agricultural or forestry condition.

Proposals for the removal of an agricultural or forestry condition will be considered on the basis of an up-to-date assessment of the demand for farm or forestry dwellings in the locality and not just on the particular farm or forestry holding. When considering proposals to remove the occupancy condition for an essential rural worker, the council will need to be convinced that the dwelling is no longer needed for the continuing rural enterprise. Alternatively, in the event that the enterprise fails, it will need be demonstrated that the dwelling is not needed for any proposed new use with planning permission or to meet a wider need in the locality for an occupational dwelling for an agricultural, forestry or essential rural worker.

\*the independent consultant who will assess the financial appraisal will be chosen by the council.