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# Practice Guidance



Rural Enterprise Dwellings -  
Technical Advice Note 6 Planning for Sustainable  
Rural Communities  
December 2011

## Wales Planning Policy Development Programme

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# **Rural Enterprise Dwelling**

## **Practice Guide**

**December 2011**

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## 1 INTRODUCTION

- 1.1 In July 2010, the Welsh Government published revised planning policy on its approach to the development needs and aspirations of rural communities. This built on the strategic framework of policy set out in Planning Policy Wales and provided a more detailed vision of the future planning approach to rural development. Planning Policy Wales (PPW) is supported by Technical Advice Note 6 (TAN 6): *Planning for Sustainable Rural Communities*. This Practice Guide provides further information about TAN 6.
- 1.2 A significant element of the new policy is concerned with the delivery of sustainable rural housing and, within this, a revised approach to meeting particular housing needs arising from farms and other rural enterprises located in the countryside. The objective of this guide is to assist applicants for planning permission and local planning authorities to understand and interpret this particular aspect of the rural housing policy.

### Housing in the countryside

***“New house building and other new development in the open countryside, away from established settlements, should be strictly controlled. The fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area. Isolated houses in the open countryside require special justification, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation.”*** Planning Policy Wales 2011, paragraph 9.3.6

- 1.3 It is longstanding planning policy that the countryside should be safeguarded from uncontrolled and sporadic development. The housing requirements of the rural population are, therefore, primarily directed to existing settlements. This remains the central policy as regards residential development in the countryside.
- 1.4 It has, however, been recognised that, within this policy of general restraint of development, there are particular circumstances of housing need which can only be met through the provision of individual dwellings in the countryside. Those circumstances have primarily related to the operational needs of farming and forestry, where an essential need for workers to live at or close to their place of work has been

established. In these circumstances, special justification has been required to demonstrate the need as a basis for an exception to the policy of restraint.

- 1.5 The special justification for isolated dwellings has been based on testing the functional needs and economic sustainability of the enterprise concerned. Since permitted dwellings are an exception to the general rural housing policy, they have been subject to controls on their future occupancy to retain their availability for farming or forestry purposes.

### **Changing policy**

- 1.6 The underlying objective of limiting sporadic development in the countryside remains unchanged, but the Welsh Government has recognised that there is a wider concern in respect of access to appropriate and affordable housing on the part of the rural community. Shortage of affordable housing to buy or rent is recognised as one of the greatest challenges facing many communities in Wales. Consequently, a range of policy measures has been introduced to improve access to housing in rural areas. Central to these is a drive to increase the supply of affordable housing in existing settlements and to ensure that such housing is available to meet local needs.
- 1.7 As part of this package of measures, the Welsh Government has reviewed the scope of the exception to policy which enables individual dwellings to be located in the countryside where there is an essential need. As a consequence of the review, the exception which has been available to agricultural and forestry workers has been extended to a wider range of workers in rural enterprises. **This extension applies primarily to land-related businesses which, directly or indirectly, need to be located in the countryside rather than in existing settlements.** The scope of this extension for Rural Enterprise Dwellings, and the provisions associated with it, are set out in TAN 6.
- 1.8 In addition to an intention to assist a wider range of rural enterprises to meet their essential housing needs, the Welsh Government has addressed the particular problem of passing farm businesses to a younger generation in the context of an ageing agricultural community. In order to encourage younger people to take on farm businesses, particular provision has been made to allow additional housing on existing farms to enable the transfer of management.
- 1.9 The changing policy is, therefore, one of a controlled extension of the existing policy of restraint on new isolated residential development. A justification of an essential need

is still required, and local planning authorities are advised to carefully assess proposals and to seek robust supporting evidence.

- 1.10 In widening the scope of the exception to the policy of restraint, the Welsh Government has also introduced stricter measures in respect of the future occupancy of dwellings that are permitted to ensure that they continue to meet the needs of rural enterprises. Where dwellings no longer do so, the measures will seek to make them available to meet the affordable housing needs of the wider community.

### **Purpose of the guidance**

- 1.11 The purpose of this guide is to assist applicants and their advisers in outlining the nature of the Rural Enterprise Dwelling exemption; set out the process whereby proposals will be justified and assessed; provide practical advice relevant to planning applications; and indicate sources of assistance. This guide will also assist local planning authorities in the determination of Rural Enterprise Dwelling applications.

- 1.12 The guidance is presented in a manner which will enable potential applicants to:

establish whether their circumstances relate to a qualifying rural enterprise;

understand the planning process relating to rural enterprise dwellings;

identify the evidence needed to support a planning application; and

establish whether the key determining tests are met.

- 1.13 This guidance relates only to a specific section of planning policy. Policies relating to other interests, such as the protection of the Green Belt or green wedges, areas prone to flooding, areas with nature conservation interests and historic heritage, and to technical considerations, such as highway, noise or drainage matters, may also be relevant in any individual case.

**Key points:**

***There is a longstanding policy of general restraint on sporadic development in the countryside.***

***Exceptions to the restraint policy to meet particular needs have been extended from farming and forestry to a wider range of rural enterprises as part of a comprehensive policy to deliver a supply of affordable housing commensurate with identified needs.***

***New rural enterprise dwellings remain exceptions to general policy and require particular justification. The testing of essential functional needs and economic sustainability remains the basis of the exception.***

***In parallel with the wider scope of the policy exception, there is an extension of the control measures over the future occupation of permitted dwellings to secure them for the continued benefit of the rural community.***

## 2 RURAL ENTERPRISE DWELLINGS - WHO QUALIFIES?

### The scope of the new policy

***“--- qualifying rural enterprises comprise land related businesses including agriculture, forestry and other activities that obtain their primary inputs from the site, such as the processing of agricultural, forestry and mineral products together with land management activities and support services (including agricultural contracting), tourism and leisure enterprises.” TAN 6 paragraph 4.3.2***

- 2.1 Local planning authorities may include a broader definition of qualifying rural enterprises in their development plans where this can be justified by specific local circumstances and evidence.
- 2.2 The five groups of enterprises which are covered by the new TAN 6 policy are:
  - agriculture and forestry;
  - activities which obtain their primary inputs from the site;
  - land management related activities;
  - land related tourism and leisure; and
  - support services related to rural-based activities.
- 2.3 Those enterprises involved in direct land management activity and animal husbandry, where that activity gives rise to the essential functional need for an available worker, are those most clearly within the scope of the rural enterprise dwelling policy. These are the traditional activities of farming and forestry.
- 2.4 The scope of primary activity is now extended to the exploitation of mineral and water resources, and other forms of land management.
- 2.5 Traditionally, the need to meet the welfare needs of farm animals has been a clear basis for the justification of an on-site supervisory presence as some categories of livestock require essential care at short notice. However, using the approach of the previous Technical Advice Note 6, *Agricultural and Rural Development*, June 2000 , there have also been cases where dwellings associated with other uses that are not readily located in urban or residential areas have been permitted or allowed on appeal, such as dwellings associated with substantive equine and fishery enterprises, kennels, catteries and veterinary facilities. The scope of the new policy is broader than that

under the previous TAN 6 and, where justification is provided, may formally extend the dwelling exception to such circumstances.

- 2.6 The next category of potentially qualifying circumstances relates to those concerned with enterprises engaged in primary activity, but where the activity has extended into the on-site processing of primary products; for example the production of cheese on a dairy farm. In these circumstances it is expected that there would be a strong degree of integration between the land management and the processing activity, such as would be the case in a farm diversification project.
- 2.7 The primary sectors of the rural economy depend upon a wide-ranging network of support services for their effective functioning. Some provide practical services such as relief labour; contracted land management in the form of forage conservation, fencing, walling and drainage; and veterinary or farriery services. Others provide more general services relating to the maintenance of buildings and equipment, or professional services in terms of accountancy, legal and agronomic advice. The majority of these services are currently provided from locations in existing settlements, and appropriately so. It is not the purpose of the new rural enterprise dwelling policy to give all primary sector service providers a free choice to decide whether to select countryside or settlement-based locations for their businesses. Qualifying circumstances will require a countryside location to be justified as being necessary in terms of their land requirements, the nature of the service provided and the absence of suitable alternatives.
- 2.8 The open countryside provides resources for leisure, tourism and conservation activities which are important to the rural economy of Wales. The management of these resources and of participants in leisure and tourist activities requires a workforce which is generally or specifically available, particularly during periods of intense seasonal demand. Circumstances may arise where key elements of this workforce can only be appropriately housed in the countryside at or close to the site of functional need.

### **How to decide whether a housing proposal qualifies**

- 2.9 The first key determinant in deciding if a proposal falls within the scope of the new rural enterprise dwelling policy is whether an enterprise is directly related to the management of rural land-related businesses, or has a character such that it can only be located in the open countryside, or has very particular reasons for a location in the

open countryside rather than in an existing settlement. For dwelling proposals associated with new enterprises, proposals will therefore be subject to a test of locational necessity, as part of the functional test, and a requirement to demonstrate that an enterprise cannot be located on a suitable site where residential accommodation is likely to be available.

- 2.10 The second determinant is whether it is essential to the proper functioning of an enterprise for a worker to be housed in close association with it. Proposals will, therefore, be subject to a test of functional justification, which is addressed in a later section of this guidance.
- 2.11 Conversely, if the proposal arises from an expression of personal preference or circumstances, or from those of convenience rather than an essential requirement, it will fall outside the scope of the policy.
- 2.12 If these determining qualities are met, a proposal must fit within one of the following specific circumstances.

### **The specific circumstances**

- 2.13 Four specific circumstances are identified in TAN 6 relating to the provision of new rural enterprise dwellings:

to meet the needs of **established rural enterprises** (including farms) where there is a functional need and a requirement for a full-time worker together with a prospect of long-term business financial sustainability;

to enable the transfer of control of farm enterprises to the next generation (second or further dwelling on a farm only<sup>1</sup>);

to meet the needs of additional workers on **established farms** where there is a functional need, and a requirement for an additional 0.5 or more of a full-time worker earning at least 50% of a farmworker's salary (second or further dwelling on a farm only<sup>1</sup>); and

to meet the needs of new rural enterprises where there is a functional need and a requirement for a full-time worker.

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<sup>1</sup> Second or further dwelling means that an established farm to which this applies will already have at least one existing dwelling. Any farm benefitting from this exception will be eligible only once; any subsequent applications for dwellings will be processed in the normal way i.e. under all 5 criteria of TAN 6 section 4.4.1

**Key Points:**

*The scope of the rural enterprise dwelling policy relates to enterprises which, by their inherent nature or the services they provide, can only be located in the countryside or can provide special justification for such a location.*

*Only where the enterprise has an essential functional need for the close supervision by a worker and is appropriately located in the countryside will a housing proposal fall within the scope of the policy.*

*Qualifying proposals must fall within one of four specific circumstances identified in the policy.*

*Proposals arising from personal preferences or circumstances, or for conditions of convenience rather than essential need, will not qualify within the policy.*

### **3 THE PLANNING PROCESS**

#### **Introduction**

- 3.1 Before developing a rural enterprise dwelling proposal, it is important to have an overview and understanding of the decision-making process. It is not, however, the purpose of this guidance to rehearse the process of the making and handling of planning applications. Advice on the planning process in general is available elsewhere, of which examples are listed in the Sources of Information chapter at the end of this document. In the current guidance, it is important for those pursuing proposals for rural enterprise dwellings to understand:

how proposals will be tested;

what evidence needs to be submitted to enable testing; and

what controls will be applied to permitted dwellings.

- 3.2 This understanding is a pre-requisite to making informed decisions on the merits and validity of individual proposals. Where applicants are uncertain about these fundamental aspects of the planning process, they are encouraged to take professional advice and/or have pre-application discussions with the local planning authority.

#### **The testing of applications**

- 3.3 As has been indicated earlier, because dwellings permitted under the Rural Enterprise Dwellings policy will be exceptions to the normal policy of restraint on residential development in the countryside, it is necessary that the justification for such dwellings is examined carefully. In this respect the policy requires proposals to be tested in a number of ways. There are four generally applicable tests:

The Functional Test (Section 4.8 TAN 6)

The functional test requires that it is demonstrated to be essential for a worker to be readily available at most times, at or in close proximity to the site of need, for an appropriate rural enterprise to function properly.

#### The Time Test (Section 4.9 TAN 6)

The time test and functional test are two distinct tests<sup>1</sup> but there must be a full-time requirement for the worker for which there is a functional need. There are two agricultural exception cases introduced in the new TAN 6:

- (i) where there is a functional need and a requirement for an extra 0.5 or more of a full-time worker; and
- (ii) where an additional dwelling would facilitate the handover of management of the farm business to a younger farmer.

#### The Financial Test (Section 4.10 TAN 6)

Dwellings will only be permitted when a rural enterprise can be shown to be sustainable, and a financial test is applied to consider the financial soundness of an enterprise and its prospects for a reasonable period of time and the ability of the business to fund the proposal.

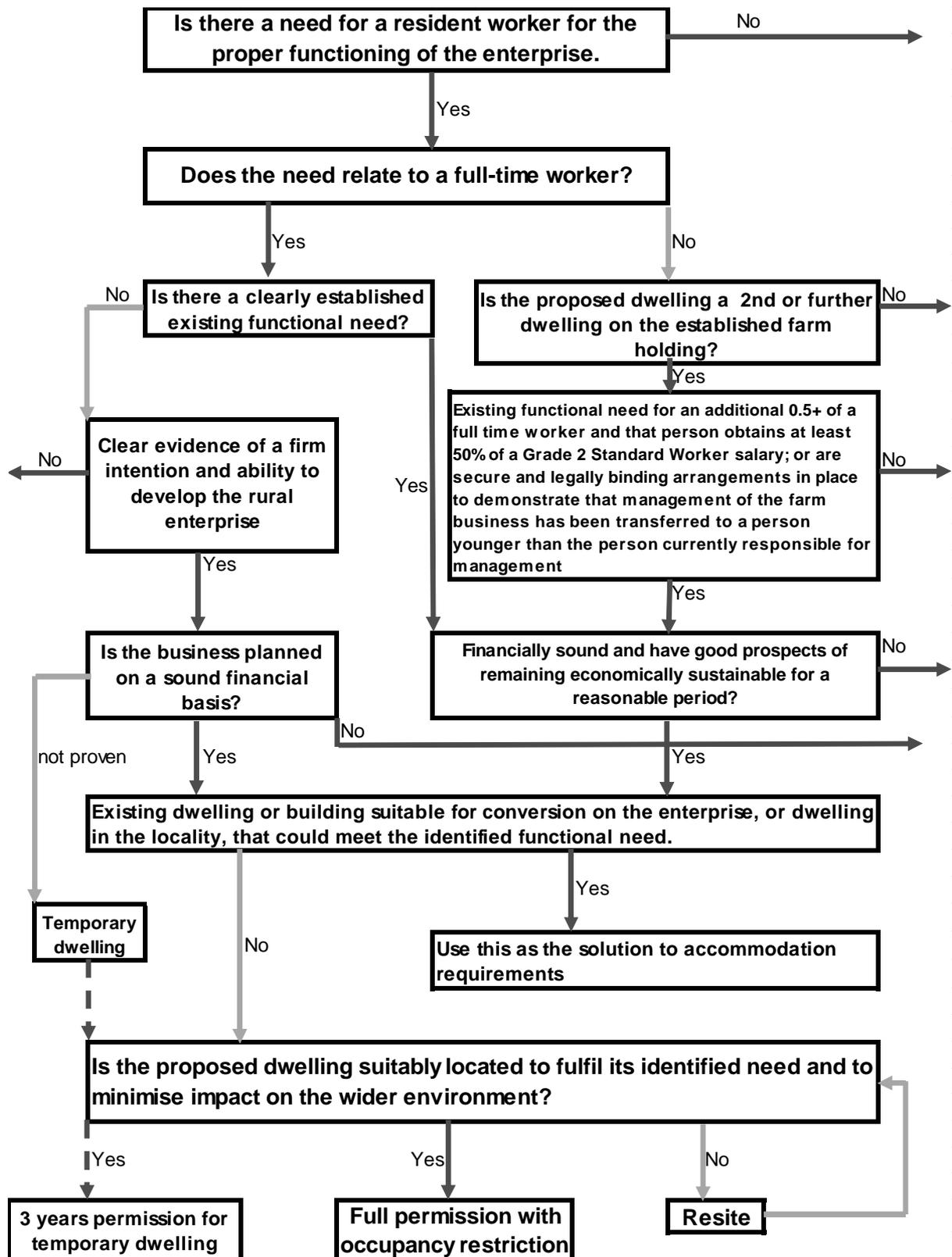
#### The Alternative Dwelling Test (Section 4.11 TAN 6)

The needs of an enterprise will be considered in the context of the availability of existing alternative dwelling options to meet the identified functional need, and/or of the scope to reorganise the management of an enterprise such that there is no need for a new dwelling.

- 3.4 These tests are applicable in all circumstances, and all have to be addressed in a manner appropriate to the particular type of application made. The testing process is summarised in the following flow diagram (other policy considerations may also be relevant).

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<sup>1</sup> The activity, or activities, for which there is deemed to be a functional need does not in itself have to be a full-time requirement, but it must be essential to allow the proper functioning of the enterprise and may require a worker to be on hand during the night and day. Under the time test, where the guidance stipulates that there is a requirement for a full-time worker, that requirement will be made up of the essential, or emergency, activities mentioned above and any other activities required of that full time role.



3.5 The nature of the individual tests and their application is set out in the following sections of the guidance. Applicants should be able to use these in conjunction with the above flow diagram to assess the acceptability of proposals within the context of the Rural Enterprise Dwelling policy.

## The supporting evidence

- 3.6 In order for local planning authorities to determine planning applications with the care required, and on a consistent basis, the policy requires that all applications are supported by robust supporting evidence. In all cases, a planning application must, therefore, be supported by a Rural Enterprise Dwelling Appraisal (TAN 6 paragraph 4.7.1) which addresses the tests identified above.
- 3.7 In most cases it would be appropriate for appraisals to be prepared by independent and suitably qualified persons rather than applicants. Advice on how to identify sources of assistance is included in at the end of this guidance.
- 3.8 Failure to provide adequate justification supported by appropriate evidence would provide grounds for local planning authorities to refuse planning permission. Consequently, the importance of the supporting evidential base for applications should not be underestimated.
- 3.9 **A Rural Enterprise Dwelling Appraisal** must provide sufficient information for the local planning authority to make a full and effective assessment of a proposal for a dwelling. The key aspects of an appraisal will be:

1. A full description of the operation and management of the rural enterprise
  - The extent of land and buildings occupied by the enterprise and the nature of the occupation (owned and rented)
  - The scale and nature of the productive resources used in the enterprise (crops, livestock, raw materials, plant and equipment)
  - The number, type and roles of workers involved in the enterprise
  - The nature and quantity of the outputs of the enterprise in terms of produce, goods and services

2. The Functional Need

A description of those aspects of the operation and management of the enterprise which require the presence of a resident worker(s) identifying potential emergency incidents which require a day and night presence

The identification of any changes in the circumstances of the enterprise which have given rise to the requirement for the presence of a resident worker(s)

An assessment of the benefits of a transfer of farm management to the younger generation, where relevant

3. The Time Test

An assessment of the labour requirements of the enterprise and a consideration of alternative operational and management strategies available to the enterprise

An indication of the component parts of the enterprise and the amount of time apportioned to each part

4. Financial sustainability

Details of the actual and/or projected financial performance of the enterprise (accounts, financial statements or business plans) and an assessment of their implications in terms of the proposal

5. Existing accommodation

The identification of existing dwellings associated with the rural enterprise (location, occupancy etc) and of the availability of buildings suitable for conversion

The availability of alternative existing dwellings in the locality

6. Other Planning Considerations

The details of the size, siting, design and projected cost of the proposed dwelling

An assessment of the suitability of the location of a new rural enterprise in relation to housing requirements

## **The control and monitoring of new dwellings**

- 3.10 In the event that planning permission is granted for a temporary or permanent rural enterprise dwelling, the future occupancy of that dwelling will be controlled by attaching a planning condition to the permission. This will require the dwelling to be occupied by a worker (and/or dependant(s) or widow/er) directly associated with the rural enterprise or a similar qualifying enterprise in the locality, or by a person meeting the local authority's affordable housing eligibility criteria. Subsequently, the local planning authority will regularly monitor the occupancy of permitted dwellings to ensure compliance with the planning condition, and provide the Welsh Government with the results of monitoring. This is a more rigorous approach than existed previously and is intended to reduce the scope for these excepted dwellings to move into the general housing market.
- 3.11 In particular circumstances where there are existing dwellings supporting a rural enterprise which are not restricted in their occupancy, an application for additional accommodation may cause local planning authorities to retrospectively control the occupancy of those dwellings through the imposition of an occupancy condition.
- 3.12 **Applicants should be aware that planning conditions controlling the occupation of a dwelling reduce the value of that dwelling relative to an open market valuation. This should be considered when investing in a new dwelling.** A planning permission for a new rural enterprise dwelling relates to a specific functional need, and a decision to invest in such a property should not be made on a speculative financial basis. Planning proposals may have asset value implications for both new and existing dwellings.
- 3.13 The removal of any occupancy conditions will be considered in accordance with the guidance in paragraph 4.13.5 of TAN 6.

## **Key Points**

***A successful rural enterprise dwelling project will depend on a sound understanding of the planning system and its relevance to a particular proposal.***

***Applicants are encouraged to seek professional advice and/or pre-application discussions with the local planning authority.***

***The justification for all dwelling proposals will be subject to careful examination and testing.***

***All proposals must meet specified functional and financial requirements.***

***All planning proposals must be supported by a Rural Enterprise Dwelling Appraisal containing all the evidence needed by local planning authorities to enable them to assess them effectively.***

***All new rural enterprise dwellings (and possibly some existing dwellings) will be subject to a planning condition restricting their future occupancy.***

***Planning conditions controlling the occupation of a dwelling reduces the value of that dwelling relative to its open market valuation.***

## 4 THE FUNCTIONAL TEST AND TIME TEST

### Introduction

- 4.1 In all cases (other than the exception where the management of a farm business is to be transferred) concerning proposals for new rural enterprise dwellings, applicants are required to demonstrate that there is an essential functional need for a worker(s) to live on site or very close to their place of work. It must also be demonstrated that the worker(s) will be employed on the enterprise full-time or, in the case of the exception set out under section 4.5 TAN 6, for 50% or more of a full-time role.

***“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 times. It should relate to unexpected situations which might arise, for which workers are needed to be on hand outside of normal working hours for the particular enterprise. Such requirements might arise, for example, if workers are needed to be on hand night and day to deal with an emergency that would threaten the continued viability and existence of the enterprise without immediate attention. Where there are existing dwelling(s) on the enterprise then the need for additional workers to live on the site for the proper functioning of the enterprise must be demonstrated to be essential.” TAN 6 paragraph 4.8.1***

### What is an essential functional need?

- 4.2 An essential functional need relates to a specific management activity or combination of activities which require the ready presence of a worker at most times if the proper functioning of an existing enterprise is not to be prejudiced and which cannot be achieved by any other practical means such as electronic surveillance.
- 4.3 It is a need determined by the character and management requirements of the enterprise, and not by any personal preferences or circumstances of any of the individual(s) involved.
- 4.4 The degree of functional requirement necessary to justify a rural enterprise dwelling is determined by the circumstances involved within the business:

new dwellings on established enterprises (including farms) and new dwellings on new rural enterprises - a clearly established functional need must be demonstrated. On an established enterprise the term 'new dwelling' refers to the first or an additional dwelling, whilst on a new rural enterprise it is the first dwelling. Reference to established and new enterprises can be found in paragraphs 4.4 and 4.6 of TAN 6;

second or further dwelling on an established farm, where there is a requirement for at least 0.5 of a full-time worker - the functional need for additional readily available workers must be demonstrated (see paragraph 4.1 of this Guidance), the long-term aim being to encourage younger people to manage farm businesses and promote the diversification of established farms; and

second or further dwelling on an established farm involving the transfer of a farm's management - the advantages of moving the principal management responsibilities to the next generation need to be evidenced. Whilst there does not have to be a functional need as defined above, TAN 6 (paragraph 4.5.3) indicates that the management successor must be critical to the continued success of the farm business, and that the need cannot be met in any other reasonable way, e.g. through the reorganisation of labour responsibilities. It is implicit that the business must be an established full-time agricultural enterprise.

4.5 Functional need is primarily concerned with the management of risk within the operations of an enterprise such that, without the ready attention of a worker(s), any particular event or combination of events could lead to adverse animal welfare, crop or product quality, or health and safety consequences which might threaten the stability and economic well-being of an enterprise. In all cases, these would be circumstances which could not be properly managed within normal working hours.

4.6 Examples of the circumstances which might give rise to an essential functional need for a readily available worker are:

where immediate, regular and often unpredictable care over much of the year is required to safeguard the specific welfare of livestock and offspring in breeding programmes, for example in lambing, calving and foaling conditions, or the more general welfare of animals housed in buildings either permanently or for protracted periods, for example in intensive livestock units, stud and livery stables, or commercial kennels. Rarely occurring (though predictable)

events/circumstances or situations of short seasonal 'need' can usually be met through the exemptions offered by Part V of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended);

where the productive processes or the quality of crops and products are dependent upon the maintenance and security of controlled environments using automated systems, such as in protected cropping horticulture and intensive livestock units. However, it is often possible to achieve adequate surveillance through remote means such as CCTV and temperature and other environmental sensors;

where the delivery of specialist services is required outside normal hours and where timeliness of response is important;

where the lack of 24-hour on-site supervision may prejudice the commercial viability of a business, for example at a large established livery yard.

- 4.7 This list is not exhaustive, and all cases of functional need justification will be assessed on their merits in the context of the circumstances of the particular enterprise.
- 4.8 The functional need test is not an absolute test. Individual circumstances often vary between enterprises, even between rural enterprises of the same type and general location. Similarly it is not a test which is susceptible to the application of pre-determined standards or thresholds. For example, while individual animals may enjoy equal welfare rights requiring close human attention, the needs of a single animal or indeed small group may not provide a justification for a supervisory dwelling. Conversely, a small number of high value animals kept for the purposes of a trade or business might, in very specific circumstances, generate a need for a supervisory dwelling. In addition, the cumulative welfare needs of a larger or specialist group of animals may also provide such a justification. Consequently, an important aspect of assessing the functional needs of an enterprise is a consideration of the scale and nature of the enterprise concerned.

## Time test

***“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. Where there is currently no dwelling associated with the rural enterprise the worker for whom there is a functional need for new accommodation must be a full-time worker. With the exception of second dwellings on established farms, it must not relate to a part-time requirement, or a requirement that does not relate to the enterprise. If this is a second (or further) dwelling, all existing dwellings must also be occupied by full-time workers for whom it is essential that they also remain on site for functional reasons, or by workers and their dependents last employed in a rural enterprise. (See exceptions at paragraphs 4.5.1 - 4.5.3).” TAN 6 paragraph 4.9.1***

4.9 The consideration of the scale and nature of an enterprise, and its associated management requirements, leads inevitably to a consideration of its labour requirements. Rural dwellings will only be permitted where the scale and nature of an enterprise give rise to substantive labour requirements. Consequently, if the functional test is met, the application will be subject to a supplementary time test.

4.10 There are three different circumstances to which a time test is applied in the Rural Enterprise Dwelling policy:

a new dwelling on an existing enterprise (including farms, but where an exception does not apply) or a new dwelling on a new enterprise (where there is no current dwelling) – there must be a requirement for a full-time worker;

a second or further dwelling on an established farm (where there is a current dwelling/s) – there must be a requirement for at least an additional 0.5 worker over most of the year and the existing dwelling must be retained for agricultural purposes;

a second or further dwelling on an established farm (where there is an existing dwelling/s) – there must be a transfer of the majority control of the enterprise to the next generation and the worker must be critical to the successful operation of the farm.

4.11 The circumstances of a need for a full-time worker or the transfer of the majority of management control are relatively clear. The potential for an additional dwelling on a farm based on 0.5 of a worker is more difficult to interpret. This circumstance arises where the existing full-time workforce, probably a single individual, cannot effectively meet all the functional needs of the farm enterprise but the shortfall does not justify a second full-time worker. The introduction of the 0.5 worker would enable the essential functional needs of the enterprise regularly arising over most of the year to be shared and thereby addressed effectively. This would be particularly important where long anti-social hours are involved or it would be unsafe for a single worker to undertake specific tasks. A significant proportion of the additional worker's time needs to be attributed to the essential functional requirements of the agricultural enterprise such as calving or lambing. It would not be appropriate to provide an additional dwelling for a worker merely providing administrative or maintenance support.

### **How are labour requirements assessed?**

4.12 Labour is one of the critical resources available to any business and a significant cost factor. Understanding and controlling this resource is, therefore, an important element in the operational and financial effectiveness of a business.

4.13 The labour requirements of a rural enterprise can be derived from either published standard data sources or from appropriate record keeping. Standard data are readily available for agricultural and equine enterprises, for which Standard Man Day (SMD) estimates are available for most activities.

4.14 It is recognised that many of those engaged in small rural enterprises work long and anti-social hours, and that their labour is often undervalued. In assessing labour requirements, it is therefore important to adopt a degree of standardisation which enables the assessment to be applied consistently between different enterprise types. Central to this is the concept of the 8-hour day, or SMD.

4.15 Using standard data, business records or comparables, it is possible to calculate the total labour input (in either SMDs or hours worked), and hence number of workers, required by an enterprise. The annual amount of labour provided by a standard worker is assumed to be 2,200 hours or 275 Standard Man Days of 8 hours.

4.16 A standard labour assessment would take the following form:

<p><b><i>The number of SMDs required per unit of production</i></b></p> <p><b><i>Add 15-20% for general maintenance, repairs and management</i></b></p> <p><b><i>Assume 275 available SMDs</i></b></p> <p><b><i>Total SMD requirement divided by 275 = required number of workers</i></b></p>
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4.17 This is a reasonably robust form of labour planning although adjustments may be necessary to reflect particular circumstances such as seasonality of demand, economies of scale or degree of mechanisation. An example of a standard labour requirement calculation is shown below:

<p><b><u>Standard Labour Requirement Calculation</u></b></p> <p>This is a hypothetical example of a Lesser Favoured Area (LFA) livestock farm in South Wales with a flock of 250 Welsh Mountain crossbred ewes which lamb indoors from February to April. Half of the 100 suckler cows calve in the spring with the others calving from September to November.</p> <p>The current standard labour requirements for the upland livestock farm can be assessed as follows:</p>
--

Enterprise	SMD/head or ha	Standard Man Days
100 upland single-suckler cows (incl. calf)	1.68	168
4 bulls	3.5	14
75 suckler-bred stores	1.1	83
22 suckler replacements	1.1	24
250 upland ewes (incl. lambs)	0.45	113
9 rams	0.5	5
500 free-range laying hens	0.06	30
<b>Livestock total</b>		<b>437</b>
40ha silage (2 cuts)	2.8	112
55ha grazing only	0.4	22
15ha hay	1.8	27

15ha rough grazing	0.2	3
28ha oats/barley	1.75	49
8ha fodder rape/kale	1.4	11
<b>Cropping total</b>		<b>224</b>
<b>Sub-total</b>		<b>661</b>
15% management & maintenance		99
<b>Total</b>		<b>760</b>
Standard Man Days/worker		275
<b>No. of workers</b>		<b>2.8</b>

Ref: John Nix Farm Management Pocketbook.41<sup>st</sup> Ed., 2011 Agro Business Consultants Ltd.  
(SMDs taken from Nix, farm details from a hypothetical upland livestock farm)

**Key points:**

***In all cases, except the transfer of management, the essential need for the ready availability of a worker or workers must be demonstrated.***

***The essential need must relate to the management of clear risks to the proper functioning of an enterprise which could threaten its economic sustainability.***

***Personal circumstances and issues of convenience will not constitute an essential functional need.***

***The circumstances of risk will vary between enterprises and whether their management provides a functional justification for a dwelling will depend upon the scale and nature of the particular enterprise.***

***The scale and nature of an enterprise must give rise to a substantive labour requirement; in most cases for at least a full-time worker.***

***Where an additional worker is required on an established farm, his or her labour must be attributable to an essential functional need.***

***The labour requirements of an enterprise will be assessed with reference to a standard 8-hour working day.***

## 5 THE FINANCIAL TEST

***“The rural enterprise and the activity concerned should be financially sound and should have good prospects of remaining sustainable for a reasonable period of time, usually at least 5 years.” TAN 6 paragraph 4.10.1***

- 5.1 The financial test performs two functions. Firstly, it seeks to establish whether an existing or proposed rural enterprise is sustainable when viewed in the immediate short-term; nominally 5 years. If this cannot be demonstrated, it is unlikely that planning permission will be granted for a dwelling, even if there is currently a functional need to house a worker, as that need is unlikely to be sustained. Secondly, the test assesses whether the size and cost of a proposed dwelling is commensurate with the ability of the enterprise to fund and sustain it without prejudice to the continued viability of the enterprise.

### **The concept of financial soundness and sound financial planning**

- 5.2 The Rural Enterprise Dwelling policy is concerned with providing support to rural businesses. It relates to commercial entities, and the testing of their financial soundness or prospects derives from the normal economic principles applied to businesses. It is not a policy concerned with unconventional or subsistence enterprises which are the subject of a separate policy approach elsewhere in TAN 6.
- 5.3 To be viable or sustainable any business enterprise must be:
- profitable - income must exceed expenditure on a regular basis;
  - feasible - have sufficient funds to support on-going trading operations; and
  - worthwhile - provide a reasonable return on the resources used in it.
- 5.4 A business enterprise which is unable to achieve these parameters will not be viable in the long-term. In the short-term, a business might be able to weather difficulties in respect of one of the parameters. However, use of external financial assistance can lead to indebtedness and increased financial liabilities, while persistent absence of reasonable returns undermines the ability of a business to grow and invest in itself. Consequently, while at any time one or more of the parameters might assume a greater importance, ultimately all three are essential to a sustainable enterprise.

- 5.5 The Rural Enterprise Dwelling policy requires that evidence of actual or potential economic performance is submitted in support of proposals (TAN 6, paragraph 4.10.2). Existing rural enterprises will be able to demonstrate sustainability by reference to their actual financial performance over the recent past. The relevant data will be found in their financial records and/or accounts. For new enterprises evidence of sound financial planning is required, which would normally be in the form of a business plan.

### **Business plans**

- 5.6 The preparation of a business plan which tests the costs of producing a product or service, the market conditions for that product or service, and the means of establishing the enterprise in labour and financial terms is a key requirement for any new business. It will be essential in cases where grant aid or other external funding is sought to facilitate the establishment of an enterprise.
- 5.7 In cases of proposals for dwellings on new enterprises, a business plan will be an important element of the Rural Enterprise Dwelling Appraisal. It will have added weight where it has received endorsement from a grant-aiding body or a bank, for example. The business plan will set out the financial projections for the business, and the assumptions and parameters used in their development. A wide range of advisory material is available on how to prepare a business plan and there is access to professional support and advice. Sources are identified in Section 9.
- 5.8 The business plan will enable applicants and local planning authorities to determine whether the required housing should be provided by a permanent or a temporary dwelling. In cases of entirely new enterprises, it would normally be the case that their functional needs are met initially by temporary accommodation to enable their financial sustainability to be tested.
- 5.9 There is no prescribed format for a business plan, but it should be comprehensive and robust.
- 5.10 Where local planning authorities grant planning permission for temporary accommodation, the performance conditions required for a subsequent permanent dwelling may be related to the outcomes of the business plan.

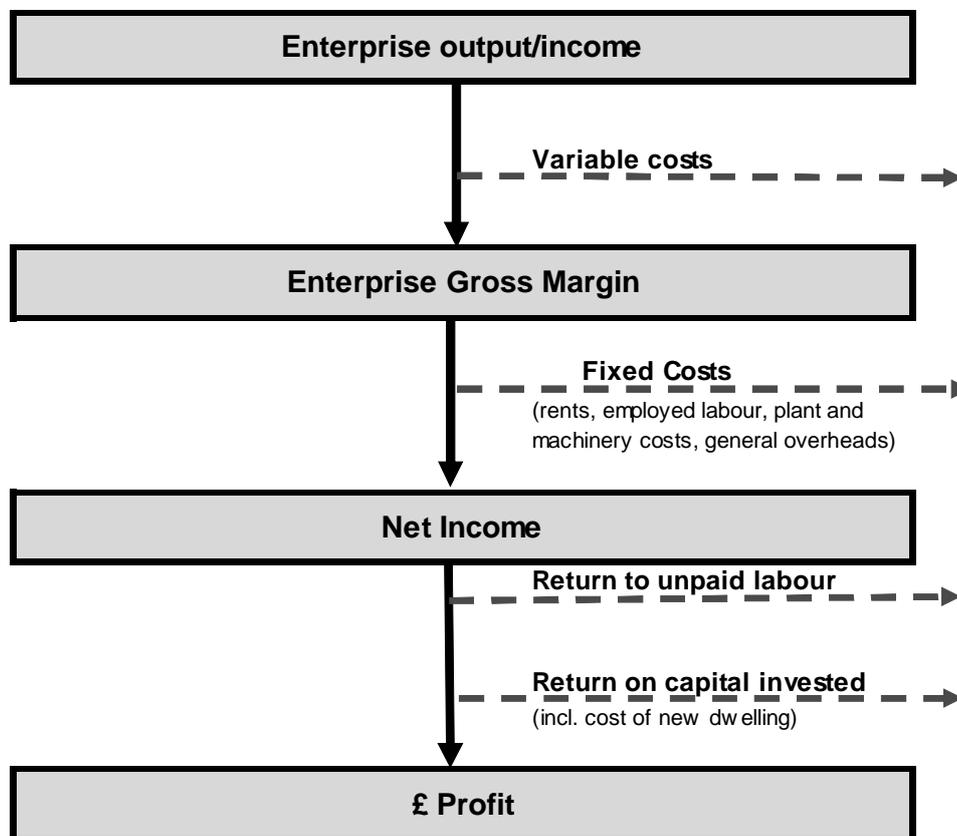
## **Financial records and business accounts**

- 5.11 Where dwelling proposals relate to existing enterprises, it will be possible and necessary for those enterprises to provide information in the Rural Enterprise Dwelling Appraisal of their actual financial soundness and performance over a minimum of the past three consecutive years. The evidence base will be financial records, statements or accounts, some of which might be prepared for taxation purposes.
- 5.12 Personal financial records are sensitive and prepared for purposes unrelated to the planning system. The extent to which they or data contained within them may find their way onto the public record needs to be handled with care. However, such records provide the only verifiable source of information on the actual income and cost streams of an enterprise and its underlying soundness in terms of assets and liabilities. These key aspects of a business can be drawn from business records without reference to personal considerations applicable to persons associated with an enterprise, or to legitimate adjustments which might be made for taxation purposes.
- 5.13 The critical aspect of actual financial data is that local planning authorities must be in a position to effectively assess them. It will not be sufficient for planning proposals to be supported by statements from consultants and accountants which do not relate to submitted evidence. Where full access to financial records is reasonably required, this can be provided to local planning authorities on a secure and confidential basis.
- 5.14 In broad terms, submitted financial data should demonstrate:
- the enterprise income (with multiple sources identified);
  - the costs of production, both variable and fixed;
  - the net profit; and
  - the balance between assets and liabilities.
- 5.15 The profit available to an enterprise will be tested in terms of its ability to provide a realistic return to unpaid labour, and to fund/support the proposed dwelling.
- 5.16 With regard to the realistic return to unpaid labour, cross referencing to the labour assessment undertaken in the context of the functional test will be necessary. All labour required must be adequately remunerated either as a wage or a return, with an explicit entry in the financial appraisal showing 'drawings' in the form of money or kind.

It will not be realistic for a worker providing in excess of a standard day's work to be costed and assessed on the basis of the basic daily rate. Furthermore, the labour cost must relate realistically to the skills of the individuals concerned. The absolute lowest threshold of remuneration will be the statutory minimum wage but, in the majority of cases, higher levels of remuneration will be appropriate. These can be defined by reference to returns in comparable enterprises or in the general economy. Evidence on this aspect will be an essential aspect of the Rural Enterprise Dwelling Appraisal.

5.17 Whether dwelling proposals are promoted as outline or full planning applications, all planning applications are required to indicate the scale of any proposed buildings and be supported by a Design and Access Statement. From this it will be possible to provide an indicative build cost to be provided as part of the financial testing. The expectation is that rural enterprises will be able to fund and sustain this cost in terms of either meeting a finance charge on borrowed capital or providing a modest return on the investment of personal capital.

5.18 In the light of the above, the required data and financial testing of dwelling proposals can be set in the context of the flow diagram below. The final figure must be positive in order to meet the financial test.



5.19 The financial test for new dwellings requires that, having provided evidence of positive financial performance, rural enterprises must show that they have a reasonable prospect of sustaining returns to the labour employed for at least the following five years. Future projections are notoriously hard to formulate. A realistic approach to the test would be to identify the sensitivity of a business to changes in factors such as market conditions, legislative constraints and financing, and consider whether any changes of a magnitude which would threaten the enterprise are foreseeable.

**Key Points:**

***Unless an existing or proposed rural enterprise can be shown to be financially sound and sustainable, it is unlikely that a dwelling will be permitted.***

***To be financially sound an enterprise must be profitable, capable of trading sustainably and provide a realistic return on the resources used, particularly the labour of the principals in the enterprise.***

***Financial evidence must be provided in the Rural Enterprise Dwelling Appraisal either in the form of a Business Plan for new enterprises or of data from financial statements or accounts for established enterprises.***

***The level of actual financial performance in established enterprises must be able to provide a realistic return to unpaid labour and sustain the build cost of the proposed dwelling.***

## 6 ALTERNATIVE ACCOMMODATION

***“the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned” TAN 6 paragraphs 4.4.1 and 4.6.1***

- 6.1 Given that there is a general policy of restraint on new residential development in the countryside, there is an underlying theme to the Rural Enterprise Dwelling policy that, even where there is a functional need to house a worker, every opportunity should be explored to avoid creating new development. In the testing of rural enterprise dwelling proposals it is necessary for applicants to demonstrate, and for local planning authorities to be assured, that no reasonable alternative to a new dwelling is available.

### **Established rural enterprises**

- 6.2 Applicants for new dwellings to serve existing rural enterprises will need to demonstrate:

why any existing dwelling on the land is unavailable or unsuitable to meet the functional need to house a worker;

why there are no alternative options to new development on the land; for example, the absence of buildings suitable for conversion or of opportunities to meet the functional requirements through a re-organisation of the management of the enterprise;

why existing housing in the locality is unsuitable or unavailable to meet the functional need of the enterprise; for example, through the remoteness of the enterprise base, the high cost of open market housing, or the general lack of availability of appropriate house types.

- 6.3 Each of these considerations will need to be addressed in the Rural Enterprise Dwelling Appraisal by submission of reasoned argument or clear robust evidence.
- 6.4 In the consideration of existing dwellings on the enterprise, with the exception of the circumstance in which the enterprise is a farm where management control is being passed to the next generation, regard should be given to the needs of the enterprise

rather than to personal considerations. The fact that an existing dwelling may be occupied by a person not delivering an essential functional input to the enterprise will not, in itself, be sufficient justification for an additional dwelling.

- 6.5 Where there are buildings which may be potentially available for conversion to dwellings, their unsuitability will need to be demonstrated by reference to considerations such as their siting, structural condition, or an on-going functional requirement within the operation of the enterprise.
- 6.6 The management structure and requirements of the enterprise should have been fully described and discussed in the Rural Enterprise Dwelling Appraisal in addressing the Functional Test. From this evidence it will need to be shown why the labour or residential arrangements associated with the enterprise cannot be re-organised to avoid the need for a new dwelling.

### **New enterprises**

- 6.7 Proposals for new rural enterprise dwellings have the same requirements in respect of the alternative dwelling test as those described above in respect of proposals on established enterprises.
- 6.8 In addition to the general tests regarding alternative options, the policy in respect of new rural enterprises requires the inherent suitability of the site of the new enterprise to be tested. Clear evidence will be required in respect of site selection and the reasons why the enterprise could not have been accommodated on an alternative suitable site where an existing dwelling was likely to be available. This test is likely to be particularly important in relation to rural enterprises which are not engaged directly in primary production.
- 6.9 Where planning permission is sought for development, for example buildings, to enable the establishment of a new farm enterprise on a site without access to existing dwellings, the applicant should consider whether the enterprise might reasonably give rise to a need for supporting residential accommodation. Where it is concluded that a dwelling might be required at some period in the future, this prospect should be raised at the outset and the acceptability of enterprise as a whole considered.

## **Second or further farm dwellings**

- 6.10 In relation to the special case of the transfer of management of farming enterprises to the younger generation, the general requirement to address alternative housing options still applies, as does the need to explore alternative management approaches which might avoid the need for an additional dwelling.
- 6.11 In this particular case, it is accepted that the existing dwelling could be occupied by a person who would, following the transfer of management responsibilities, no longer play a major functional role in the enterprise, and indeed may progress towards retirement. Unlike the general case of additional dwellings on an enterprise, this would not necessarily be a constraint. This policy exception only applies in relation to one additional dwelling.

## **Control**

- 6.12 Where enterprises have experienced changed circumstances, particularly in the recent past, and land, buildings and dwellings have been severed from them by sales or transfers of ownership, applicants should fully explain the background for these changes in the Rural Enterprise Dwelling Appraisal. Local planning authorities will need to be assured that the need for a new dwelling has not arisen from circumstances of poor business decisions or attempts to manipulate the rural enterprise dwelling exceptions.

### ***Key Points:***

***The basis of rural housing policy is that every opportunity should be examined to avoid the creation of new residential development in the countryside.***

***In all cases, it will be necessary to demonstrate that the need to house a rural worker cannot be met by existing dwellings, conversion of suitable buildings or the reasonable re-organisation of the management of the enterprise.***

***In respect of dwellings on new enterprises, the suitability of the site in the absence of existing accommodation will be critically***

***examined.***

***Changing circumstances in the availability of land and buildings to rural enterprises will be examined to ensure there is no abuse of the policy exception extended to such enterprises.***

## 7 OTHER PLANNING REQUIREMENTS

***“Rural enterprise dwellings should satisfy the usual planning requirements in terms of design, sustainability and access.” TAN 6 paragraph 4.12.1***

7.1 The exception to the normal policy of restraint on housing in the countryside afforded to rural enterprise dwellings does not set aside the normal planning requirements which development generally is required to meet. This can include, for example, specific policy designations relating to Green Belts or green wedges, the landscape, the natural and built heritage, to flooding and highway considerations. Statutory designations may also be relevant. These requirements can be found in the local planning authority’s development plan and guidance to applicants for planning permission.

7.2 It is not possible to highlight all the planning requirements which might apply. Some issues, however, have particular relevance in relation to rural enterprise dwellings, namely those of:

siting;

design; and

size/scale.

### **Siting**

7.3 Sites for new dwellings which are prominent in the landscape should be avoided. However, the siting of the dwelling should have regard to the particular functional need which its occupation is expected to meet. A dwelling should be sufficiently close to operational areas where adequate monitoring of animals or sensitive equipment/processes is required, and to enable the effective response of a worker to any identified difficulty.

7.4 Where the functional need is associated with a building or group of buildings, the dwelling should not be sited so as to prejudice its potential future use as a unit of generally available affordable housing. Regard should, therefore, be had to residential amenity and health and safety considerations in the siting of dwellings.

## **Design**

- 7.5 It is Welsh Government policy that all new residential development achieves minimum sustainable building standards. Those standards are concerned with the effective use of materials, energy efficiency, minimisation of waste and control of pollution, and the avoidance of adverse effects on water resources and ecology.
- 7.6 Applicants should be aware of sustainable building requirements and/or seek professional advice in bringing forward dwelling proposals. Planning applications must be supported by Design and Access Statements which demonstrate, amongst other things, how the principles of sustainable development have been taken into account in the formulation of a dwelling proposal and how the local policy and environmental context are reflected in the design.

## **Size/scale**

- 7.7 The issue of the size of proposed dwellings has been considered earlier in relation to the ability of an enterprise to fund and sustain a dwelling. The size of a dwelling should reflect the needs of the enterprise but, with the extension of potential occupancy to those eligible for affordable housing, applicants should also have regard to this consideration. As indicated earlier, the restriction on the future occupancy of new dwellings will have valuation implications, and size may be an affordability factor. The size of the proposed dwelling specified in the Design and Access Statement and justified through the proposal's appraisal is likely to be made a condition of any planning permission granted. Under the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2008 (S.I. 2008/2336, W.198) planning proposals should be considered in line with relevant policies and the site's constraints and opportunities. The information provided with the application should enable proper consideration by both decision makers and local communities. This applies equally to outline and detailed applications.

**Key Points:**

***Rural Enterprise Dwellings must meet normal planning requirements for residential development.***

***The siting of dwellings must reflect the functional requirement for the workers concerned, but also not prejudice their potential future availability as affordable dwellings.***

***The design of dwellings must reflect the increasing imperative for new residential development to meet minimum standards of sustainability.***

***The size of dwellings should reflect the needs of the relevant rural enterprises, but have regard to their potential future use as affordable dwellings.***

## **8 CONTROL AND MONITORING**

### **Introduction**

- 8.1 The policy for rural enterprise dwellings provides for exceptions to be made to the general policy of restraint on sporadic residential development in the countryside where particular circumstances of functional need exist. It is an important aspect of this policy, therefore, that the needs are genuine and that permitted dwellings remain available to meet the needs of the rural community into the future. Given the widening of the scope of qualifying circumstances, this aspect is of even greater importance and it is necessary to have controls available to address it.
- 8.2 The Welsh Government wishes to encourage the transfer of management of farm businesses to the next generation to encourage younger people to remain in the rural community. Where dwellings are permitted to allow this, it will be necessary for applicants to provide legally-binding documentary evidence which demonstrates that majority control of a farm business has indeed been transferred to the younger person concerned (TAN 6 paragraph 4.5.1).
- 8.3 All new dwellings will be subject to planning conditions controlling their immediate and future occupancy. In line with the broadening of the scope of rural enterprise dwelling exception, the traditional agricultural occupancy condition has also been broadened to ensure that new, and potentially existing dwellings, remain available for rural workers and their dependants/widow(er)s or to meet more generally applicable affordable housing needs.
- 8.4 It is proposed that, in future, local planning authorities will keep more effective records of rural enterprise dwellings and monitor compliance with the relevant occupancy conditions on a regular basis.

### **Legal agreements**

- 8.5 Farm businesses exist in a wide range of ownership and management arrangements, and are subject to many external considerations including inheritance and mortgage requirements and liabilities. There cannot, therefore, be a simple universal form of legal agreement which would secure the transfer of management control in the case of second dwellings on established farms where control is passing to a younger generation.

- 8.6 The objective of the requirement for a legally-binding agreement on the transfer of management control is, however, simple and clear; namely the prevention of the abuse of the relaxation of restraint on housing in the countryside to assist in the rejuvenation of the farming community.
- 8.7 The production of an appropriate legal document will require the professional support of legal and financial advisers, and the agreement of all parties with an interest in the farm business or any of its assets and of the local planning authority.
- 8.8 A transfer of management control could be achieved by a number of means. One route could be through the form of the farm business; for example, the reapportioning of administrative and operational responsibilities and financial rewards and liabilities in a partnership or limited company. Alternatively, the management role could be secured through the granting of control of the productive assets of a farm by means of a tenancy or contract agreement, or indeed their complete transfer of ownership to the younger person concerned.
- 8.9 However, **it is strongly recommended that long-term trading and taxation implications are investigated by applicants through consultation with accountants and legal professionals before taking this route.**

### **Occupancy conditions**

- 8.10 To control the occupancy of permitted dwellings and their potential transfer to meet general affordable housing needs, TAN 6 currently advises that all new rural enterprise dwellings should be subject to the following planning condition:

***“The occupancy of the dwelling shall be restricted to those:***

- a) solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those***
- b) who would be eligible for consideration for affordable housing under the local authority’s housing policies: or if it can be demonstrated that there are no persons eligible for occupation under (a) and (b);***
- c) widows, widowers or civil partners of the above and any resident dependants.”*** TAN 6 paragraph 4.13.1

- 8.11 The condition is slightly misleading insofar as it suggests that, if a dwelling no longer meets a rural enterprise need due to the death of the principal worker, the worker's immediate dependant also residing in the dwelling can no longer do so until such time as the absence of a local affordable housing need is demonstrated. This was not the intention of the condition and upon examination in a planning appeal case (Appeal Decision APP/M6825/A/10/2130351) it has been determined that the position of resident dependant relatives is protected.
- 8.12 However, to ensure greater clarity a revised condition should in future be attached to all permissions for new rural enterprise dwellings. The condition reads:

***“The occupancy of the dwelling shall be restricted to:***

- a) a person solely or mainly working<sup>1</sup>, or last working<sup>2</sup> on a rural enterprise in the locality<sup>3</sup>, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,***
- b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.”***

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<sup>1</sup>Where someone is predominantly employed in a qualifying rural enterprise.

<sup>2</sup>Last working covers the cases of a person who is temporarily unemployed or is no longer able to work due to old age or illness. It may also include a person who is engaged in other part-time or temporary employment if that person could still be regarded as a rural enterprise worker or a retired rural enterprise worker.

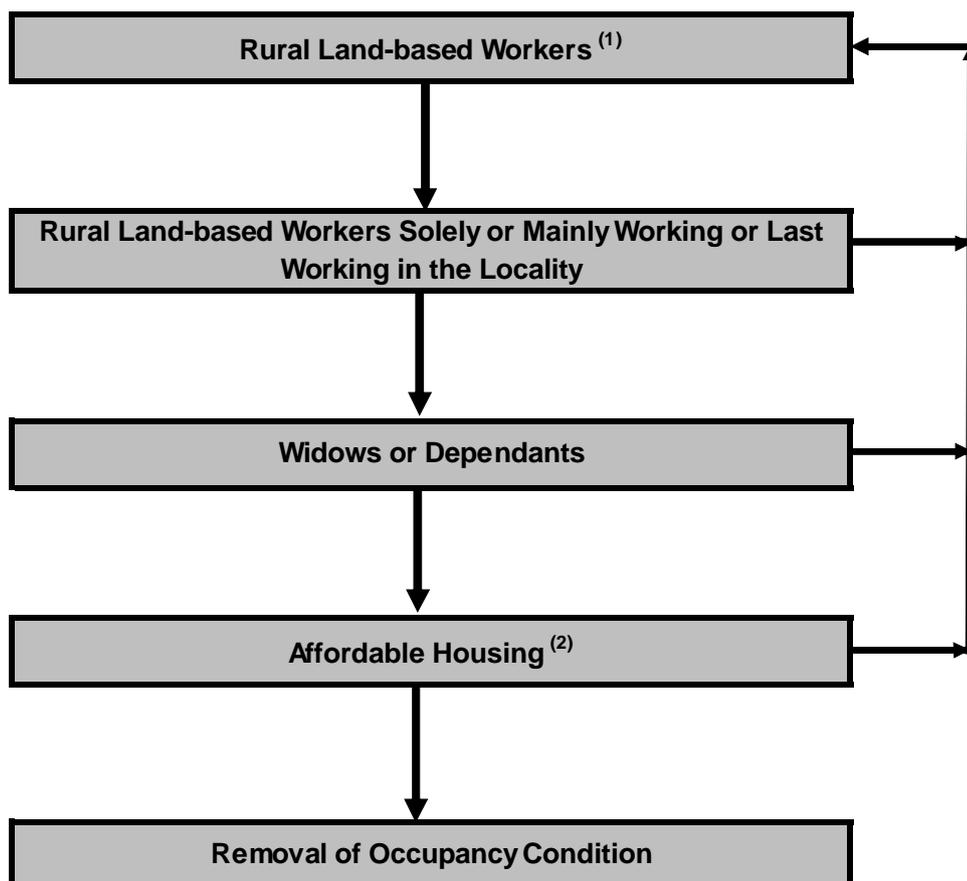
<sup>3</sup>A rural enterprise worker does not have to live on or adjacent to his/her workplace but may be employed in a rural enterprise at some distance but not so far as to invalidate one of the purposes of the condition which is to preserve a stock of dwellings for the use of the local population.

8.13 The intention is that new rural enterprise dwellings can be continually re-cycled between rural enterprise workers<sup>1</sup> and eligible affordable housing<sup>2</sup> need and their respective dependants. Only in the absence of any eligible occupant within the local area will the release of a dwelling from occupancy control be considered (see Figure 8.1).

8.14 For those concerned with proposals for new dwellings, the issues to be considered are:

- compliance with the occupancy requirements;
- the application of the restrictive conditions to existing dwellings; and
- demonstration of the absence of continuing need.

**Figure 8.1. Rural enterprise worker's dwelling flowchart**



<sup>1</sup>A rural enterprise worker is one engaged in activities that produce their primary outputs from the site, together with land management, support services, tourism and leisure activities which are all rural-based..

<sup>2</sup>Affordable housing is housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers.

## **Compliance with the condition**

8.15 The main issues of interpretation in respect of ensuring compliance with the occupancy condition relate to the terms:

solely and mainly working in a (qualifying) rural enterprise;

the locality; and

eligibility for consideration for affordable housing.

8.16 The intention of the Rural Enterprise Dwelling policy is to give support to the rural economy. It is implicit, therefore, that a person working in a qualifying rural enterprise will be doing so with the intention of a financially beneficial outcome, either as a wage or as a return to unpaid labour. Working in this respect is, therefore, an economic activity rather than a hobby. The extent of that work can be measured in terms of either time or financial reward, both of which criteria appear within the policy tests.

8.17 If the functional test is met, it is expected that the worker will be a full-time worker and not a part-time worker. The exception is in the case of the functional need for an additional farmworker where this has to be at least 50% of time and provide a financial reward of at least 50% of a farmworker's wage. In this context the terms 'solely and mainly working' will relate to productive work within a particular enterprise which will be the predominant activity and source of remuneration for the worker involved.

8.18 The relevant locality of a rural enterprise dwelling is not defined and will vary between types of enterprise and circumstances. Since the occupying worker has to be performing a substantive role in a rural enterprise, long distance commuting is unlikely to be practical or attractive. Distance between a dwelling and work will be determined by considerations such as the nature of the road network, the availability of public transport, and the requirements of a particular enterprise.

8.19 Where there is no available occupant satisfying the rural enterprise criteria, a compliant occupant may be found from the local population subject to their being eligible for consideration for affordable housing in the local authority's housing policies. These will vary between authorities, but will generally be in conformity with the guidance of the Welsh Government in TAN 2 '*Planning and Affordable Housing*'. Eligible persons are likely to include existing households needing separate accommodation, persons providing essential services which require them to be located

in a local community (for example teachers, nurses, police and emergency service workers), persons with long family connections to a local community, and persons with a job offer in the locality and requiring affordable housing.

- 8.20 The advice of the local authority should be sought on the particular local affordable housing policies applying in any specific area.

### **Extension of control to existing dwellings**

- 8.21 Where proposals for dwellings are permitted on enterprises where there are already dwellings occupied in association with them, local planning authorities have the ability to restrict not only the future occupancy of the new dwellings but of others on the enterprises whose occupancy is not currently controlled or where the scope of control is less than that in the new condition.
- 8.22 This extension of control is not automatic but will relate to the circumstances of individual cases. Such circumstances could arise where the need for an additional dwelling arises from an increase in the functional demands of the enterprise whereby two on-site workers are required rather than the one residing in an existing dwelling. In this case it will have been demonstrated that the enterprise needs two dwellings, and it would be inconsistent if the occupancy of the new dwelling was secured and controlled but not that of the existing dwelling. Similar circumstances might arise in accommodating the younger generation on existing farming enterprises.
- 8.23 Similarly, where local planning authorities are particularly concerned to ensure the sustainability of the circumstances giving rise to a need for a new dwelling, they may seek to tie rural dwellings to associated land and buildings by means of legal agreements. However, in considering this method, regard should be had to the normal 'churning' of land assets through their sale and acquisition and the effect of doing so upon the operation of the enterprise. Attention is drawn to paragraph 103 of Circular 35/95 in this regard.
- 8.24 Where local planning authorities seek to establish these controls upon the grant of planning permission and applicants do not consider that this is reasonable in the context of the actual circumstances, there is provision in the planning system for an appeal.

## **Demonstration of the absence of continuing need**

- 8.25 The main issue that has arisen in the past with occupancy conditions has related to attempts by owners of restricted properties to remove the condition on the basis that they no longer perform their purpose due to the absence of continuing need. With the widening of the range of qualifying rural enterprise occupants and the addition of the local affordable housing requirement, the scope for the removal of the new occupancy condition is very much reduced.
- 8.26 In the event that a proposal to remove the new occupancy condition, as attached to a new dwelling or pre-existing property, comes forward, there will be a need to demonstrate, with supporting evidence, that there is no longer a rural enterprise need for the dwelling or a local affordable housing need in the area. The longstanding mechanism for demonstrating the absence of need has been market testing.
- 8.27 Evidence of effective market testing will be required over a reasonable period, usually at least 12 months. The critical aspects of market testing are that:
- the availability of a property is advertised in such a manner that compliant purchasers or tenants are likely to be made aware of it; and
  - the price or rent attached to a property reflects the restrictive occupancy requirement.
- 8.28 The value of any property subject to an occupancy restriction will be less than its value on the open market. Traditionally agricultural dwellings have been marketed at prices generally between 70 and 75% of their open market value. With the wider range of compliant rural enterprise workers and local affordability constraints, this will continue to be the case. The valuation of properties will require professional advice and, in the case of affordability criteria, assistance from the local authority.

## **Monitoring**

- 8.29 In bringing forward the Rural Enterprise Dwelling policy, the Welsh Government intends that the stock of permitted dwellings is managed more effectively than has been the case in the past in order that dwellings meet their intended purposes. There are three elements to the proposed management process:
- the creation and maintenance of a Register of Rural Enterprise Dwellings;

regular monitoring of the occupancy of Rural Enterprise Dwellings to ensure compliance with the occupancy condition; and

annual reporting to the Welsh Government on the number and location of permitted dwellings.

- 8.30 The monitoring of compliance with the occupancy condition will entail local planning authorities contacting the occupants of restricted dwellings to request details of the period of residence and the nature of current and last employment. Occupants should respond effectively to the monitoring process. Failure to respond or to provide material which local planning authorities have reason to believe to be false or misleading may lead to the initiation of pre-enforcement enquiries in which continued non-compliance or misinformation may constitute a criminal offence.

**Key Points:**

***A key aspect of the Rural Enterprise Dwelling policy is that the need for the dwelling is genuine, and that permitted dwellings remain available to meet the needs of the rural community into the future.***

***All new dwellings will be subject to control.***

***For dwellings required to enable a transfer of farm management to the younger generation, it will be necessary for the transfer to be legally binding.***

***All new dwellings will be subject to a planning condition restricting their future occupancy to rural enterprise workers and their dependants, or eligible members of the local community in need of affordable housing.***

***Control of occupancy will only be released when the absence of eligible occupants has been rigorously tested.***

***The occupancy of new rural enterprise dwellings will be subject to close monitoring.***

## REFERENCES

Agro Business Consultants Ltd. May 2011. *The Agricultural Budgeting and Costing Book*. 72<sup>nd</sup> Edition.

Agro Business Consultants Ltd. September 2010. *The John Nix Farm Management Pocketbook*. 41<sup>st</sup> Edition.

Planning Policy Wales. February 2011. Edition 4.

Technical Advice Note (TAN) 2. 2006. *Planning and Affordable Housing*.

Technical Advice Note (TAN) 6. June 2000. *Agricultural and Rural Development*.

Technical Advice Note 6. July 2010. *Planning for Sustainable Rural Communities*.

Welsh Office 1995 *Circular 35/95. The Use of Conditions in Planning Permissions*.

## **SOURCES OF INFORMATION AND ADVICE**

### **The planning system**

Guidance material on the planning system is produced by the Welsh Government and on planning appeals by The Planning Inspectorate which can be accessed through their respective websites:

[www.wales.gov.uk](http://www.wales.gov.uk) go to link to Planning

[www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

General planning advice is available through Planning Aid Wales ([www.planningaidwales.org.uk](http://www.planningaidwales.org.uk)) and the farming community can access planning assistance through Farming Connect ([www.farmingconnect.co.uk](http://www.farmingconnect.co.uk))

### **Local planning authorities**

Local planning authorities produce development plans containing development control policies and guidance on the requirements for planning applications. Local authorities also produce housing strategies containing their approach to the meeting of affordable housing needs.

Specific pre-application advice can be sought.

### **Professional advice**

Professional advice can be sought through local contacts and local authorities can provide guidance. Planning authorities may wish to assist applicants by preparing a list of competent persons able to provide independent and unbiased advice.

The following professional bodies can identify members providing services in Wales:

British Institute of Agricultural Consultants ([www.biac.co.uk](http://www.biac.co.uk))

Royal Institute of British Architects ([www.architecture.com](http://www.architecture.com))

Royal Institute of Chartered Surveyors ([www.rics.org/wales](http://www.rics.org/wales))

Royal Town Planning Institute ([www.rtpi.org.uk/wales](http://www.rtpi.org.uk/wales))

Business support is also provided by the following agencies in Wales:

Business Wales ( [www.business.wales.gov.uk](http://www.business.wales.gov.uk) )

Farming Connect ( [www.farmingconnect.co.uk](http://www.farmingconnect.co.uk) )

### **General sources of advice and support for rural enterprises**

Country Land and Business Association ( [www.cla.org.uk](http://www.cla.org.uk) )

Countryside Council for Wales ( [www.ccw.gov.uk](http://www.ccw.gov.uk) )

Environment Agency ( [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) )

Farmers Union of Wales ( [www.fuw.org.uk](http://www.fuw.org.uk) )

Forestry Commission Wales ( [www.forestry.gov.uk/wales](http://www.forestry.gov.uk/wales) )

National Farmers Union (Wales) ( [www.nfu-cymru.org.uk](http://www.nfu-cymru.org.uk) )

Tenant Farmers Association ( [www.tfa.org.uk](http://www.tfa.org.uk) )

Welsh Government ( [www.wales.gov.uk](http://www.wales.gov.uk) )

Visit Wales ( [www.visitwales.co.uk](http://www.visitwales.co.uk) ) (part of Welsh Government)

### **Useful documentary sources**

Equine Business Guide, 5th ed., 2005 Warwickshire College

John Nix Farm Management Pocketbook. Agro Business Consultants Ltd.

The Agricultural Budgeting and Costing Book. Agro Business Consultants Ltd.

Wales Farm Income Booklet. Aberystwyth University