

REPORT OF **Planning and Economy Manager**
To: **Community and Resources Committee**
Subject: **North Devon and Torridge Supplementary Planning Document – Rural Workers’ Dwellings**
Date: **20th January 2020** **Reference:**

<p>PURPOSE OF REPORT: To adopt the North Devon and Torridge Rural Workers’ Dwelling Supplementary Planning Document</p>
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1. INTRODUCTION

The North Devon and Torridge Local Plan 2011-2031 (the “Local Plan”) adopted in October 2018 includes a commitment to prepare a range of supplementary planning documents. The first in a series of consultations on such documents was undertaken over a six week period during September – October 2019. The draft documents related: to Air Quality, Rural Workers’ Dwellings and a Design Guide for Leadengate. This report deals with the Rural Workers’ Dwelling Supplementary Planning Document; the Leadengate Design Guide is not a matter for this Council as it is specific to North Devon and the Air Quality Supplementary Planning Document will be reported to a future meeting of this Committee.

Supplementary planning documents are non-statutory planning documents prepared by the District Council in consultation with the local community, the purpose of which is to assist with the interpretation and implementation of local plan policy. When adopted they will be taken as a material consideration in the determination of relevant planning applications.

2. REPORT

The Rural Workers’ Dwelling Supplementary Planning Document provides additional guidance on the application of Local Plan Policies DM28: Rural Worker Accommodation and DM29: Farmer Family Attached Accommodation.

Consultation on the draft supplementary planning document was undertaken in accordance with the provisions of the Council’s Statement of Community Involvement and the Town and Country Planning (Local Planning) (England) Regulations 2012. The draft document, together with a statement of consultation was published on the Council’s website on 26th September 2019, copies of the document were also made available at Riverbank House and all local libraries; statutory consultees, individuals and organisations included in the local plan database were also informed of the consultation with advice on how to view and comment on the document. The consultation was also advertised in the local press.

In response to the consultation 81 comments were received from 11 respondents. The outcomes of the consultation were presented to the Joint Local Plan Working Group on 5th December 2019. A summary of the responses together with a consideration of the issues raised and the amendments proposed to the draft supplementary planning document are set out in appendix 1 to this report.

The supplementary planning document was generally well received and support was given to the stated approach to the assessment of both functional need and financial test considerations, both for temporary and permanent dwellings and how legal agreements and planning obligations would be used. A number of respondents raised conflicting concerns that the policy tests were too onerous and that without appropriate regulation, such accommodation could result in the proliferation of housing in the Countryside.



In considering the comments provided in response to the draft document the Local Plan Working Group had regard to the following national planning guidance on the purpose and scope of supplementary planning documents, in that they:

- build upon and provide more detailed advice on the policies of the adopted local plan;
- do not form part of the development plan, and thus cannot introduce new policy; the contained guidance is however a material consideration in decision making; and
- should not add unnecessarily to the financial burdens on a development.

In response to the comments received three modifications were proposed in the interest of adding clarity to the intent of the provided guidance, the detail of which is included in the recommendation set out in appendix 1. The Joint Local Plan Working Group endorsed the proposed changes, which are incorporated into the recommended final version of the Rural Workers' Dwelling Supplementary Planning Document (appendix 2).

North Devon Council's Strategy and Resources Committee adopted the attached at its meeting on 6th January 2020.

3. IMPLICATIONS

Legal Implications

The supplementary planning document has been prepared and consulted upon in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the Council's Statement of Community Involvement (2014).

Supplementary planning documents do not form part of the development plan but when adopted are taken as a material consideration in the determination of relevant planning applications.

Financial Implications

The costs associated with publicising the adoption of the supplementary planning document will be shared with North Devon and can be achieved within existing budgets.

Human Resources Implications

The regulated tasks associated with adopting the supplementary planning document will be undertaken on a joint basis by Torridge and North Devon Planning Policy Teams.

Sustainability Implications

A sustainability appraisal report, habitats assessment and health impact assessment were produced alongside the Local Plan to inform its development. The supplementary planning document does not extent policy provisions beyond those of the Local Plan, on which basis it is not considered necessary to undertake further sustainability, habitats or health impact assessments.

Equality/Diversity

The supplementary planning document supports the implementation of the provisions of Local Plan Policies DM28 and DM29. The Local Plan was adopted following examination, which included a sustainability appraisal that incorporated consideration of equality impacts, no further assessment is therefore considered necessary.

Risk Management

Providing additional guidance will support consistency of policy interpretation and provide clarity as to the evidential requirements necessary to support relevant planning applications.

Compliance with Policies and Strategies

The supplementary planning document provides additional guidance on Local Plan Policies DM28 and DM29. The purpose of the supplementary planning document is limited to the extent of how the relevant policies should be applied in the decision making process in respect of planning applications.



Data Protection (GDPR)

Not applicable.

Climate Change

Not applicable.

Ward Member and Leader Member Views

The attached supplementary planning document was endorsed by the Joint Local Plan Working Group on 5th December 2019; the Torrridge Members for which are: Cllr Hicks (Chairman) Cllr James, Cllr Dart and Cllr Watson. The Lead Member for Planning, Cllr Watson – Support the attached supplementary planning document which has evolved through discussion at the Local Plan Working Group, which endorsed final version following consultation.

4. CONCLUSION

A Rural Workers' Dwelling Supplementary Planning Document has been prepared to support the determination of relevant planning applications and to guide applicants as to the nature and scope of evidential material that will be required to justify enabling such development or the removal of restrictive conditions which are applied to such accommodation.

The Committee is recommended to adopt the attached document, which has been adjusted from the draft version as a result of consultation, the outcomes from which have been considered by the Joint Local Plan Working Group as set out in appendix 1.

5. RECOMMENDATION

- 1) The Community and Resources Committee authorise the adoption of the attached Rural Workers' Dwelling Supplementary Planning Document, and that it is treated as a material consideration in determining relevant planning applications.

SUPPORTING INFORMATION

Consultations: Head of Paid Service, Strategic Manager (Resources), Senior Solicitor and Monitoring Officer

Contact Officer: Senior Planning Policy Officer – Dawn Burgess

Background Papers:

North Devon and Torrridge Local Plan 2011–2031 (adopted October 2018):

<https://consult.torrridge.gov.uk/portal/planning/localplan/adoption/interactive?pointId=5051463>

Consultation Draft Rural Workers Dwellings Supplementary Planning Document (September 2019):

<https://consult.torrridge.gov.uk/portal/>

National Planning Policy Framework (February 2019):

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Torrridge Statement of Community Involvement (2014):

<https://www.torrridge.gov.uk/article/11384/Adopted-Torrridge-Statement-of-Community-Involvement-SCI>



Report to North Devon and Torridge Joint Local Plan Working Group

Consultation Responses Rural Workers' Dwelling - draft supplementary planning document

Paragraph	Summary of key Issues	Consultee ID (nw)
Introduction		
1.1	Welcome the clarification provided by the SPD.	5
1.2	Concerns raised about the increase in unjustified dwellings in the countryside.	7
1.2	Support is provided for the SPD with the comment that there should be no ambiguity as to what is/is not enabled.	67
1.5	Supports appropriate development that enables succession farming	8
Policy Overview		
2.4	Taking the majority control of a farm business is the only reason to permit an isolated dwelling in the countryside.	53
2.5	The availability of housing to meet local needs will be prejudiced if occupancy restrictions are not applied.	68
2.7	Supports the NDTLP definition of "rural workers", but the scope of enterprises that could justify a dwelling is not clear. "Other rural enterprises" should be defined.	9,54
Rural Workers Dwellings		
3.1	Support given for rural workers dwellings to be at the related rural enterprise and to use existing buildings and not to be located in isolated locations.	10
3.2/3.19	The impact of permeant or temporary dwellings on the neighbouring area and neighbours should be considered.	11,28
3.3	Support given to the required justifications for temporary and permeant rural workers dwellings.	12
Permanent Dwelling		
3.4	Agree that proposals for rural workers dwellings should address "other planning requirements".	13
Functional Need		
3.5- 3.10/ 3.14	Agrees the approach to the functional test.	14,15,16,17,18, 19, 23
3.8	Concurs that convenience does not contribute to an essential need.	55
3.10	Without a section on Low Impact Dwellings paragraph 3.10 could result in a bias against low impact enterprises, which in there nature are generally smaller that conventional agricultural enterprise, although they often have a need for an onsite presence.	81
3.11-3.12	Accounts should be validated, suggest that they should be "signed off" by an auditor. Local planning authorities should be appropriately resourced to validate provided accounts.	20,21,22,24
Financial Test Considerations		
3.15-3.17	Supports the financial test considerations. It is taken that a permeant dwelling will be enabled only to support on ongoing and successful rural enterprise.	25,26
3.16	The financial test is unduly onerous; it is unreasonable in that profitability has to be sufficient to support a full time worker.	73



Temporary Rural Dwellings		
3.18/3.20/ 3.23	Supports the approach to temporary rural dwellings and the tests that in place to justify such a dwelling. However, concerned about “unpermitted and creeping development” appropriate enforcement is required.	27,28,29,30
3.21	Temporary dwellings: clarify that the rural business on which basis the essential need is sought must be proven to be viable and that income from other sources cannot be taken into account with regard to the financial test.	57
Seasonal Rural Dwellings		
3.24	Agrees with the approach to seasonal rural dwellings, but indicates the need for the timeframe to be defined and for such to be appropriately monitored.	32
Location and Design Considerations		
3.25-3.27/ 3.29/3.31	Agrees with the guidance on location and design considerations in respect of siting and size.	33,34,35,37,38, 39,40,58
3.29	The scale/design of a permitted development should relate to the established need.	56
3.28	Agrees with the proposed approach with regard to access arrangements for new or temporary dwellings, but regard must be given to the impact on neighbouring businesses or properties.	36
3.30	Confused by the reference to “new dwelling not exceeding the normal size of a dwelling in the locality”. There may not be an appropriate building to respond reflect on. The point relates to design; property sizes are referenced in 3.31	2
3.32	Agrees with the proposed approach to avoid the escalation of property size.	59
3.33/3.34	Consider the design principles set out the NPPF (paragraph180), such as impacts of lighting on landscape and biodiversity.	79 (NE)
Occupancy conditions, legal agreements and planning obligations		
3.35-3.41	Agrees with the proposed approach to controlling occupancy, to ensure the dwelling would remain available to meet the need, on which basis it was justified.	41,42,43,44,45, 46,47,60,61
3.38	In addition to seeking commencement within 3 years, consider a requirement of completion/capable of occupation with a prescribed period.	3
3.39	The completion of non-residential buildings used as a justification for a rural workers dwelling.	62
3.41	Applicants should be required to enter into a legal agreement to prevent the separation of a dwelling from the land and buildings it is required to serve, rather than “may”.	63
3.42	Agrees with the proposed approach relating to the variation or removal of occupancy condition, but asks, if the property is no longer required, will it be demolished or occupied on a basis unrelated to a rural business.	48
3.42	If there is no longer a need for the occupancy condition to relate to the originally justifying enterprise, it should be demolished or made available to other rural workers. Additionally, additional rural workers dwellings should not be approved if a dwelling has been separated from the enterprise – rather than “unlikely to be approved. “.	64
3.42/3.43	Concerned about the flexibility provided by the SPD and the scope for interpretation, particularly in relation to the removal of occupancy conditions.	71 Chittlehamholt, Satterleigh and Warkleigh PC)



3.43	The option of removing an occupancy condition should not be available.	65
Succession Planning - agricultural holdings		
4.1-4.4	Support the approach of Policy DM29, allowing farmer families to live and work on the family holding.	49,50,51,52
4.3	Clarification is sought as to the outcome of a proposal where there is no building capable of conversion as a result of the sale of such buildings.	66
Other points		
Appendix 1	The policy is unreasonably restrictive, it will prevent the development of rural communities and it imposes restrictions on occupants not applied to existing residents.	74
Omission	Consider making provision for green infrastructure within the SPD.	76 (NE)
Omission	Consider incorporating features that are beneficial to wildlife.	77 (NE)
Omission	Provide opportunities for environmental enhancement.	78 (NE)
Omission	Policy fails to accommodate small holders and those seeking to become self sufficient.	72
Omission	Specific guidance should be provided on “Low Impact Development” reflecting a shift to more sustainable farming practices.	82
General	If the SPD is subject to significant amendment, in a way which significantly affects the natural landscape, Natural England should be consulted further.	80 (NE)
General	Support is provided for the SPD.	70 (Braunton PC)
General	Winkleigh Parish Council unable to provide comments given the timeframe provided.	4

Comments received

1. A total of 81 comments were received in response to the consultation, provided by 11 respondents. Of the comments submitted, 2 were clearly unrelated to the draft SPD, otherwise, 48 comments indicated support, agreeing with the proposed approach, a further 14 comments indicated support subject to an amendment to the supplementary planning document (SPD), only 7 comments stated an objection with 10 comments being of a general nature.

Consideration of comments received

2. In considering the comments received, it is important to recognise that the SPD can only add further detail to the relevant North Devon and Torridge Local Plan (NDTLP) policies (DM 28: Rural Worker Accommodation and DM29: Farmer Family Attached Accommodation) to aid their use, both by applicants and the local planning authority in decision making. The SPD cannot alter the policy intent or add to its requirements.
3. The following provides an officer response on the above summarised points by each section of the SPD, as raised.

Introduction

Welcome the provided supporting comments (nw5, 8 and 67). The concerns (nw7) regarding the increasing number of dwellings in the countryside is noted, however rural workers dwellings are a form of housing enabled to be built in the Countryside by national guidance (NPPF paragraph 79) and need to be clearly justified. No change is recommended in response to the comments made to this section of the SPD.



Policy overview

It is considered unnecessary to be further prescriptive with regard to the definition of “other rural enterprise” as in each case functional and financial tests will have to be met (nw9 and 54). The justification for isolated dwellings is provided by national guidance (NPPF paragraph 79) which includes where there is an essential need for a rural worker to live at or near their place of work and including for those taking the majority control of a farm business (nw53). As set out in paragraphs 3.35 to 3.42 the local planning authority will apply and seek to maintain occupancy conditions on dwellings that are exceptionally permitted (nw68). No change is recommended in response to the comments made to this section of the SPD.

Rural Worker Dwellings

Welcome the provided supporting comments (nw10 and 12). The impact of any proposed development will be considered having regard to the relevant policies of the NDTLP, which will include DM01: Amenity considerations and DM08A: Landscape and Seaside Character; it is not considered necessary to specify in the SPD, the range of policies which may be used in considering the proposals for rural workers’ dwellings or farmer family attached accommodation (nw11 and 28). No change is recommended in response to the comments made to this section of the SPD.

- Permanent Dwelling – support is provided for the need for proposals for rural workers dwellings to address “other planning requirements” (nw13).
- Functional Need - welcome the provided supporting comments with regard to the requirements associated with functional need (nw14-19, 23 and 55). It is not accepted that a specific reference is required to “Low Impact Dwellings” in connection with low impact enterprises; the nature of dwellings enabled in isolated locations is clearly defined in national guidance, which is reflected in the NDTLP. Rural workers dwellings, irrespective of their impact cannot be justified in the Countryside if the functional test is not met (nw81). The financial viability of an existing or new rural enterprise will be scrutinised on the basis of a “financial test” as set out in paragraphs 3.15-3.17 of the SPD. It is considered sufficient that the accounts required in support of a proposed dwelling are provided by “an appropriately qualified person” (nw20-22 and 24).
- Financial Test – welcome the supporting comment on the application of the financial test (nw25-26). It is not accepted that the financial test is onerous; it is appropriate that a rural workers dwelling can be financially sustained by the justifying enterprise, to do otherwise would prejudice the delivery of the dwelling, which have been required to meet a functional need (nw73).
- Temporary Rural Dwelling – welcome the supporting comments on the approach to the qualifications required to achieve a temporary rural dwelling. It is not however accepted that such would result in “unpermitted and creeping development”, as temporary dwellings require clear justification and would not move to a permanent dwelling unless all the tests stated in the SPD can be satisfied (nw27-30). With regard to financial viability, any proposal for a temporary dwelling will have to demonstrate that it is planned on a sound financial basis and that the enterprise justifying the accommodation will be in profit within the final year of the consent (normally three years), further the SPD is clear (paragraph 3.17) in that it is the activities giving rise to the functional need that will need to meet the financial test requirements (nw57).
- Seasonal Rural Dwellings – with a supporting comment on the approach to seasonal rural dwellings, it is also proposed that the timeframe for such accommodation should be defined and monitored (nw32). Given the variation that may occur across seasonal work, it is not considered appropriate to define



timeframes in the SPD; however timeframes could be set through condition, as appropriate to each consent for a seasonal rural dwelling (nw32). **It is recommended to add a reference to the use of conditions to restrict the timeframe for the use of such accommodation.**

- Location and Design Considerations – welcome the supporting comments on the proposed location and design considerations (nw33-35, 37-39, 40, 50 and 59). The issue of property size in relation to need is addressed in paragraph 3.30; dwellings are required to meet the functional need and relate to financial viability (nw56). With regard to relating a properties size to those “in the locality”(nw2), it is accepted that such is imprecise and unnecessary with regard to the detail provided in paragraph 3.31, which sets out a range of property size standards; **it is recommended that paragraph 3.30 is deleted.** It is not considered necessary to add further detail to the SPD in respect of design, which is addressed in paragraphs 3.33-3.34. The listed matters of impact on: neighbouring properties, the landscape and biodiversity will be addressed through other policies of the NDTLP, it is not considered necessary to replicate them in the SPD (nw36 and 79).
- Occupancy conditions, legal agreements and planning obligations – welcome the supporting comments (nw41-47, 60-61). With regard to adding a timescale for the completion of a rural workers’ dwelling such is considered to be unnecessary (nw3). Currently the SPD, at paragraph 3.37 provides that the “local planning authority may also consider the use of conditions relating to the prior completion of non-residential buildings...where such have been used as justification for the rural worker’s dwelling.” Given the need for the functional test to be met to achieve consent it is **recommended that the paragraph is amended to indicate that the local planning authority will generally use conditions to require the prior completion of non-residential buildings, where such are essential for the justification of the proposed dwelling** (nw62). The following suggestions: applicants should be required to enter into a legal agreement to prevent the separation of a dwelling from its land and buildings; if a rural worker’s dwelling is no longer required it should be demolished and there should not be an option to remove occupancy conditions, cannot be positively considered as they would result in a variation from Policy DM28 (nw48,63-64). It is suggested (nw71) that the SPD affords too much opportunity for interpretation, particularly with regard to the removal of occupancy conditions, this is not accepted; the SPD adds detail to Policy DM28 with regard the tests to be met to justify the removal of a rural worker occupancy condition. It is also proposed (nw64) that if a rural dwelling has been separated from a justifying rural enterprise, a further dwelling “should not” rather than “is unlikely to be approved” should apply, the advocated approach is considered to be too severe, as circumstances relating to the operation of the rural enterprise may have altered and/or the severance may have been historic.

Succession Planning

Welcome the provided supporting comments (nw49-52). The absence of buildings capable of conversion as a result of sale is not a Policy DM29 requirement. With regard to the provided comment, it is not considered necessary to provide additional detail, it is clear that the policy allows for attached accommodation subject to specified qualifications in respect of occupancy and design and there being no opportunity for rural building conversion on the basis of Policy DM27: Re-use of Disused and Redundant Rural Buildings. No change is recommended in response to the comments made to this section of the SPD.

Other Points

It is suggested (nw74) that Policy DM28 is unnecessarily restrictive, this is not accepted. The policy, which has been tested as part of the NDTLP through examination, appropriately accords with national policy (paragraph 79 NPPF). It is necessary to apply occupancy conditions and require qualifying tests to avoid the



proliferation of dwellings in the Countryside; other opportunities for dwellings across the rural area are otherwise provided through a range of NDTLP policies, including planned development at Local Centres and Villages and to address local needs at Rural Settlements. Furthermore the approach to enabling rural workers dwellings and the applied restrictions cannot be adjusted through an SPD.

Natural England has made a number of comments (nw76-78), which suggest the need for additional information to be provided within the SPD with regard to: green infrastructure, environmental enhancement and biodiversity. It is not considered necessary to add to the SPD on this basis, as where additional detailed guidance is considered necessary, to add to that provided on such matters in the NDTLP, such will be provided in further topic specific SPD.

As indicated above, it is not considered necessary to make specific reference to “Low Impact Dwellings”; such can be supported if the prescribed tests are met, as is the case with small holdings (nw72 and 82).

Conclusion

4. The majority of comments (59.2%) received in response to the consultation on the draft Rural Workers Dwelling SPD were supportive, with only 8.6% being stated as an objection, although 17.3% indicated support, subject to proposed revisions to the SPD.

In response to the comments received, it is recommended that the below amendments are made to the draft SPD, the basis for the proposed changes are to add certainly to the guidance provided, they do not vary any of the provision set out in the related polices of the NDTLP.

Recommendation

5. It is recommended that the Local Plan Working Group agree the following changes to the draft Rural Workers’ Dwellings Supplementary Planning Document and endorse the document for consideration at North Devon Council Strategy and Resources Committee and Torridge Council’s Community and Resources Committee.
 - I. **Amend paragraph 3.24:** Where the functional need for a rural workers’ dwelling is restricted to one season or for a limited period, such as during the lambing season, but operational need cannot be demonstrated throughout the whole year the ~~Councils~~ local planning authority will consider proposals for siting of accommodation for that period, the timeframe for which will be conditioned, where planning permission is required. Any temporary accommodation will need to be removed after that period.
 - II. **Delete paragraph 3.30:** It is recognised that there may be some variance in what constitutes an appropriate size dwelling for a rural worker. It is considered appropriate to assume that the size of a rural worker’s dwelling should not significantly exceed the normal size of a dwelling (excluding farmsteads) in the locality.
 - III. **Amend paragraph 3.39:** The local planning authority will generally ~~may also consider the use of~~ conditions to require ~~relating to~~ the prior completion of and operational use of non-residential buildings, such as intensive breeding units, where such have been used as justification for a rural worker’s dwelling.

