

North Somerset Council Housing in Defined Villages (Policy H/7 v)



Guidance Note

March 2009

1. **Introduction**

- 1.1 This guidance note has been prepared as an aid to the practical application of Local Plan Policy H/7 v). Its intention is to assist applicants and agents in preparing applications that conform with the policy's requirements. It also guides officers in assessing them. It does not constitute a new departure in policy terms and is not intended to be analysed forensically. The formal test for any proposal subject to H/7 v) is whether it adds (in gross terms) to out-commuting, not whether it complies with the advice given here. The assumption will be that all housing in villages adds to out-commuting unless the developer demonstrates how it will not. The specifications set out here for Live/Work units, for example, will assist developers in this task. Failure to comply with the specifications will result in requests for additional evidence to show that Live/Work is a credible solution for the site.
- 1.2 Proposals for new housing units (including conversions) in the villages fall to be assessed against H/7 v):

POLICY H/7 – Residential development within settlement boundaries

Within settlement boundaries, as defined on the Proposals Map, residential development, including the construction of new or replacement dwellings, the subdivision or extension of existing dwellings or their curtilages, and the conversion of existing buildings to residential use, will be permitted, provided that the proposals:

...

- v) **would not lead to urban housing needs being met in locations outside the four main towns where employment opportunities are more limited and which would add to or contribute to creating a dormitory settlement with high levels of out-commuting.**
- 1.3 The adopted North Somerset Replacement Local Plan results in a more stringent test in respect of the suitability of new housing in villages than has previously been the case. This is a consequence of a nationally more restrictive planning approach which places a greater emphasis on sustainability considerations.

- 1.4 How H/7 is to be applied might seem to turn on the detailed interpretations attached to the terms 'urban housing needs', 'dormitory settlement' or 'high levels of out-commuting', none of which is defined in the Local Plan. From the context in which Policy H/7 was drafted, it can be said that urban housing needs are the inverse of rural housing needs. A dormitory settlement is one primarily occupied by commuters. This category includes all settlements in North Somerset except Weston, as census evidence suggests that the others all have over 50% out-commuting, rising to 60-80% in the villages, all of which are therefore currently characterised by high levels of out-commuting. The local planning authority does not intend to review the conclusion that all North Somerset villages are dormitory settlements until the results of the 2011 Census are available or until Policy H/7 is reviewed, whichever is the sooner.
- 1.5 Appeal decisions have established that unconstrained general market housing does not meet the policy test. Housing will need to be subject to planning conditions or a planning obligation that minimises the risk that out-commuting will be exacerbated. Live/Work units and age-restricted housing or similar are accepted means of demonstrating this; affordable housing is also allowed (under Policy H/5) as an exception to normal planning policies, including to H/7.

2. **Application**

2.1 Policy H/7 v) is considered to apply:

- i. to **all** settlements with a defined settlement boundary¹, other than the four towns
- ii. to any application for a net gain of **one or more** dwellings
- iii. to both allocated and windfall sites
- iv. to both previously-developed and greenfield land

2.2 The policy will be applied to all fresh applications for residential development in the villages. It will not apply to reserved matters applications dependent upon an outline permission that pre-dates the new policy stance. In the case of substitutions, the policy will not be applied where the reason for substitution is to improve on the approved design. Where renewal of an old permission is sought, the policy will not normally be relaxed.

2.3 In general, development will be acceptable under H/7 v) if the proposal is for:

- i. Individual Live/Work units (see section 3 below)
- ii. Communal workspace formally related to the housing (see section 3 below)
- iii. Tied accommodation (a dwelling where occupation is restricted to a person employed or mainly employed or - if they have no other form of employment - last employed in the building shown hatched on an accompanying plan) (see section 3 below)
- iv. Dwellings conditioned for occupation by persons over retirement age (see section 4 below)

¹ Uphill has its own settlement boundary and is therefore classed as separate from Weston-super-Mare

- v. Development that is specifically designed for occupation by vulnerable client groups and could be conditioned accordingly, such as 'Care in the Community' accommodation for special needs groups (see section 4 below)
- vi. Affordable housing complying with Policy H/5 (which over-rides H/7 v)) (see section 5 below)

The above list of acceptable options is not intended to be definitive. Additional categories, if suggested, will be assessed against the Local Plan policy test, not this note.

- 2.4 Model conditions which might be attached to approvals in accordance with Policy H7 v) are set out in Appendix 1.
- 2.5 In very exceptional circumstances, the local planning authority may agree that instead of the provision of on-site employment floorspace it would be preferable that a financial or other contribution be made towards the provision of a mutually agreed means of achieving greater self-containment of the settlement. The details of such an approach would be determined at the time. Local Plan Policy GDP/5 notes that where a proposed development would result in deficiencies in infrastructure, which could include suitable employment buildings to meet the needs of the proposed development, on smaller sites, off-site contributions can be sought together with identification of a suitable delivery partner (NSRLP para. 4.58). This is not Live/Work as such and this provision is not limited in scope to the villages.
- 2.6 Options not acceptable as a means of compliance with H/7 include:
- i. Housing argued to support local employment growth, e.g. because a firm has local vacancies. In this case, the priority should be to claw back existing out-commuting. However, a dwelling that can be shown to be necessary for an adjoining business or service would be acceptable (see para. 2.3 iii above).
 - ii. Matching employment provision elsewhere within the settlement, or within the site but unrelated to the housing. This would not represent a credible linkage of homes to jobs.
- 2.7 This Note provides guidance on compliance with Policy H/7 v). Except in relation to Policy H/5, it does not specify circumstances in which material considerations might override the policy's requirements. It is considered preferable to set out general expectations and then to assess on merits any argument for a specific exception than to anticipate every eventuality. If no viable means of complying with H/7 v) can be found for a specific site, then, in the first instance, alternatives to residential development should be considered. Failing this, the aspiration to develop may need to be abandoned unless an over-riding material consideration is identified.

3. **Live/Work development (including housing with communal workspace)**

- 3.1 **Definition.** Live/Work space is defined as property that is specifically designed for dual use, combining both residential and employment space. It is regarded as *sui generis* ('in a class of its own')² but for ease of enforcement the work element will be regarded as a separate A2 or B1 activity and will be conditioned as such. (B2 may be considered where no other residential property is affected but B8 will not, given its low employment density.) A1 may be acceptable in accordance with Policy RT/5.
- 3.2 Live/Work is distinct from conventional 'home working' which usually comprises a residential unit with ancillary and often temporary or informal work areas. Such businesses do not normally require planning permission. Live/Work is a distinctive and formal division of residential and workspace floorspace which does require planning permission.
- 3.3 The provision of dedicated workspace linked to new dwellings can take one of two forms: individual workspace linked to individual dwellings, or communal provision (incorporating individual workspaces) linked to the dwellings collectively. The distinction depends upon whether the workspace has a legal connection to one dwelling only or to all. There is evidence³ to show that the most 'sustainable', long-term format for Live/Work is where it is developed on a reasonably large scale and as part of a business or research cluster with shared support services. Live/Work should therefore, where possible, be located in connection with or associated to other land uses. Around transport interchanges can be a favourable location but the preference in such locations is for pure employment development and the loss of employment land there is discouraged. The scale and density of Live/Work units will be considered on their own merits and subject to the capacity of a site and area, rather than using conventional residential density thresholds or limits. However, a high density is generally preferred.
- 3.4 Each case will be considered on its merits. Live/Work may not be acceptable at every location; in such cases, the applicant should consider alternative ways to comply with H/7 or demonstrate why – given the specific constraints and opportunities of the site – an exception should be made. Exceptions will not be considered unless H/7-compliant development has been shown to be inappropriate for sound spatial planning reasons. Reducing out-commuting is an important element in moving towards sustainability, along with other aspects such as improved energy saving (GDP/3 ix)), but each of these aspects operates independently. Provision above the minimum expectations of GDP/3 does not offer a way out of compliance with the locational imperatives of H/7, nor does compliance with H/7 reduce expectations under other policies. Live/Work units will be assessed as dwellings for the purposes of GDP/3 ix) (renewable/low carbon energy), with the workspace included within the calculation of energy requirements.
- 3.5 **Individual versus communal.** In planning terms, the choice of provision will be influenced by the layout opportunities offered by the size and shape of the site. In the case of tight infill sites the traditional solution of 'living over the shop/workshop/office' may be suitable. Other small sites may be able to offer workspace adjoining the

² See Circular 03/2005: *Changes of use of buildings and land*. Para. 79 states that: "Live/work units are often purpose-built premises, or purposely converted into such units. They are clearly a mix of residential and business uses which cannot be classified under a single class within the Use Classes Order and would therefore be *sui generis*."

³ Dwelly (2005) (see Appendix 2 below)

dwelling. On larger sites communal provision may be a more efficient use of space and offer commercial advantages such as the scope to share services. It is also more likely to be used and therefore less likely to give rise to enforcement issues. On the largest sites, more than one communal workspace may be required. The optimum size for a Live/Work development is considered to be between 20 and 30 units; developments of this scale, in appropriate locations, will be looked upon more favourably as they have the potential to form a business cluster. To maximise the chances of use, walking distance to the workspace from each dwelling should be highly convenient (and not merely reasonable). It should therefore not exceed 200m.

- 3.6 The local planning authority's expectation is that individual Live/Work units will be appropriate for developments of up to 5 dwellings. Beyond this threshold, communal provision becomes more appropriate and will be required for sites of more than 10 dwellings. For sites of more than 5, the impact of introducing business premises in generally residential areas must be specifically addressed in character terms in the Design & Access Statement.
- 3.7 The planning fee for an individual Live/Work unit will be based on the fee for a dwelling and not an additional planning fee for the workspace. A separate fee will be charged for a shared employment building forming part of a larger scheme.
- 3.8 **Separation.** Whether individual or communal, the workspace should be designed to be functionally separate from the dwelling(s) to which it relates. An individual workspace within a residential curtilage should, ideally, be located at ground floor at the front of the property, and certainly where its position and means of access can be clearly identified and easily used by visitors and would not result in any adverse effects on neighbours' amenity. Any proposal where this is not so will be carefully scrutinised to ensure that Live/Work is a credible, enforceable solution. The separation required is more formal than in cases of 'home working' as an ancillary operation utilising a dedicated room within a dwelling. The workspace will be controlled as and treated as a separate B1 or other activity, even where located wholly within a residential curtilage. Residential and employment elements within the same building should have separate entrances and there should be no inter-connecting door. Toilet/kitchen provision for the workspace should be distinct from the residential accommodation. All workspace should be equipped with its own ICT connections.
- 3.9 Although it is not essential for the workspace to be attached to the dwelling, there are advantages in this arrangement, mainly in terms of allowing working areas to expand into the dwelling without the need for planning permission and to contract back again. Expansion of living space into the workspace, or cessation of the work element, will only be permitted on a temporary basis controlled by condition. This will include situations where a business has failed and time is needed to sell the unit.
- 3.10 Advice received from the Valuation Office (VOA) is that the part of the property used for work may be liable to business rates whilst the remainder of the property will continue to be liable to Council Tax. To calculate business rates the VOA work out a rateable value for the part of the property that is used for non-domestic purposes.

- 3.11 The overall design must be such that the scheme is perceived by occupiers and visitors as different from a conventional all-residential development. Especially in larger schemes, signage should be provided at the entrance to the development, identifying the occupiers. Workspace should have a window or shutters positioned to be visible from the road or public open space. This will assist in enforcement.
- 3.12 The emphasis of Live/Work development should always be on the work element and this should be reflected in the percentage of floor space afforded to the workspace. The division between employment and residential areas within each unit must be shown on submitted floorspace plans (and specified in square metres). Live/Work proposals submitted without a defined internal configuration are unlikely to be registered, including any applications for 'shell' development. A notation for a 'study' would not be sufficient.
- 3.13 **Floorspace.** While the workspace must be sufficient to accommodate at least one worker per dwelling (a minimum of 20 sqm), a more flexible level of provision that reflects the possibility of a couple working together is preferred. If this additional space is not provided initially, consideration should be given to ensuring that the site layout allows for subsequent expansion.
- 3.14 The gross internal floor area of the workspace should be a minimum of 20 sqm per dwelling. Toilet/kitchen provision, although usually excluded from gross internal floorspace, is included in this figure. Any proposal with a smaller floorspace figure will be carefully scrutinised to ensure that Live/Work is a credible solution.
- 3.15 In the case of larger sites (over 5), the figure of 20 sqm per worker is an average: there are benefits in providing a mix of sizes appealing to both one- and two-worker households, as well as shared services such as meeting space. However, each specific workspace must be large enough to form a credible base for a separate business. It is also desirable that buildings structurally incorporate the flexibility to adapt to changing requirements, such as an open plan layout. Ceilings should be a minimum of 3 metres high, to accommodate art-based businesses, and there should be good natural lighting.
- 3.16 **Parking and Servicing.** Parking for cars and cycles will be assessed as for a mixed use development with the floorspace for each use being used to calculate the overall total parking figure. Reference should be made to Local Plan policies for parking (T/6) and road safety (T/10). Some Live/Work units will require deliveries and collections to be made at certain periods of the day. To ensure that these arrangements do not impact upon residential amenity it will be necessary for servicing arrangements to be agreed alongside any development proposals.
- 3.17 **Amenity.** Given the mix of uses that will be combined in a Live/Work unit and the potential noise generation from employment uses, appropriate sound-proofing and insulation may be required above the usual Building Regulation standard. Both the employment and residential elements of Live/Work development will require adequate ventilation to ensure that the residential space is habitable. Live/Work units should be designed to ensure that the privacy of adjoining properties is retained. If this cannot be achieved it may be necessary to implement screening measures to minimise overlooking to an acceptable standard. Live/Work developments will require adequate facilities for the storage of household and commercial waste to be provided and retained (GDP/3 viii)).

- 3.18 **Affordability.** On larger sites there is requirement for a proportion of affordable housing under Policy H/4. Live/Work units will not be considered as affordable housing in their own right. Only those units specifically provided as affordable – either through subsidised rent, shared ownership or other flexible tenures – will be considered as affordable. However, the local planning authority will seek some shared ownership or flexible tenures within Live/Work developments on qualifying schemes.
- 3.19 **Management.** Some Live/Work formats require careful and continuing management in order to have a successful, sustainable future. This is especially true of communal workspace, where a management and/or business support company linked to residential occupancy may be necessary. In the case of affordable housing, a housing association will be appropriate. Live/Work proposals which include details of management proposals will be considered more favourably. Developers should provide details of management arrangements including details of third parties who would have a continuing role.
- 3.20 Business clusters can be created by Live/Work schemes. A business cluster is a mix of micro businesses benefiting from proximity to one another and works well in connection with academic or other institutions. Indeed, the official government definition of a cluster includes proximity to higher education agencies. Shared support services will often be most easy to provide in a development with strong links to an academic or other institution; businesses within these units will generally have similar support requirements.
- 3.21 A Live/Work unit is intended primarily for use by the resident household. Planning permission will be conditioned to prevent use by non-resident employees, unless a further permission is obtained. In this case, additional space (20 sqm per worker) will be required and parking provision will need to be separately assessed.
- 3.22 **Implementation, monitoring and enforcement.** Workspace must be constructed and available for occupation and use before any of the related dwellings are occupied. In smaller developments, the workspace will be conditioned for use only by the occupier(s) of the dwelling(s) to which it relates. Where a unit is large enough to accommodate workspace for employees, this condition will not apply but there will be other considerations to address, such as visitor parking (see para. 3.16).
- 3.23 Sub-letting to residents from elsewhere in the village is not likely to find favour due to its impact on neighbours and parking and is likely to be enforced against. For Building Control purposes a Live/Work unit would be classed as a domestic project and nothing above normal requirements would apply. If the workspace area were sub-let, it would then be necessary to look carefully at means of escape, compartmentation, sound insulation, sanitary accommodation, heating and access issues.
- 3.24 To assist in monitoring the effectiveness of the policy it is necessary to be able to identify easily the relevant applications and permissions. Both must therefore describe the development as a "Live/Work unit" or "dwellings with communal workspace" (with the activity identified by use class letter and number where relevant). It is not a dwelling (or dwellings) with an ancillary B1 office. In the case of applications that are registered as 'new dwelling(s)' and then, following amendment, are decided with the inclusion of workspace, the application description must be amended at the same time as the plans.

- 3.25 Although Live/Work units are home to those who live in them, they are bought and sold on the basis of their dual use. The local planning authority will consider taking enforcement action if they change from dual to single residential or employment use, in the same way that it enforces agricultural occupancy conditions. Applications to change lawfully from dual to single use will be resisted; where a family or a business outgrows the property they should look to relocate, freeing the unit for new occupiers to follow their lead. (See also para. 3.9.)
- 3.26 **Tied accommodation.** This option addresses specifically those situations where a dwelling is required to meet the needs of an existing local business and where it can be clearly demonstrated that the needs of the business justify the location of the dwelling in close proximity to the business. This will apply where the occupiers of the dwelling are employed or mainly employed or (if they have no other form of employment) last employed in the building shown hatched on the accompanying drawing or a widow or widower of such a person, or any resident dependents.
- 4. Age-restricted and special needs housing**
- 4.1 Housing that does not add to out-commuting because the main occupants are not economically active includes age-restricted housing and housing designed for vulnerable client groups, such as people with learning difficulties. It is accepted that there will be exceptions to the rule; for example, people who continue working beyond the statutory retirement age; and people with disabilities living communally who find work appropriate to their degree of disability.
- 4.2 Housing that meets H/7 v) via this route will not necessarily be physically distinctive, unless the mobility or social requirements of the occupants dictate this. Planning control will be exercised by conditions or planning obligations that restrict who may occupy the dwelling. These restrictions will be similar in nature to agricultural occupancy conditions.
- 4.3 Census data show that the proportion of elderly persons who continue working declines with age, with a significant decline around the statutory retirement age. Although some specialist housebuilders target housing at the over-55s this is for marketing reasons unrelated to the policy issue, under H/7 v), of restricting out-commuting. Age-related conditions will therefore relate to the statutory retirement age. Conditions will refer to a specific age (currently 65), rather than to retired status. Developments should be described for monitoring purposes as 'age-restricted' housing rather than 'retirement' housing.
- 4.4 Other policy criteria will also influence the acceptability of larger schemes; for example, a sheltered housing complex would not be appropriate in a village with few facilities (Policy H/7 i)).

5. Affordable housing

- 5.1 Policy H/5 allows affordable housing on sites within or adjoining villages, where housing would not otherwise be permitted, provided that specified criteria are met. These are referred to as 'exception' sites and as such do not need to comply with H/7 v).
- 5.2 Most infill sites *within* villages are not sites 'where housing would not otherwise be permitted' but a consistent approach would not preclude their development for affordable housing, given that more constrained sites are considered acceptable.

APPENDIX 1

Model conditions for approvals in accordance with Policy H/7 v)

Live/Work Units (individual)

1. The workspace shown on drawing no. xxxx shall only be used for Business purposes falling within Class B1⁴ of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order) and for no other purpose including any other purposes incidental to the use of the dwellinghouse.

Reason: To ensure that the workspace is retained for employment use by providing space for employment provision and not used for domestic storage or other purposes because planning permission would not normally be granted for the development without employment provision in accordance with policy H/7 of the North Somerset Replacement Local Plan.

2. No dwelling shall be occupied until the workspace shown on drawing no. xxxx has been provided and made available for use.

Reason: To ensure that local employment facilities are available for the occupiers of the dwellings and because planning permission would not normally be granted for the development without employment provision in accordance with policy H/7 of the North Somerset Replacement Local Plan.

3. Any work or employment carried out in the workspace hereby approved shall be limited to a person whose sole or main place of residence is one of the dwellings hereby approved. No other persons shall be permitted to work or be employed in any part of the workspace unless first agreed in writing by the Local Planning Authority.

Reason: To ensure that the use of the workspace is restricted to the occupiers of the approved dwellings, and to ensure that the living conditions of the occupiers of the dwellings and adjacent properties are not adversely affected in accordance with policy H/7 of the North Somerset Replacement Local Plan.

4. Occupation of the dwellings hereby approved shall be limited to persons one of whom's main occupation (or if not employed last main occupation) is carried out in the workspace hereby approved, and to the families or resident dependents of that person.

Reason: To ensure that the use of the workspace is restricted to the occupiers of the approved dwellings, and to ensure that the living conditions of the occupiers of the dwellings and adjacent properties are not adversely affected in accordance with policy H/7 of the North Somerset Replacement Local Plan.

Age-restricted housing

⁴ References to B1 should also be read as references to A1, A2 or B2 as appropriate

1. The dwelling hereby approved shall only be occupied as a sole or main place of residence by a person aged 65 or over and any resident dependants. No other person shall occupy the dwelling as a sole or main place of residence.

Reason: In order to limit the need to travel out of the village as required by policies GDP/1, H1 and H/7 of the North Somerset Replacement Local Plan and policies 1 and 2 of the Joint Replacement Structure Plan.

APPENDIX 2

References

North Somerset Replacement Local Plan (2007)

www.n-somerset.gov.uk

Tim Dwelly, *Rural Live/Work* (2005), Commission for Rural Communities

www.liveworknet.com/uploads/rural.pdf

Circular 03/05: *Changes of use of buildings and land* (2005), ODPM

www.communities.gov.uk/publications/planningandbuilding/circularchanges

Live/Work Accommodation SPD (2006), London Borough of Hillingdon

[http://www.hillingdon.gov.uk/index.jsp?articleid=12039#Live/Work%20supplementary%20planning%20document%20\(SPD\)-%20adopted%2024%20May%202006](http://www.hillingdon.gov.uk/index.jsp?articleid=12039#Live/Work%20supplementary%20planning%20document%20(SPD)-%20adopted%2024%20May%202006)

Employment Densities: a Full Guide (July 2001) and *Employment Densities: a Simple Guide* (September 2001), Arup Economics & Planning for English Partnerships and the Regional Development Agencies

www.urcs-online.co.uk/backgroundandresources/guidanceOrResearch.asp?section=other

Other weblinks

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