

Agricultural Occupancy Conditions

WHAT IS AN AGRICULTURAL OCCUPANCY CONDITION

An agricultural occupancy condition (sometimes referred to as an 'agricultural tie') is a condition imposed on a dwelling for an agricultural worker when first permitted.

The dwelling would ordinarily have been granted planning permission due to an agricultural need on a particular farm. The agricultural occupancy condition remains with the property irrespective of any changes to the farm (i.e. the range of farm enterprises).

WHAT DOES THE AGRICULTURAL OCCUPANCY CONDITION MEAN

Typically the wording of the condition will read as follows:-

'The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture or in forestry, or a widow or widower of such a person and to any resident dependants.'

However, there are a number of variations to the wording of these conditions. The 'mainly or solely' element was generally introduced in the 1970's. Conditions dating back to the 1950's and early 1960's were often worded specific to a farm and the specific farming activity.

SATISFYING THE AGRICULTURAL OCCUPANCY CONDITION

Agriculture in planning terms is defined in the Agricultural Act dating back to the 1940's. Employed in agriculture therefore means in the primary sense 'involved with growing of crops or looking after livestock'. Persons supplying services to agricultural businesses such as agronomists or even farm contractors do not normally comply. It is normally only necessary that one occupier of the property complies with the condition, providing the others are dependants and the occupancy condition allows for this.



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WHAT HAPPENS IF THE OCCUPIERS DON'T COMPLY

If there is non compliance with the occupancy condition the Local Planning Authority (LPA) can enforce, effectively requiring the breach to be rectified. This would mean either finding employment in agriculture to satisfy the condition or moving out of the property.

Where the occupiers have been in breach of the condition for a minimum of 10 years (and evidence is readily available as proof) a Certificate of Lawfulness of Existing Use Development (CLEUD) can be applied for (see Information Sheet 3).

CAN AN AGRICULTURAL OCCUPANCY CONDITION BE REMOVED

An agricultural occupancy condition can be removed or varied/amended.

Removal

Government guidelines and some Local Authorities set criteria to be satisfied if an owner wishes to remove a tie. This involves proving it is no longer required, both on the holding and in the locality. In some instances the LPA will wish to impose a local occupancy condition to replace the existing condition, which can be a local planning policy.

Varying/Amending

It is possible to vary an agricultural occupancy condition, for example if the holding has changed to an equestrian business. This is often only worth considering if removal is not possible or time is limited. Careful consideration needs to be given to the wording of a new occupancy condition.

VALUES

A dwelling with an agricultural occupancy condition can be very difficult to value, there will rarely be specific comparables. Valuing a property by disregarding the agricultural occupancy condition and applying a suitable discount is the recommended method.

Acorus keeps records of sales of properties with agricultural occupancy conditions and where possible recognises this discount, to compliant purchasers, as 5-28%. Where there isn't a compliant purchaser and there is the prospect of a forced sale, the discount could be higher.

ACORUS RURAL PROPERTY SERVICES

Acorus is a leading company dealing with 'tied property', including sales, lettings, removal of agricultural occupancy conditions and advice on purchase. Acorus is regularly consulted by other agents and Local Authorities regarding agriculturally tied property.

Acorus has handled numerous planning appeals for the removal of agricultural occupancy conditions with a high success rate. It is definitely an area where expertise and experience are vital if owners are to be given the best advice.



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