

Proof of Evidence of Zoe Lelah Wangler,  
Managing Director, the Ecological Land Co-  
operative Ltd.

Public Local Inquiry pursuant to Section 78 of  
the Town and Country Planning Act 1990

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## **ACRONYMS and ABBREVIATIONS**

The Act	Town and Country Planning Act 1990
AIDPD	Allocations and Infrastructure Development Plan Document
CLT	Community Land Trust
Core Strategy	Mid Devon Core Strategy 2026
DCLG	Department for Communities and Local Government
DFID	Department for International Development
ELC	Ecological Land Co-operative Ltd
Emerging Local Plan	Mid Devon Local Plan Part 3
EWHC	High Court of England and Wales
GHG	Greenhouse Gas
LID	Low Impact Development
LPA	Local Planning Authority
Local Plan	Mid Devon Local Plan: First Alteration
MDDC	Mid Devon District Council
NPPF	National Planning Policy Framework
PPS	Planning Policy Statement
PINS	Planning Inspectorate
RPG10	Regional Planning Guidance for the South West
RSS	South West Regional Spatial Strategy
SoSETR	Secretary of State for Environment, Transport and the Regions
Structure Plan	Devon Structure Plan 2001 to 2016



## SECTION 1: QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Zoe Lelah Wangler BSc Hons. I am the Managing Director of the ELC and a trustee of Lewes Community Land Trust. I joined the ELC in 2007 as a Development Worker and became Managing Director in 2009.
- 1.2 I am responsible for all aspects of the day to day operations of the ELC and I have been responsible for overseeing and progressing the plans for the appeal site. As a member of the ELC's Committee of Management I am also responsible with my fellow directors for the good governance of the co-operative, including stewardship of members' funds and determining overall strategic direction objectives and their delivery.
- 1.3 My work, education and training prior to the ELC is relevant to this Inquiry, as follows:
  - a. Whilst an independent environmental researcher and consultant (2005-2008) I advised DFID on the climate impact of air-freighted fresh fruit and vegetable imports<sup>1</sup>, and the National Consumer Council on assessing the practicality of benchmarking food retailers' practices and policies to help consumers to shop more sustainably;
  - b. From 2001-2004 I worked as Project Analyst, a member of the management team, at the Tenderloin Neighbourhood Development Corporation. This well-established non-profit builds and manages affordable housing and provides social services to tenants in San Francisco's Tenderloin district;
  - c. I completed my science degree in Development Studies encompassing agricultural production systems and natural resource use;
  - d. I trained in ecological water and biological waste treatment during a six-month internship at the Centre for Alternative Technology;
  - e. I have completed the Foundation in Permaculture Design course;
  - f. I have experience as a farm laborer and WWOOFer<sup>2</sup> on organic farms and lived and worked on a Low Impact smallholding; and

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<sup>1</sup> Wangler, Zoe (2006) *Sub-Saharan African horticultural exports to the UK and climate change: a literature review* Fresh Insights Number 2, International Institute for Environment and Development, available at: <http://www.sustainweb.org/pdf/SSA-airfreight.pdf>

<sup>2</sup> WWOOF = International volunteer programme for those wishing to work on organic farms

- g. I have lived “off-grid” for over two and a half years, depending on renewable energy and rainwater.
- 1.4 The evidence which I have prepared and provide for this appeal in this proof of evidence is true and I confirm that the opinions expressed are my true and honest opinions.

## **SECTION 2: SCOPE OF EVIDENCE**

- 2.1 I was the ELC director most involved in the preparation, submission and negotiation of the refused planning applications. Although I do not have a formal planning qualification I sought and largely followed professional planning advice received before and during the application – including that received from the Council’s planning officers. I have become very familiar with the current national planning advice (i.e. the NPPF) and that which applied at the time of the application (i.e. PPS7). I have read the relevant development plan documents and Emerging Local Plan as well as the Council’s evidence base documentation. I have also given much thought to what I believe to be material considerations to be given weight in deciding this appeal in accordance with s38(6) of the Act. My proof is intended to comprise the main planning evidence to be taken into account in the determination of these appeals.
- 2.2 I have carried out extensive research into the way in which planning policy in different areas deals with eco-agricultural proposals like those under consideration. This research has included analysis of a large number of relevant appeals. With this background I feel perhaps more qualified to discuss how the planning system has dealt with this type of development, and how it should be dealt with, than are many planning professionals who would only rarely, if ever, come across similar applications and be able to fully appreciate their merits.
- 2.3 My evidence will cover the following topics:
- Reasons for the planning applications (Section 3);
  - Planning policy fit (Section 4);
  - Precedent (Section 5);
  - Planning conditions (Section 6);
  - Consequences if the appeals are refused (Section 7).

I will also respond to points raised by objectors (Section 8).

### **Relationship with Other Evidence**

- **Ms. Rebecca Laughton** examines in her proof of evidence whether or not there is an ‘essential need’ stemming from the horticultural/ agricultural operations for the proposed rural workers to live at or near

their place of work. I have referred to Ms. Rebecca Laughton's evidence when commenting on the Appeal Scheme's conformity with development plan policy COR18, Emerging Local Plan policy DM/10 and paragraph 55 of the NPPF;

- **Mr. Roger Hitchings**, Head of Advisory Services at the Organic Research Centre, Elm Farm, examines the suitability of the appeal site for the proposed businesses and reviewed the business plans. I refer to his evidence when drawing conclusions in relation to the Emerging Local Plan policy DM/10 and the viability of the proposed businesses;
- **Dr. Larch Maxey** of the Centre for Sustainable Futures at Plymouth University principally examines the extent to which the Appeal Scheme would deliver the policy objective of "living within environmental limits". This is referenced when assessing the Appeal Scheme's conformity with the overall objective of the NPPF of sustainable development, including "radical reductions in greenhouse gas emissions" (Paragraph 93), and specifically with adopted planning policies ST1, ST3, COR1, COR2, COR5, AL/IN/6, CO11 and Emerging Local Plan policies DM/1 and DM/5;
- **Dr. Julia Wright**, Deputy Director of the Centre for Agroecology and Food Security at Coventry University examines the extent to which the Appeal Scheme would conserve and enhance the natural environment including providing net gains in biodiversity, carbon capture, improvements to soil and water quality and reduced GHG emissions from agriculture. Her evidence is relevant when assessing the Appeal Scheme against paragraph 109 and 118 of the NPPF and against adopted plan policies COR2 COR5, ST1, and CO9.

### **SECTION 3: REASONS FOR THE APPLICATIONS**

- 3.1 This section sets out the background to the applications and why the ELC believe that the development of the Appeal Scheme would be in the public interest and contribute to the achievement of sustainable development in line with the Government's objectives as set out in the NPPF.
- 3.2 The ELC was founded to address a number of recognised social and environmental problems, principally: the need for affordable farms for new entrants; the need to reduce the negative environmental impacts of conventional farming and globalised food distribution; and the need to facilitate (and learn from) development which makes it possible for residents within the British Isles to live within the planet's environmental limits. Since its establishment in 2007 the ELC directors have also become aware of the importance of increasing domestic production of horticultural produce.

#### **New Entrants to Farming**

- 3.3 Farming is extremely inaccessible to new entrants (Appendices ZW/01 – ZW/04, and 06-07). It is government policy to encourage new entrants (Appendix ZW/05), largely on the basis that over the years 2010-2020 the sector needs to welcome 60,000 people into farming but also because new entrants are considered to bring invaluable innovation into the industry (Appendices ZW/06-07). The government's Green Food Project Steering Group concluded this year that the diverse range of skills that new entrants bring are particularly needed *"if we are to get to grips with the challenges facing us in food, farming and the environment"* (Appendix ZW/03).
- 3.4 The provision of holdings for new entrants has been government policy since the 1908 Smallholdings and Allotments Act, last updated in the 1970 Agricultural Act.
- 3.5 Yet between 2000-2010, Devon County Council Farms Estate provided just 29 new entrant opportunities, or 3 per year (Appendix ZW/08). Over the period 2005-2010 the average price of bare agricultural land more than doubled to £5,846 per acre, making it increasingly difficult for new farmers to finance the purchase of land; new farm entrants accounted for just 4% of agricultural land purchasers in the period 2000-2010 (Appendix CA/01).

3.6 Perhaps more significant, though, is the widely recognised lack of affordable housing for rural workers. Average house prices in rural areas are higher overall than in urban areas, with hamlets having the most expensive housing (Appendix ZW/10). Matthew Taylor MP in his review of rural housing for the Prime Minister found that, *“many of the people who work in the countryside increasingly cannot afford to live there, while the people who can afford to live there increasingly do not work there”*.

The Taylor Review emphasises throughout that rural housing is “unaffordable in relation to local wages” and has reached a crisis point: *“for many villages and hamlets the choice is between becoming ever more exclusive enclaves of the wealthy and retired, or building the affordable homes to enable people who work in these communities to continue to live in them”* (Appendix ZW/10). This was also the finding of the Affordable Rural Housing Commission (Appendix ZW/11).

3.7 ELC was founded in recognition of this problem and developed the following model:

- The ELC raises ethical or community share finance and purchases agricultural land. Planning permission for low-impact smallholdings with temporary residences is applied for. We provide the water supply, biological waste water treatment system, road access, a shared barn, and a source of renewable electricity.
- We then sell long leasehold agreements for the smallholdings at an affordable rate. The leasehold agreement prohibits the property being sold out of affordable, agricultural and ecological use.
- After the leasehold is sold, we continue to monitor the sites, with a provision for an annual audit built into the leasehold agreement and a provision to allow us to intervene if the leaseholders do not adhere to the terms of the leasehold agreement.
- The ELC provides ongoing support and advice to the tenants.
- The ELC developed this model on the knowledge gained of the way in which such proposals had been dealt with by the planning system and to address common concerns.

3.8 Big Society Solutions: The Cabinet Office’s Big Society programme is calling on civil society organisations to help deliver public services (Appendix ZW/12).

Should this Appeal Scheme be granted planning permission, the ELC would be able to provide tenants with a low cost (£60,000 Plot C, £65,000 Plots A&B), albeit unconventional, route into ecological agriculture. The ELC would provide tenants with security of tenure while protecting the holdings for ecological agriculture and affordability in perpetuity. It would be a form of affordable housing that remained available *only* to those wishing to operate a productive and sustainably managed smallholding. The ELC would be providing a public service that is recognised across the board, including by government, as being vital to the future of farming and in the public interest.

- 3.9 As stated in Section 7, only if the Appeal Scheme is granted permission can the ELC provide this and further opportunities for new farming entrants.

**Box 3.1 Lammas Low Impact Living Initiative** (Lammas) is a community benefit society which in 2009, after winning planning permission at appeal, provided nine affordable residential smallholdings to new entrants to ecological agriculture. Lammas charged the nine smallholders £35,000 (999-year lease, c.8 acre plot). The society has since reported that the self-built temporary dwellings have so far cost the smallholders between £4,000 and £14,000 (Tir y Gafel Annual Monitoring Report 2010 submitted with application documentation). In other words between £39,000 and £49,000 for land and a home compared with the costs of an average 8 acre smallholding in Wales of c. £300,000.

### **Environmental Impacts of Farming and Food Distribution**

- 3.10 Dr. Julia Wright of Coventry University's Centre for Agroecology and Food Security has, in her proof of evidence, set out the ecological services and environmental benefits of ecological agriculture compared with conventional agriculture and where these services and benefits are called for in government policy and/or legislation.
- 3.11 The challenge for society is to conform to this policy and legislation while producing food for British consumers at a competitive price, in the current context of relatively cheap fossil fuels. Oil prices have tripled over the past decade<sup>3</sup> and are expected to continue to rise, but for now fossil energy remains substantially cheaper than human labour, allowing conventional agriculture to employ: fossil fuelled farm machinery; broad-scale chemical treatments; and

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<sup>3</sup> See e.g. International Energy Agency, World Energy Outlook 2011, Executive Summary, [http://www.worldenergyoutlook.org/media/weowebbsite/2011/executive\\_summary.pdf](http://www.worldenergyoutlook.org/media/weowebbsite/2011/executive_summary.pdf)

food transportation across continents. However, conventional agriculture nonetheless produces less food per acre than the alternative, while burdening society with the social and environmental costs of its methods, such as climate change, soil depletion and water pollution, as well as higher unemployment. These are ultimately paid through insurance premiums, public taxes, ill-health, subsidies etc<sup>4</sup>.

- 3.12 The alternative, in line with the policy and legislation set out by Dr. Wright, is demonstrated by British ecological farmers undertaking the type of sustainable production proposed by the Appeal Scheme. They make use of companion planting, inter-cropping and integrated systems (such as agroforestry) to mitigate against pests, no-till vegetable beds, compost and green manures to improve soil fertility and most-of-all, great attention to detail and continual observation to identify problems at the earliest stage and inform the design of the production system. Produce mainly goes into local markets. While such systems have been shown to be more productive per hectare, they are also more labour intensive. Even with higher levels of productivity, the need for greater labour results in greater ongoing costs on a per unit basis (for example, per kilo of salad). The provision of affordable housing for those that work these holdings substantially reduces the costs of providing their labour: that of accommodation and commuting. This is illustrated in Table 3.1:

**Table 3.1: Implications for the viability of Plots A & C of rent and commuting** (This does not include the additional costs for automated systems that would be required, nor the expected crop and livestock losses if the smallholders lived off site.)

<b>PLOT C (annual costs)</b>	<b>On-site</b>	<b>5 miles (e.g. Wellington)</b>	<b>2 mile (e.g. Appley)</b>
<b>Costs of commuting<sup>1</sup></b> (NOTES REFER TO THOSE AT THE END OF THE TABLE)		<b>£1,533</b>	<b>£920</b>
<b>Cost of temporary dwelling<sup>2</sup></b>	<b>£292</b>		
<b>Rent <sup>3</sup></b>		<b>£7,140</b>	<b>£ 7,800</b>

<sup>4</sup> On the long-established lower productivity per acre of conventional agriculture, see for example: Peter Rossett (1999), 'The Multiple Functions and Benefits of Small-Scale Agriculture', The Institute for Food and Development Policy, 1999, <http://tinyurl.com/6fm5m5>, Gershon Feder (1985), 'The Relationship between Farm Size and Farm Productivity', Journal of Development Economics 18: 297–313. Parviz Koochafkan, Miguel A. Altieri & Eric Holt Gimenez (2011), 'Green Agriculture: foundations for biodiverse, resilient and productive agricultural systems', International Journal of Agricultural Sustainability, <http://tinyurl.com/avazvpw>. On the costs of conventional agriculture, see for example: J.N. Pretty, A.S. Ball, T. Lang, and J.I.L. Morison (2005) Farm costs and food miles: An assessment of the full cost of the UK weekly food basket, *Food Policy Volume 30, Issue 1*, Pages 1–19

Water <sup>4</sup>		£272	£272
Electricity <sup>5</sup>		£310	£310
Gas <sup>6</sup>		£410	£410
<b>TOTAL COSTS</b>	£292	£9,665	£9,983
<b>Projected Growers Annual Income YR5<sup>7</sup></b>	<b>£12,000</b>	<b>£12,000</b>	<b>£12,000</b>
<b>Overall Viability</b>	£11,708	£2,335	£2,288

<b>PLOT A (annual costs)</b>	On-site	5 miles (e.g. Wellington)	2 mile (e.g. Appley)
Cost of temporary dwelling <sup>8</sup>	£560		
Rent <sup>3</sup>		£7,140	£ 7,800
Water <sup>4</sup>		£272	£272
Electricity <sup>5</sup>		£310	£310
Gas <sup>6</sup>		£410	£410
<b>TOTAL COSTS</b>	£560	£8,132	£8,792
<b>Projected annual profits YR5<sup>9</sup></b>	<b>£8,500</b>	<b>£8,500</b>	<b>£8,500</b>
<b>Overall Viability</b>	£7,940	£368	<b>-£292</b>

Notes: 1. Commuting: Where only two trips per day are made with the car, as in the case of the first example (5 miles), one of the adult's working time would be considerably curtailed in all but the winter months, as one parent would be attending to the children at home from 2.50pm. Costs are calculated at 21p per mile.

2. Temporary dwelling: The temporary dwelling on Plot C has been budgeted at £7,300 and in this table has been spread over 25 years. This compares with the cost of dwellings at Lammas of between £4,000 and £14,000 (Box 3.1) and compares with the cost of Ben Law's 'Grand Designs' woodsman's house of £28,000.

3. Average rental amount for two bedroom accommodation taken from review of property rental websites. 4. Half the average water bill for the South West due to those committed to sustainability consuming less than the average household (source: BBC). 5 and 6: Half the average gas and electric bills (2012) due to those committed to sustainability consuming less than average household fuels (source for averages: OFGEM). 7. From Plot C's business plan. 8. Mr. Boyle has set aside £14,000 for his temporary dwelling. 9. From Plot A's business plan.

No commuting costs have been included for Plot A as Mr. Boyle intends to only travel by bike due to his commitment to sustainability. However, there would be some, such as the occasional bus/taxi and regular bike repair and maintenance, as well as the opportunity cost of all the time and energy of cycling.

- 3.13 According to PINS Case Law and Practice Guide 7, "the policy approach [set out in Annex A of PPS7] is linked to the provision of affordable housing in rural areas". This suggests that the policy for rural worker dwellings is in part

to facilitate rural livelihoods which would otherwise not be viable if farmers were to rent or buy market housing. This is taken up further in Section 4.

### **Low Impact Development**

- 3.14 This is dealt with in the proof of evidence of Dr. Larch Maxey.

### **Domestic Horticultural Production**

- 3.15 The total area of horticultural land in England has declined over the last 30 years from 208,000ha to 168,000ha (2010), representing a fall of almost 20% (Appendix ZW/14).
- 3.16 In light of the fact that the UK has been steadily increasing its consumption of imported fresh fruit and vegetables (imports now account for 71% of total horticultural produce consumed in the UK (by value), the Government's Council of Food Policy Advisors established the Fruit & Vegetable Task Force through DEFRA to "consider a strategy for increasing .... domestic production of fruit and vegetables". The Task Force reported that "fruit and vegetable growing has become a high risk, low reward industry" and recommended amongst other things, that "*improving the planning situation for food production is essential for many crops in order to compete against imports*" (Appendix ZW/16).

Box 3.2 The sizes of the holdings proposed at Greenham Reach have been questioned by the Council since we first approached the planning department in 2011 but they are in line with the size of existing horticultural enterprises. According the National Horticultural Forum, over 63% of all horticultural holdings in the UK are less than two hectares in size (Appendix ZW/14).

- 3.17 The ELC would be providing an affordable holding upon which the prospective tenants would develop a new horticultural enterprise supplying local markets. The tenants would be supported in developing their business – and on an ongoing basis – by the ELC and its partners. This is not a dissimilar approach to that taken by the former Land Settlement Association, which at its peak was

producing 40% of English home grown salad crops on around 1,100 smallholdings.

- 3.18 The prospective smallholders conducted preliminary market research when preparing their business plans. However, the business plans were prepared in mid to late 2011 and both the ELC and the prospective tenants are aware that market research would need updating if the appeals were allowed.
- 3.19 This section has highlighted the recognised need for affordable residential holdings for new entrants, the recognised need to promote sustainable agriculture and horticultural production, and some of the substantial barriers which prevent these needs being easily addressed.

## **SECTION 4: PLANNING POLICY FIT**

- 4.1 In this section I have considered the Appeal Scheme against the adopted development plan policies, the NPPF and emerging development plan policy.
- 4.2 Section 38(6) of the Town and Country Planning Act 1990 provides for applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.3 The NPPF does not change this position but constitutes guidance for local planning authorities and decision-takers in drawing up plans and is a material consideration in determining applications (paragraph 13 of the NPPF).
- 4.4 It is agreed between the parties that the existing development plan for the area consists of the Structure Plan, the Core Strategy and the saved policies of the Local Plan. I set out below my assessment of the Appeal Scheme against these existing development plan policies on a topic by topic basis and conclude that the Scheme is in accordance with all those that are relevant to the consideration of the applications. Accordingly, paragraph 14 of the NPPF applies, which provides that proposals that accord with the development plan be approved without delay.
- 4.5 Should the Inspector disagree and find that the Appeal Scheme does not accord with existing development plan policies, I consider those other material considerations relevant to the determination of the application, most notably paragraphs 7 and 14 of the NPPF which together set out the presumption in favour of sustainable development, and paragraph 55 which addresses the provision of isolated homes in the countryside. I set out the additional benefits of the Appeal Scheme as supported by existing development plan policies, the draft Emerging Local Plan, the NPPF and the Council's Green Infrastructure Strategy together with numerous other UK Government policies (cross referring to the evidence of other witnesses as appropriate).
- 4.6 To avoid repetition, I have looked at the Appeal Scheme against policy objectives, not by plan, but by subject matter.

### **New Homes in the Open Countryside**

- 4.7 The Appeal Scheme has proposed three new temporary agricultural workers' dwellings to provide accommodation for the prospective growers.

- 4.8 The adopted development plan policies require new homes in the countryside to be ‘strictly controlled’ or ‘restrained’. COR18 allows for “housing essential to accommodate an agricultural or forestry worker”. Policy H4 from the Local Plan on new agricultural workers’ dwellings was not saved.
- 4.9 The NPPF requires LPAs to avoid new isolated homes in the countryside unless there are "special circumstances", providing examples of what these special circumstances might be. One such example is where “the essential need for a rural worker to live permanently at or near their place of work in the countryside” (para 55). The Emerging Local Plan does not call for strict control of development in the countryside but rather states a preference for rural workers to seek housing in existing communities, providing an exception to this where a rural worker “has an essential need to be available at all times as part of the operation of a rural business” (DM/10).
- 4.10 From point 4.14, I set out why the proposed temporary dwellings accord with the adopted development plan, and also consider this element of the Scheme against the policies of the NPPF and the Emerging Local Plan. Firstly, however, I set out why the Appeal Scheme does not conflict with ‘the policy behind the policy’ (Appendix ZW/18), or intent of the policy, which seeks to avoid isolated new homes in the countryside as follows:
- Planning policies seeking to control development in the open countryside do so because “generally, isolated residential development in the countryside is unsustainable” (Officer’s report). Isolated residential developments are considered to be unsustainable because: the residents will be more likely to use cars than their urban counterparts, increasing GHG emissions and creating traffic; households are likely to require services which can be made available more cheaply in towns; housing removes land from agriculture; and housing may have an adverse impact on landscape character and amenity.
  - With respect to the Appeal Scheme, there are countervailing arguments:
    - **Traffic:** The Management Plan is designed to and would place restrictions on all traffic movements to and from the site (which includes deliveries and visitors’ journeys) with controls in place via a Section 106 planning obligation to guard against vehicle movements exceeding those stipulated. (A similar condition is in place and functioning successfully at the Lammas community of 9 smallholdings in Pembrokeshire (see

application document “Additional Information: Traffic & Safety, Appendix A” and Appendix CA/03));

- **Services 1:** According to the Joseph Rowntree Foundation’s Rural Housing Policy Forum and the Taylor Review of Rural Economy and Affordable Housing, providing affordable rural housing and keeping it affordable leads to a reduction in the burden on social services. The reports find that rural families help maintain local schools, buses, Post Offices and other services which are otherwise lost, making rural communities less sustainable (Appendices ZW/19 and ZW/10).
- **Services 2:** The DEFRA study “The Future of Services in Rural England – A Scenario for 2015” that found that *“three ICT-related trends are set to transform radically the delivery of services to rural residents over the next ten years. First is the widespread availability of home-based and mobile broadband services allowing rural residents to access a wide range of information based services without leaving home. Second is a major increase in the quantity and quality of the information available to households, enabling them to make more informed choices concerning all or most of the services they need. Third is a massive increase in the ability of businesses and other organisations to communicate with potential rural consumers, and to respond innovatively to consumer demand even in small and scattered locations”* (quoted in Appendix ZW/19);
- **Services 3:** The site is relatively well served for a rural location. The post office and shop at Stawley is just under a mile away, Holcombe Rogus at approx. 1.5 miles (by road) has a shop and post office, pub, hall, petrol station, mobile library, and bus services. There are two primary schools within walking distance, with the primary school at Stawley having already confirmed that places are available. There is a flat cycle path along the canal all the way into Tiverton and providing access to Tiverton Parkway station. Like residents living in existing nearby settlements (Holcombe Rogus, Greenham, and Stawley), residents at Greenham Reach would have to travel to either Stamford Peverell or Wellington to see a GP;
- **Services 4:** The Appeal Scheme was designed – through the clustering of three smallholdings and through providing shared infrastructure - to

promote mutual support and sharing. This approach draws on research and existing precedents which demonstrate veracity of such clustering<sup>5</sup>. Shared infrastructure includes pooled vehicles shared between all three households, a processing kitchen, washing machine, farm machinery, tools, etc. The prospective tenants would also share marketing and distribution, sourcing (both domestic and business), as well as assisting each other with childcare and other key tasks and providing companionship and social support. This point is also highlighted in Ms. Laughton and Dr. Maxey's proofs of evidence;

- **Loss of land from agriculture and amenity:** the 3 proposed dwellings could – as per planning policy – occupy at the most a total of 360m<sup>2</sup>. This represents 0.4% of the appeal site, and the site as a whole will be brought into more productive agriculture than if the appeals are dismissed;
- **Landscape character and amenity:** this is addressed from point 4.54.

- 4.11 The Appeal Scheme was designed with sustainability as its starting point and core objective.<sup>6</sup> How the Scheme would deliver on the three dimensions of sustainable development is set out in point 4.43 below. The annual reports required as part of the Management Plan would provide evidence as to the Scheme's sustainability (or lack thereof). As Drs. Maxey and Wright highlight, such evidence would make a useful contribution to academic and field research.
- 4.12 The Appeal Scheme is entirely reversible. Only a temporary (5 year) permission is sought. Further planning permission would be needed to extend the life of the temporary accommodation buildings beyond this period. This would give all parties the opportunity to assess the impacts of the Appeal Scheme before any permission is granted to continue the Appeal Scheme, an approach that accords with paragraph 111 of Circular 11/95 (Use of Conditions in Planning Permission) and draft Policy DM/10 of the draft Emerging Local

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<sup>5</sup> Lammas has demonstrated this in a similar development which gained planning permission on Appeal, whilst other developments benefitting from such clustering include Tinker's Bubble and Five Penny Farm. Research highlighting the value of clustering includes Laughton, R. *Surviving and Thriving on the Land*(2008) and Pickerill, J. and Maxey, L., (2009) 'Geographies of sustainability: Low Impact Developments and radical spaces of innovation.' *Geography Compass*, 3, 4, 1515-1539

<sup>6</sup> The golden thread described at NPPF para 14

Plan. Furthermore, we have covenanted in the S106 to remove the temporary dwellings should the Scheme ultimately fail to deliver in accordance with the Management Plan's objectives. In such circumstances, the fields would return to a bare land holding.

- 4.13 Matthew Taylor MP concluded in his review of rural economy and affordable housing that *“planning must not determine the future development of rural communities against a narrow tick-box approach to sustainable development ... The question planners must address is, “how will development add to or diminish the sustainability of this community?... taking a better balance of social, economic, and environmental factors together to form a long term vision for all scales of communities. A mix of housing and employment opportunities are essential for the sustainability of rural communities”* (Appendix ZW/10). As Dr. Larch Maxey has evidenced in his proof, the Appeal Scheme is likely to not just be highly sustainable but deliver on the government's policy of radical reductions in GHGs. However, the Scheme may not be recognised as such as long as decision-makers continue to assess the sustainability of proposals using only a narrow definition and cursory analysis of sustainability.

#### **New Homes in the Open Countryside, Special Circumstances: Rural Workers**

- 4.14 The exception policy for rural workers' dwellings in Mid Devon has arguably become vaguer than at any time since the introduction of PPG7 in 1992: Over 1,000 words setting out the tests for these dwellings in PPS7 have been replaced by just 20 words in the NPPF (“the essential need for a rural worker to live permanently at or near their place of work in the countryside”). Mid Devon's adopted plan policy COR18 is similarly vague<sup>7</sup> (“housing essential to accommodate an agricultural or forestry worker”), and policy H4 from the Local Plan was not saved. The Emerging Local Plan is yet to be examined or adopted, with Policy DM/10 therein having four unresolved objections. As such, the weight attributed to it will need to be tempered in accordance with the guidance at paragraph 216 of the NPPF.
- 4.15 What is clear is that all rural worker dwelling policies consider there to be a need for a rural worker to be on their holding only where it is essential to the

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<sup>7</sup> It should be noted that the mid Devon Core Strategy (and COR19) was prepared when PPS7 was still in force

successful operation of the rural/agricultural enterprise. Drawing on the proof of evidence of Rebecca Laughton, agricultural appraiser, the essential need of the proposed temporary dwellings at Greenham Reach is therefore looked at first and in detail.

- 4.16 The Council stated in their Statement of Case that ‘essential need’ “should comprise of firm evidence to show:
- That there is an essential need to be resident at or very close to the site,
  - That the labour requirement to run the business efficiently should equate to at least one full-time worker,
  - That the business is financially viable and likely to remain so,
  - That there is no other accommodation in the area that is suitable and available, and
  - That the other normal planning requirements are met.”
- 4.17 Further, in addition to that set out by the Council in its Statement, the Council’s agent, in conversation (21 December 2012), mentioned the Council’s intention to argue that we had not demonstrated “firm intention”, as per emerging plan policy DM/10, which states, “will need to be substantial such as the construction of new buildings and/or the purchase of stock needed to operate a rural business”. As noted above, DM/10 has yet to be adopted and unresolved objections remain therein.
- 4.18 Each of these criteria is addressed in turn, including my assessment of whether or not these criteria form the correct basis for interpretation of development plan policy and the NPPF.

*Functional or Essential Need*

- 4.19 The Council in their Statement of Case has said with reference to the essential need tests within DM/10 that they “do not believe that the tests outlined above should be applied any differently in this case than in other more traditional agricultural based proposals”. Several appeal decisions for ecological, labour-intensive mixed holdings have noted that essential need should not be assessed using methodology developed with conventional or traditional agriculture in mind. For example:

*“from the evidence given by their witness on agricultural matters, the Council seems to regard the appropriate test as whether, if the appellants were*

*engaged in conventional agriculture, there would be an essential need... They imply that the choice to adopt non-conventional means of farming should be regarded as personal preference of the appellants... Annex A to PPS7 refers only to “the enterprise” and does not mention conventional farming”*

(Submitted with application documentation – Agricultural Appraisal, appeal reference APP/Y1138/A/12/2181808, Appendix C) and,

*“the nature of the operation and its needs are far removed from those of more conventional farming operations that advice in PPG7 seeks to address. That is not to say advice in PPG7 or the Council’s policies are not relevant in this case, but I believe they need to be addressed in context”* (Appendix ZW/21).

Neither existing nor emerging development plan policies call for a comparison between the Appeal Scheme and more traditional agricultural based proposals in the determination of applications.

- 4.20 In her proof of evidence, Rebecca Laughton has assessed the ability of the prospective tenants to operate their businesses remotely and found that in all three cases the businesses would be unviable if the tenants did not live at their place of work. In coming to this conclusion she considered the use – as proposed by the planning officer in her report – of automated systems and alarms. A number of experienced organic horticulturalists have written in-support of the Appeal Scheme and many have highlighted in their letters the essential need to live on-site.
- 4.21 As set out by Dr. Larch Maxey, the Appeal Scheme could also not deliver on its sustainability objectives without the temporary accommodation.
- 4.22 Furthermore, while the planning officer, Ms. Alison Fish, did not agree with Ms. Laughton that the agricultural / horticultural needs of the business justified on-site presence, Ms. Fish did conclude that “it is ‘essential’ for the success of this project that the occupiers work and live on site. The ecological and low impact credentials of the project can be for a temporary dwelling on the basis that it would allow the pilot project to take place”. This is correct; the Appeal Scheme would not proceed without planning permission for temporary agricultural dwellings, the three rural enterprises/livelihoods would not be set up and all associated benefits and contributions towards policy objectives to be derived from and provided by the Appeal Scheme would be lost.

### *Labour Requirement*

- 4.23 As set out in detail in the application documentation (Appendix 2 to each of the Design & Access Statements), each proposed business would create work for at least 2 full-time equivalents:

<b>Projections (appeal ref)</b>	<b>Household labour</b>	<b>Additional employment</b>
PLOT C (2181807)	2 FTE	0.2 FTE paid employee
PLOT A (2181808)	1 FTE (single tenant)	1 FTE apprentice
PLOT B (2181821)	1.9 FTE	0.2 FTE paid employee

- 4.24 The Council has not disputed these figures.

### *Viability*

- 4.25 The Council has said that they will argue that the proposed businesses “would in the long-run not be viable and sustain economically three individuals”. It has not been made clear on what expert evidence this conclusion has been based.
- 4.26 There is no adopted plan policy which refers to viability with respect to temporary agricultural workers dwellings. The emerging plan policy DM/10 requires businesses to provide clear evidence of sound financial planning. This was the test for a temporary permission within the now deleted PPS7.
- 4.27 Roger Hitchings, Head of Advisory Services at Organic Research Centre, Elm Farm, has reviewed the business plans and found them to be acceptable. He has also assessed the suitability of the site and has found it to be suitable for the proposed enterprises.
- 4.28 The agricultural appraiser, Rebecca Laughton, also found the businesses to be planned on a sound financial basis (original agricultural appraisals).
- 4.29 The business plans were also reviewed by: the Director of the Agroforestry Research Trust; a local organic market gardener; and an agronomist familiar with the local area. They all concluded that the businesses could be successful on the site (application documentation, “Response to Holcombe Rogus Parish Council “ Appendix A Site Evaluations).

- 4.30 The business plan for Plot C was submitted to Lloyds TSB Agricultural and the bank's assessor found the proposed business to be viable, offering the applicants a mortgage (Appendix 3 to Design & Access Statement in relation to appeal APP/Y1138/A/12/2181807).
- 4.31 In support of the planning applications, the ELC commissioned research into the viability of small-scale ecological enterprises in the UK (Small is Successful submitted with the application documentation). The research has been used widely including by the Making Local Food Work programme and was one of just 100 pieces of research featured in the Research Councils UK's publication *Big Ideas for the Future* showcasing "UK research that will have a profound effect on our future". The research further demonstrates the viability of businesses such as those proposed in the Appeal Scheme.
- 4.32 That being said, as per the Court of Appeal judgement *Petter and Harris v SSETR and Chichester DC 1999*, "*the financial viability test is only relevant in the determination of whether the grant of permission, in whatever terms it might be granted would, because of the uncertain future of the agricultural activity, threaten to produce, in the future, a non-conforming residential use that would pass with the land; a use that had lost its agricultural justification*" (Appendix ZW/18).
- 4.33 On this basis, the financial viability test is not relevant in this instance. The future of the proposed holdings here is certain: they would always remain in agriculture, due to the following factors:
- The ELC has been set up with clear objectives. There are no imaginable circumstances in which the ELC would allow the temporary holdings to be occupied by anyone other than those involved in agriculture on the holding – to ensure this, it has been written into the Section 106 Agreement (revised), proposed planning conditions, revised Management Plan and leasehold agreement (revised).
  - Should the ELC go into liquidation the freehold for Greenham Reach would in all likelihood be sold. The new freeholder would be bound by the same planning conditions and obligations: i.e., the dwellings would need to be occupied by persons operating the agricultural business; the freeholder would have to report on and adhere to the objectives of the Management Plan, including limits on vehicle use; and so forth.

- Aside from the proposed conditions and controls, the ELC has its reputation to protect and would not be able to raise further ethical investment in line with its operating model if it were not protecting any and all sites it created.
- The ELC has prepared itself both financially and in terms of the design of the site for one, two or all of the proposed farm businesses to fail. Should one or two fail, planning obligations require that the temporary dwelling(s) be removed. Should all fail, all of the developments would be removed, all having been designed to be reversible.

*Existing Accommodation*

- 4.34 This is dealt with in the original agricultural appraisals.
- 4.35 The Council has not disputed Ms. Laughton’s findings that accommodation off-site in any nearby settlement would not be affordable. However, Ms. Laughton maintained and continues to maintain that the holdings require on-site presence.

*Intent*

- 4.36 The Council’s agent has said that the Council will argue that ‘intent’ has not been proved (as per emerging plan policy DM/10) because we have no crops in the ground, no new buildings, nor any livestock. However, there is nothing in either adopted policy, extant nor emerging policy which says that intent must be shown in these ways. They can only be seen as examples.
- 4.37 Again making reference to Petter and Harris, “*so here an unexpected but undoubtedly genuine application ... requires not a rigid application of criteria designed for commercial agriculture, but a practical adaption of those criteria to secure the underlying purposes of the policy*” (Appendix ZW/18). The Council’s agricultural worker dwelling policy was not written with our type of application in mind and even in the absence of the objections to its inclusion in the Local Plan, would have only limited relevance to these proposals.
- 4.38 However, the ELC can without doubt show intent. In nearly five years of work on the scheme to date we have:

- Established the co-operative, developed the Appeal Scheme including bespoke lease, Section 106 Agreement, Management Plan and research and monitoring programme, with partners in place including academic departments;
- consulted on these documents with the local community, Parish Council and MDDC Planning Officers, and made extensive revisions in the light of these discussions, eventually securing approval from all three groups;
- conducted a year-long research project into the viability of small-scale ecological agriculture, as before, recognised by the Research Council UK;
- recruited prospective tenants who each bring their own experience and evidence of intent (original agricultural appraisals);
- had experts assess the business plans and Management Plan;
- had experts assess the ecology, topography, biodiversity, and soil quality of the site and assess the flood risk, potential for renewable, and the provision and treatment of water;
- harnessed the support of food and farming organisations who have agreed to support our prospective tenants in establishing their farm businesses; and
- given evidence to the All Party Parliamentary Group on Agroecology on two occasions.

4.39 I have previously noted that DM/10 has not yet been adopted and in my email to the Council submitted as part of the LLP3 consultation, I commented on the problems associated with this element of the proposed policy (Appendix ZW/13). I would particularly like to highlight the following points made in my submission:

- We have maintained throughout that the prospective tenants would need to live on-site in order for their businesses to be viable. If our prospective tenants were to have invested before the application was made, namely in early 2011, in livestock, polytunnels, plants, chicken houses, etc., they would have had to operate at a significant loss for over a year. Should the appeals then be dismissed, our prospective tenants would be left with the

infrastructure and livestock for an enterprise they are unable to continue to run.

- We have seen firsthand how this requirement to demonstrate intent through existing investment encourages retrospective planning applications. This Appeal Scheme is an attempt to avoid the problems both for the planning system and for farmers and growers of moving onto the site and applying for permission retrospectively. Yet to date this retrospective approach has met with greater success than the more respectful approach employed by this Scheme. This cannot be the intention of the policy makers.
- In my email I commented that “in our study of small-farm viability... we found that the ecological small farms we studied had invested incrementally in their businesses over a number of years in order to avoid incurring and servicing debt”. Avoiding debt is particularly appropriate in the face of climate change which will see an increase of extreme weather events and the need for resources to finance repairs, maintenance and adaptations. Farmers/growers will better survive these without debt to service.

4.40 Finally, if the Inspector felt that intent must be demonstrated through the construction of the barn, this could be secured by way of a planning condition – dwellings could be allowed to be sited only after the barn and / or other infrastructure had been put in place.

4.41 As set out above, I therefore consider that the Appeal Schemes accord with the policies of the existing development plan, the rural workers exemption in paragraph 55 of the NPPF and, to the extent relevant, policy DM/10 of the Emerging Local Plan.

### **New Homes in the Open Countryside, Special Circumstances: Other Special Circumstances and Material Considerations**

4.42 As set out above, S38(6) of the Act requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Such material considerations include the NPPF and the other numerous benefits of the Appeal Scheme presented to this appeal. Such other benefits amount to Special Circumstances (in accordance with paragraph 55 of the NPPF) or should otherwise be viewed as material considerations to be taken into account in determining the applications.

#### 4.43 The Appeal Scheme would:

- As set out in Section 3, **provide affordable smallholdings** for new entrants, incorporated in a co-operative and social enterprise thereby delivering on section 3 of the NPPF, policies ST1 and ST3 of the Structure Plan Policy COR1 of the Core Strategy and Policy DM/23 of the draft Emerging Plan and also:
  - the aims of smallholdings legislation within various Acts of Parliament, most recently the Agriculture Act 1970, and the government’s current policy of encouraging new entrants into agriculture (points 3.3-3.4 above);
  - government policy to increase the fresh fruit and vegetable supply base (point 3.15 above); and
  - the government’s Big Society agenda (point 3.8 above).

One of the Council’s central aims found within its Green Infrastructure Strategy is to increase local food production and promote local farming (Appendix ZW/15).

- As evidenced by Dr. Maxey, **support the transition to a low carbon future and provide radical reductions in resource use and GHG emissions** in accordance with paragraph 17 and section 10 of the NPPF, Policies ST1 and CO11 of the Structure Plan, Policies COR5 and COR9 of the Core Strategy, Policy AL/IN/6 of the Allocations and Infrastructure DPD, Policy DM5 of the draft Emerging Plan, the Council’s Green Infrastructure Strategy and the Community Plan for Devon. Radical reductions in greenhouse gas emissions are fundamental to the NPPF (including small scale projects – see paragraph 98) and are also legally required of the UK government (2008 Climate Change Act).

The Committee on Climate Change has, “... *highlighted the need for a step change in the pace of emissions reductions ...This analysis highlights the crucial role for local authorities in meeting national carbon budgets, showing that emissions reductions without local action will be insufficient..... A failure to secure reductions across the areas where local authorities have significant influence would leave emissions above levels required to meet carbon budgets ... Local authorities’ planning functions*

*are a key lever in reducing emissions and adapting localities to a changing climate” (Appendix ZW/17).*

- As set out by Dr. Wright and the ecologist Marion Reed, **conserve and enhance the natural environment** including providing **net gains in biodiversity** and contributing to the Government's commitment to halt the overall decline in biodiversity in accordance with paragraph 109 of the NPPF and CO9 of the Structure Plan.

The ecologist concluded that *“overall there is likely to be a potential benefit to wildlife, including some protected species and habitats .... Low impact developments such as that proposed here tend to benefit wildlife by introducing low input, more extensive agriculture, increasing habitat diversity and re-introducing traditional management techniques”* (see application documentation “Ecology Assessment”).

The NPPF states that “development proposals where the primary objective is to conserve or enhance biodiversity should be permitted”. This is one of the primary objectives of the Appeal Scheme.

- Again, as evidenced by Dr. Wright, **provide improvements in soil and water quality**, in accordance with Policy S6 of the Local Plan.
- As evidenced by Dr. Maxey and Dr. Wright, **provide research** thereby contributing to the UK’s knowledge industries, principally universities, in accordance with paragraph 21 of the NPPF.

One of recommendation of DEFRA’s Green Food Project is “to improve our knowledge base and science capability” as well as better knowledge exchange “through the food , farming and environment sectors Government and other institutions such as in civil society”. It reports that research into “eco-system services and socio-economic research” is particularly needed and that “more effort is needed to encourage applied or user-inspired research” (Appendix ZW/03);

- **Support a prosperous rural economy** by providing sustainable rural employment, providing for the growth of enterprise in a rural area and providing for the diversification of agricultural rural businesses in accordance with paragraph 28 of the NPPF, Policies COR1, COR4 and COR18 of the Core Strategy and Policy E11 of the Local Plan.

The Taylor Review into the rural economy and affordable housing recommended that “regional planning bodies should support the further development of both rural enterprise hubs and live/work units. An exemplar programme should be set up in one or more interested regions to identify best practice and further test the practical issues relating to these enterprise hubs and live/work units in rural areas” (Appendix ZW/10).

- **Be adaptive for climate change** in accordance with Policies COR1 and COR5 of the Core Strategy and reflected in the NPPF (paragraph 94).
- 4.44 The ELC would safeguard the smallholdings for ecological agriculture through the proposed lease, Management Plan and Section 106 Unilateral Undertaking. We have asked the LPA for every additional possible condition to ensure that the Appeal Scheme is never taken out of agricultural use and to guard against occupation of any of the buildings other than in accordance with the objectives of the Appeal Scheme. We continue to welcome any conditions or planning obligations required in order to control this.
- 4.45 As taken up in 4.61 below, there are a number of LPAs, as well as the Welsh Assembly, that have or had an exception policy for Low Impact Developments (LIDs). By delivering on the above objectives and through the use of the Management Plan and S106 Agreement, the Appeal Scheme would meet the tests set out in these policies.

### **Other Planning Policies**

- 4.46 While not citing any other planning policies within its reasons for refusing the three applications, I note that the Appeal Scheme would also conform with these additional planning policies:

#### *Transport Policies*

- 4.47 The proposed access would be on a relatively straight section of road. Once the access has been improved, the Highways Authority has said visibility would be acceptable.
- 4.48 The access once improved would provide a passing place and the Highways Authority has recommended the provision of two further passing places on the approach road.

- 4.49 Given the above two points, the road safety record for the area, and the restriction on the number of vehicular movements permitted within the Management Plan, the network of roads serving the site has the capacity to safely serve the Appeal Scheme. This has been agreed by the Highways Authority and accords with Structure Plan policy TR10.
- 4.50 Traffic generation would be managed in the following ways:
- accommodation would be at the rural workers' place of work thereby removing the need to commute, reducing the need to travel (TR2 & COR9) and encouraging walking (between work and home) as per policy TR5; and
  - the prospective tenants would lift-share both for business and personal trips for reasons of economy and convenience and would be effectively required to do so as a result of the limitation placed by the Management Plan on all vehicular traffic movements, delivering again on policies TR2 and COR9.
- 4.51 The Appeal Scheme does not require a high level of accessibility (TR2) and makes provision for pedestrians and cyclists (TR7).
- 4.52 A great deal more information on the limits placed in the Management Plan on traffic; the mechanism for monitoring traffic; and projected vehicle movements, was made available in the application documentation.

#### *Landscape Character*

- 4.53 The Council in their Statement of Case stated that they would be assessing “the proposals in respect to the character of the area”. This was not previously raised either during the Committee meeting (Appendix CA/04) or in the reasons given by members for refusing the applications. The planning officer in her report concluded that “it is not considered that the visual impact of this proposal will be so great as to recommend refusal” and that “taking into account the key characteristics, special qualities and forces for change, it is not considered that this proposal will adversely impact on the landscape character of the area”. It is therefore not clear on what grounds the Council is seeking to widen the issues to be considered by the appeals to include consideration of the impact of the proposals on landscape character and this point has been raised in correspondence with them. In order not to waste time by widening the argument(s) I've made only a couple of observations on this matter as follows:

- 4.54 The site is not within any strategic nature areas, protected landscape, Green Belt, areas of national importance, nor any of Mid Devon's (over 200) County Wildlife Sites and Regionally Important Geological Sites.
- 4.55 The Structure Plan and Core Strategy both recognise the need to protect and conserve the landscape character while “promoting rural diversification” (Core Strategy 5.1) and recognizing the countryside’s “relationship to the rural economy which is having to adapt to changing circumstances” (Structure Plan, chapter 3, 4.5). Protection of landscape character for its own sake is not included in the NPPF, rather the NPPF asks that developments “respect the character of the countryside” (paragraph 28). The emerging plan is silent on the issue of landscape character outside of the Blackdown Hills AONB, Dartmoor and Exmoor National Parks, and the North Devon Biosphere Reserve.
- 4.56 The land is in LCT 3B. The Appeal Scheme delivers on the Council’s own guidelines set out in Mid Devon’s Landscape Character Assessment including: providing new hedgerow; a 6m riparian buffer along the river edge (Plot C); new ponds (and new habitat); new native broad leaf hedge (Plot C); new areas of agroforestry, largely fruit trees; maintenance of the species-rich grassland; improvements to the site’s banks ditches; and the learning of old rural skills.

#### *Other Policies*

- 4.57 The Appeal Scheme would:
- Assist in strengthening local town centres by the promotion of competition and the enhancement of local farmers’ markets in accordance with paragraph 23 of the NPPF.
  - Provide renewable energy in accordance with Structure Plan policy CO11, Local Plan policy COR5, and paragraph 97 of the NPPF .
  - Provide for reductions in domestic waste in accordance with Policy ST1 of the Structure Plan and Policy S6 of the Local Plan. Ecological footprint analysis carried out on similar ecological land based businesses show that much lower than average amounts of wastes are generated due to both lower consumption of packaged goods, white goods and consumer goods generally, and greater utilisation, repair and recycling of those items purchased.

- Assist in flood prevention in accordance with Policy CO13 of the Structure Plan and Policy COR1 of the Core Strategy.
- Promote flexible working practices in accordance with paragraph 21 of the NPPF.

### **Low Impact Development (LID) Policy**

- 4.58 When we first approached the Council with our proposal the planning officers stated that the Appeal Scheme would be considered under the agricultural worker dwelling policy in Annex A of PPS7 (Appendix ZW/20). The officers also recommended that we apply for the three smallholdings in three individual applications.
- 4.59 The Holcombe Rogus Parish Council raised concerns in its formal response about this approach, commenting that “some caution is required in trying to apply standard policies that were not drafted with this kind of social enterprise in mind. Our Council does not consider that MDDC has any clear policy that contemplates what is being proposed at Greenham Reach”.
- 4.60 An exception to normal planning policy for LID or One Planet Development has been provided for by at least the following LPAs: the Welsh Assembly (TAN6); Pembrokeshire County Council and Pembrokeshire National Park Authority (Policy 52, JUDP); Dartmoor National Park Authority (DMD30 – emerging plan); and Milton Keynes (H11 – not saved) (application documentation “Response to Holcombe Rogus Parish Council – Appendices C & D”, and Appendices CA/08 – CA/09).
- 4.61 While it is conceded that there is no such policy in the development plan relevant to the applications, it is of interest to note that the Appeal Scheme fulfills the majority of the criteria in these existing, emerging and extant LID policies of other authorities which are provided as appendices. By way of example, Dartmoor National Park Authority’s emerging policy is as follows:
- the proposal will make a positive environmental, social and/or economic contribution with public benefit;
  - all activities and structures on site have low impact in terms of the environment and use of resources;
  - the development is well integrated into the landscape and does not have adverse visual effects;

- the proposal requires a countryside location and is tied directly to the land on which it is located, and involves, agriculture, forestry or horticulture;
- the proposal will provide sufficient livelihood for and substantially meet the needs of residents on the site;
- the number of adult residents should be directly related to the functional requirements of the enterprise; and
- in the event of the development involving members of more than one family, the proposal will be managed and controlled by a trust.

4.62 LIDs have been permitted in planning authorities without specific LID policies. In these decisions, all made before the publication of the NPPF, the Inspectors commented that the direction of travel of policy is towards ever more sustainable approaches to development and the need to address climate change. This is indeed the central thrust of the NPPF.

### **Delivering on the Three Dimensions of Sustainable Development**

4.63 I submit that the Appeal Scheme accords with the three dimensions of sustainable development:

- **Economic:** The Appeal Scheme if allowed would provide livelihoods for three families. By promoting horticultural production which is not reliant on fossil fuels, the smallholdings would contribute to food security and local food resilience. By providing smallholdings affordably, our prospective tenants would incur less debt and would therefore be more likely to weather changes in the market and in the climate. The monitoring and research that forms part of the Appeal Scheme would likely contribute to further innovation in the fields of LID and sustainable intensification. The Scheme would also lead to the provision of additional ecosystem services – the fiscal value of which is yet to be calculated.
- **Social:** The Scheme provides housing required to meet the needs of present and future generations. It would support health by providing wholesome food while maintaining agricultural land at the highest standard. It would support both social and cultural well-being by widening access to land for sustainable land-based livelihoods within the UK.

- **Environmental:** The environmental benefits of the Appeal Scheme have been set out above, and in the proofs of evidence of Drs. Maxey and Wright. To summarise: the smallholders would live within the planet’s environment limits; the reduction in both domestic and businesses greenhouse gas emissions would be at the scale required by the Climate Change Act; the Scheme would include renewable energy sources, would provide net gains in biodiversity, carbon capture, improvements to soil and water quality, reduces domestic waste and would manage water resources responsibly.

### **Concluding Remarks on Planning Policy**

- 4.64 It was shown in the comprehensive application why there is an essential need for the prospective tenants to live on site. Whilst this was not fully accepted by the officer, she did recommend that permission should be granted, based on the proposed temporary period.
- 4.65 In preparing the Appeal ‘the policy behind the policy’, or the intent of policy with respect to isolated dwellings in the countryside has been examined. Policy seeks to avoid isolated dwellings in the countryside because “generally, isolated residential development in the countryside is unsustainable”. A number of reasons why such residential development is generally unsustainable were given in 4.10. In this proof, my response to this justified policy concern has been to address in full each of these reasons, thus demonstrating the sustainability of the Scheme.
- 4.66 A raft of policies within the development plan, Emerging Local Plan and the NPPF together with other considerations apply to the Appeal Scheme. My evidence shows that the proposals accord with these policies and their objectives, as well as providing multiple further public benefits.

## SECTION 5: PRECEDENT

- 5.1 The Council in the decision notices has suggested that if these appeals are allowed they would be unable to resist future applications for dwellings in association with Permaculture and Agroforestry. A number of points arise:
- 5.2 The applications are for temporary permissions. If temporary permissions were granted the applications could not set a precedent for the determination of any identical applications where permanent permission was sought.
- 5.3 It is a well established planning principle that each planning application is to be determined on its own individual merits. In this case the application site, the Appellants (by the unique nature of the ELC) and Appeal Scheme have their own individual and significant merits raising different material considerations that are very unlikely to be repeated elsewhere in the locality:
- a. As recognised by the officer in her report to the Planning Committee, *“there are many aspects to this proposal which sets [sic] it apart from anything which has been submitted in the district to date”*. The Appeal Scheme has been proposed by a social enterprise and co-operative society, a type of community land trust (CLT). An exceptional amount of time and research has gone into both developing our proposals and drafting our application, as well as into the process of amending it in light of consultation with the LPA and stakeholders. It has taken nearly five years of work to get to this point. If granted planning permission, our ability to deliver the scheme’s many social benefits, particularly the affordability of the smallholding(s), would have only been made possible through extensive volunteering of people’s time and skills, something neither a commercial organisation nor an individual is likely to be able to replicate. Indeed, in the *Review on Rural Economy and Affordable Housing* commissioned by the Prime Minister in 2007, respondents recognised the constraints on CLTs in delivering affordable rural housing *due to the difficulties of financing such ventures*;<sup>8</sup>
  - b. As supported by principal consultant at Elm Farm Organic Research Centre and soil scientist, Roger Hitchings, the appeal site is appropriate for the mixed, primarily horticultural uses proposed;

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<sup>8</sup> Taylor, Matthew (2008), Matthew Taylor Review on Rural Economy and Affordable Housing Analysis of Responses to the Call for Evidence, Ove Arup & Partners Ltd for the Prime Minister

- c. The site is within 5 miles of Wellington and 11 miles of Tiverton. The Lottery funded *Making Local Food Work* programme has recommended that LPAs “look favourably on well-designed, small-scale development proposals that support the growth of community and local food enterprises”, particularly those less than 10 kilometers (6.2 miles) from a settlement (Appendix ZW/04);
- d. The appeal site is not in any strategic nature areas, Green Belt, areas of national importance, nor any of Mid Devon's (over 200) County Wildlife Sites and Regionally Important Geological Sites; and
- e. Again, as recognised by the planning officer in her report, the prospective tenants will not have a “conventional lifestyle” and will forego “*some of the normal trappings of modern day life. In one appeal decision relating to a permaculture enterprise the Inspector stated, “the difficulties associated with this kind of lifestyle militate against the likelihood of a host of similar proposals coming forward in the wake of these appeals”*”. The officer also recognised that the proposed Management Plan and Unilateral Undertaking are “highly restrictive” and that “this type of arrangement would not suit many people”.

5.4 The Council’s precedent reason for refusal implies that a future applicant would simply have to state that they were intending to practice permaculture or establish an agroforestry production system in order to gain planning permission. There are two points in response to this:

- a. It is clear from the evidence submitted in the previous sections of this proof, and that submitted by the other witnesses, that future applications for rural workers’ dwellings in association with agroforestry and permaculture could not be equated with the Appeal Scheme simply because of the choice of agricultural production employed; and
- b. Point 5.4 (a) is supported by Mr. Justice Sullivan who agreed with the Inspector that permaculture is simply a form of agriculture and as such does not exempt an application from the usual policy requirements (Appendix ZW/23).

- 5.5 The Council has never produced evidence – as required by PINS (Advice Note 07) – that a host of sufficiently similar proposals would be forthcoming nor that, should a host of similar proposals be forthcoming, material harm would be caused by permitting similar schemes in the locality.
- 5.6 We believe that rather than set a problematic precedent, the Appeal Scheme would in fact provide an exemplar of this form of development against which any future such proposals could be compared.
- 5.7 Finally, if the Inspector concludes, as I and the planning officer concluded, that the appeals comply with the development plan, they would not set an undesirable precedent either locally or nationally.

## **SECTION 6: PLANNING CONDITIONS**

- 6.1 The Council in its Statement introduced that it “will question the ability of both conditions and the Section 106 Agreement which is being proposed to adequately control the occupation of the three dwellings”.
- 6.2 In the first instance, we have made it clear since we first approached the Council that we would welcome any conditions or planning obligations required in order to control occupancy of the temporary dwellings.
- 6.3 We had detailed discussions regarding conditions with both the planning officer and the Chair of the Holcombe Rogus Parish Council’s Planning Committee, himself a solicitor. This is noted in the officer’s report.
- 6.4 We invited the Council to again review the proposed conditions as part of drafting the Statement of Common Ground.
- 6.5 The original S106 Agreement was prepared by Siobhan Hayes, Council, Reed Smith LLP UK and was reviewed recently by Lucy Thomas, Senior Solicitor, Ashurst LLP. Mrs. Thomas has prepared a statement on the proposed agreement (Appendix ZW/09). We have no reason to believe – and the Council has not provided evidence - that it would not be adequate to control the occupation of the temporary dwellings as the Council states.
- 6.6 A revised version – provided to the Council during discussions regarding the Statement of Common Ground – is provided in Appendix ZW/22.

## **SECTION 7: CONSEQUENCES IF THE APPEALS ARE REFUSED**

- 7.1 In developing the Appeal Scheme, the ELC has sought to create a financially sustainable model to provide a solution to recognised social and environmental problems. There is a great deal of interest in community shares to finance such solutions, including our model.
- 7.2 It is important to bring to the Inspector's attention that if all three appeals were refused, it would be impossible to seek funding from community investors for a second project; Greenham Reach was funded by 'pioneer' community investors who took a risk on a start-up with no track record but with a compelling vision. In the event that the Appeal Scheme is dismissed, we could not ask for more investment; we would have a track record – one of failure, and as such, one which few would want to finance.
- 7.3 If all three appeals were dismissed, it would be put to the ELC members that the co-operative sell the land at Greenham (its only asset) and the co-operative be dissolved.

**SECTION 8: RESPONSE TO OBJECTIONS**

A response to the 11 objections received by the Council during determination was submitted and forms part of the application documentation. *Response to Objectors* addressed: traffic generation and road safety; controls to protect the site; the suitability of the site; the extent to which produce would be low carbon; the proposed bore hole (now removed from the application); policy compliance including landscape character and amenity; public need for the scheme; planning long term crops such as tree-crops with application for 5-year permission; precedent; local consultation; accessibility; and our regard for process.

This section addresses additional points raised in the 5 letters of objection received by PINS and not otherwise addressed in evidence, namely:

That a large part of “the small site” will be covered in “houses, barn, hard-standing and polythene” and “the proposed development greatly reduces the amount of agricultural land available for food production”

This is factually incorrect, as the following table shows:

<b>Proposed Development</b>	<b>Quantum Sq m</b>	<b>Percentage of Total Site</b>
Barn	67.5	0.08%
Greenhouse	23.76	0.03%
Hatchery	18	0.02%
Polytunnels	443.59	0.5%
Dwellings	360	0.41%
<b>ALL STRUCTURES</b>	<b>912.85</b>	<b>1.03%</b>
Barnyard (grass paving)	290	0.33%
Visitor parking (grass paving)	150	0.17%
Passing places	82.5	0.09%
<b>ALL CHANGES</b>	<b>1352.85</b>	<b>1.62%</b>

That the prospective tenants are intending to be employed elsewhere or will be supported by other “home-working”

In the case of Plots A & C this is factually incorrect; no other work has been proposed by the prospective tenants. The Guskovs’ current employment has been referred to in

letters of objection but the Guskovs intend to fully commit themselves to a horticultural enterprise at Greenham if the appeal is upheld.

The original intended applicants for Plot B, who have now withdrawn, did intend that *one of the couple* would work part-time for the first two years while the farm business was being established. (This is covered in the Grounds of Appeal.)

If the Appeal Scheme is permitted it will force up the price of agricultural land

The proposed S106 Agreement and planning conditions combined with a highly restrictive lease would keep the value of the land at agricultural or near to agricultural land prices.

That there is considerable local objection and an approval would dis-empower local people, contrary to policy

The following local residents (within 10 miles) have written in either to the LPA and/or PINS:

<b>Objections</b>	<b>Support</b>
<p><u>Less than 1 mile from the site:</u>            Mr. Cameron-Rose            Mr. and Mrs. Civil            Mr. Dorpman and Ms. White            Mr. Goad            Dr. Haro and Mrs Fussell            Ms. Larson            Mr. and Mrs. Robinson            Mrs. C White            Mr. Wrightson</p>	<p><u>Less than 1 mile from the site:</u>            Mr. and Mrs. Ravnkilde            Mr. and Mrs. Wiltshire</p> <p><u>Between 1 and 5 miles from the site:</u>            Mr. and Mrs. Bowers            Ms. Mason            Mr. and Mrs. Hewitt</p>
<p><u>Between 1 and 5 miles from the site:</u>            Mrs. Freeman            Dr. Harvey</p>	<p><u>Between 5 and 10 miles from the site:</u>            Mr. Bull            S. Chapman            Mrs. Gale            Ms. Hill            Mr. Smith</p>
<p><u>Between 5 and 10 miles from the site:</u>            Miss Howarth</p>	

The Appeal Scheme will deprive neighbours of their water supply and the development will lower the groundwater table

As set out in the Committee Update of 6 June, the bore hole no longer forms part of the applications. With no bore hole, the Appeal Scheme cannot have any impact on the aquifer or the groundwater table.

The development could lead to a lack of water for those reliant on it

One objector has raised a concern that if we were to draw water from the river Tone, those further down river would lack water. We would never want to adversely affect our neighbours' water supply and we are certain that we would not, as follows: The flow rate of the river along our site varies between c. 5m<sup>3</sup>/s and c. 15m<sup>3</sup>/s, depending on the level of the river. If we were to extract 5m<sup>3</sup> per day in the summer, this would account for a maximum of just 0.001% of water flowing in the river on any given day.

The use of river water from the River Tone will present a danger to the river and its inhabitants

As this Scheme aims to benefit biodiversity, we wish to ensure the river ecology is protected and as such have sought the opinion of a second ecologist on this point. We have been told that due to the low levels of water that we are anticipating extracting (see above point), there will be no adverse affect on the river ecology. We would like to highlight that we have offered by way of planning condition the provision of a 6m riparian buffer. We would be obliged by way of the proposed Management Plan and S106 Agreement to have an annual ecological survey and we would again be obliged by these agreements to mitigate against any adverse impact on the site's biodiversity should the situation arise or risk having the planning permission revoked.

The lower field (Plot C) is waterlogged

This is factually incorrect as set out in Mr. Hitchings' proof of evidence.

The development would pose a threat of nitrate and other chemical pollution

Under our management plan agri-chemicals are strictly prohibited from the site. For the avoidance of doubt, this includes nitrogen fertilizer. All materials to be applied will be composted and this has the effect of stabilising the nitrogen content so that it is not easily leached. The prospective tenants would be maintaining good soil structure and reducing surface runoff which would reduce nitrate leaching from any compost applied. Tenants would apply fertilising materials, such as compost, to meet crop demands and not create excesses. The other cause of nitrogen mineralisation is when

the soil is cultivated - this aspect will be kept to an absolute minimum because of the no-dig approaches planned by the prospective tenants. As per the Management Plan, the soil would be tested at least once a year and water (ponds) would be tested at least twice a year. These tests would provide an early warning of any possible nitrate leeching.

#### Failure to provide plans for livestock in the event of flooding

The poultry which are indicated on the Landscape Plan near the river are to be rotated around Plot C. In the event of flooding they would thus be sited on higher ground.

#### The use of electricity to pump water is not sustainable

Extra capacity has been included within the site's photovoltaic system in order to meet winter electricity needs from the dwellings and poultry hatchery. If we did not use the excess in the summer to pump water then it would simply go unused.

#### There will be significant dirty water output

This is factually incorrect. Human excreta would be composted and as such there would be no 'black' or 'dirty' water. We have provided full details of our water treatment systems.

#### Legally protected species

The ELC commissioned an ecological survey which was conducted by Marian Reed, a trained ecologist with experience working with BTCV, the Cornwall Wildlife Trust, the Hampshire and IoW Naturalist's Trust, The Game Conservancy Trust, the Natural History Museum and Wessex Environmental Associates. Her clients have included Natural England, Plantlife, DSTL, MoD, Wildlife Trusts, CEH, developers and farmers. She concluded that "although no direct evidence of protected species was noted during the survey, the site contains habitat that is suitable for badgers, bats, dormice, otters and some reptiles. Further specialist survey for protected species was not recommended as the proposals do not result in a significant change of use for most of the land and so will not alter the existing condition for these species". As detailed in point 4.43 above, the ecologist also concluded that the Appeal Scheme would benefit biodiversity.

#### No evidence of market research / insufficient markets for produce

The business plans setting out the prospective tenants' marketing plans were not made available to the public by the Council – these include information on

prospective markets. There will be on-going market research and business plan development if the appeals are upheld.

A six acre holding cannot provide a pathway into farming

Not for a livestock or arable farmer. But according to a report produced for the National Horticultural Forum, 50% of horticultural holdings are under one hectare (2 acres). When the Land Settlement Association provided smallholdings at the turn of the last century to the urban unemployed, the average holding size was five acres. At its peak, the LSA's c. 1,200 smallholdings provided 40% of English salad crops.

## APPENDICES TO THIS PROOF OF EVIDENCE

These are provided separately.

ZW/01	Tenants Farmers Association (2010) 2020 Vision for Agriculture, TFA
ZW/02	Extracts from letters of support from: Kindling Trust, Five Penny Farm, TLIO, Mark Simmonds (Making Local Food Work), Sue Everett (Farming and Rural Issues Group for South East England), and Soil Association.
ZW/03	The Green Food Project Steering Group (2012) Green Food Project Conclusions, DEFRA.
ZW/04	Michaels et al. (2012), Food from the Urban Fringe, Making Local Food Work.
ZW/05	DEFRA (2012) Farmers for the futures <a href="http://www.defra.gov.uk">www.defra.gov.uk</a>
ZW/06	Amiss, R (2011) New entrants and opportunities in farming, Nuffield Farming Scholarships Trust
ZW/07	Lobley (2010), Succession in the Family Farm Business, Journal of Farm Management Vol.13. No. 12.
ZW/08	Devon County Council (2010), The Devon County Council Farms Estate Strategic Review
ZW/09	Thomas, Lucy (2013), Statement on Proposed S106 Agreement, Ashurt LLP
ZW/010	Taylor, Matthew (2008) Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing, DCLG.
ZW/11	Affordable Rural Housing Commission (2006) Final Report, Affordable Rural Housing Commission, HMSO
ZW/12	<a href="#">Webpage: Big Society Frequently Asked Questions, Cabinet Office</a>
ZW/13	Wangler, Zoe (2012), Email subject: Local Plan consultation
ZW/14	Promar International (2006) A Case Study Analysis and Overview of the UK Horticultural Production Industry and its Future over the Next 10-20 Years, the National Horticultural Forum
ZW/15	Mid Devon District Council (2012) Green Infrastructure Strategy
ZW/16	Fruit and Vegetable Task Force (2010) Report of the Fruit and Vegetable Task Force August 2010, DEFRA
ZW/17	Committee on Climate Change (2012) How local authorities can reduce emissions and manage climate risk, summary report, Committee on Climate Change
ZW/18	Petter and Harris v Secretary of State for the Environment, Transport and the Regions and Another 79 P. & C.R. 214.
ZW/19	Best, R & Shucksmith, M. (2006) Homes for rural communities, Report of the

	Joseph Rowntree Foundation Rural Housing Policy Forum, Joseph Rowntree Foundation.
ZW/20	Fish, Alison (2011) pre-application correspondence
ZW/21	Decision Notice, Hugletts Wood Farm, APP/C1435/C/00/1050705
ZW/22	Revised S106 Agreement
ZW/23	Ann Morgan v The Secretary of State for Transport, Local Government and The Regions, South Somerset District Council [2002] EWHC 2652 (Admin);

## COMMON APPENDICES

These are provided in a separate binder labeled COMMON APPENDICES

Common Appendices referred to in this Proof of Evidence:

CA/01	Lobley (et al.), 2012, Making Land Available for Woodland Creation, CRPR Research Paper No 35, Centre for Rural Policy Research, University of Exeter.
CA/03	Lammas Low Impact Living Initiative (2012), Annual Monitoring Report for Tir y Gafel Ecovillage January – December 2011
CA/04	ELC (2012) Transcript of Mid Devon District Council Planning Committee meeting of June 6 2012
CA/08	Policy DMD30 of Dartmoor National Park Authority emerging local plan
CA/09	H11 of Milton Keynes Council Local Plan