

**North Devon and Torridge Local Plan 2011-2031 Rural Workers'
Dwellings Supplementary Planning Document (SPD) Consultation
Draft September 2019**

**Consultation Response
Representations regarding Rural Workers' Dwellings for Low Impact
Development**

4th November 2019

Submission by the Ecological Land Co-operative

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Introduction

The Ecological Land Cooperative is a not-for-profit community benefit society founded to support the creation of sustainable land-based livelihoods in the UK. To this end we purchase sites and secure planning permission for low impact rural enterprises and associated dwellings. The sites are kept affordable and their use tied to ecological farming enterprises in perpetuity. Our work strengthens local economies and communities, mitigates climate change, enhances biodiversity, provides healthy food and creates rural employment.

Over the last ten years we have raised over £1million in funding, had our research commended by the Research Council UK, and have been in discussion with DEFRA about our work. Amongst other things, our funding covers campaigning for policy change at a national and local level and developing guidance to assist LPA Officers in assessing Low Impact Development (LID) applications, in order to further promote sustainable land based living.

The North Devon and Torridge Local Plan Rural Workers Dwellings Supplementary Planning Document Consultation Draft (referred to below as the Draft RWD SPD) does not include any specific guidance for the provision of Rural Workers Dwellings (RWD) for Low Impact enterprises and, in our view, is overly onerous. Further, in some instances it is biased against the particular requirements of LID.

The impact of conventional farming on climate change and biodiversity loss is well documented, as is the importance of supporting a shift to more sustainable farming practices and the provision of fresh local food (see for example IPES Food report: From Uniformity to Diversity, attachment ELC.NDT.02). Given the above, the Governments declaration of a climate emergency and the emphasis in NPPF on sustainable development, in our view, it is fundamentally important that the Draft RWD SPD is modified to provide specific guidance for LID.

It is important to note at the outset that, in the absence of any more up-to-date guidance, PPS7: Annex A has been referred to below. With regard to RWD, paragraph 79 of the NPPF refers only to “essential need” and does not provide any specific guidance on how this should be assessed. As such, although PPS7 was revoked in 2012 PPS7: Annex A provides a useful context when assessing applications for RWD and is still often referred to by LPAs, planning consultants and Inspectors.

Of most relevance, it is formative to note that PPS7: Annex A includes within it reference to subsistence farming and the need to adopt a flexible and practical approach to assessing such applications. Since PPS7: Annex A was drafted, the importance of climate change mitigation and supporting LID has become more and more paramount. The absence of guidance relating to LID is therefore a significant omission from any emerging policy.

The main issues discussed below can be summarised as follows:

- Scale of rural enterprises
- Minimum Wage Requirement
- Suggested modifications
- Conclusions

Scale of rural enterprises

We would suggest that the document provides misleading guidance with regards to the impact of the scale of the rural enterprise on the likelihood of the functional need test being met. The draft SPD states at paragraph 3.10 that:

*The scale of the enterprise is also relevant. While all rural enterprises may have occasional problems, the frequency and timing of incidents mean that **small-scale enterprises are less likely to justify the need for a dwelling**. During the working day, the existing workforce would provide any required supervision of livestock or processes within the rural enterprise and out of normal hours, regular checking in line with good management practices and the use of modern technology (CCTV/alarms etc.) may meet any supervisory needs. Only where it is essential for the proper functioning of the enterprise, for the worker to be readily available at most times of day and night, will a functional need for a dwelling be established. (emphasis added)*

Whilst the stipulations of this paragraph do not entirely rule out that small-scale enterprises will meet the functional need test, it sets out the view that they are unlikely too. Although this may be true for conventional agricultural practices, it is definitely not the case with regards to low impact agricultural enterprises.

Without a corresponding section on LID, paragraph 3.10 (above) could create an inherent bias against RWD for low impact enterprises, which by their very nature will be much smaller in scale than conventional agricultural enterprises, yet none the less will often have a valid and often inherent need for a continuous onsite presence.

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The reference to the use of modern technology (CCTV/alarms etc.) further reinforces this bias as such systems may not only be unaffordable for small-scale enterprises, they are often unsuitable for LID which will often provide on-site renewable energy and always aim to minimise energy consumption as much as possible.

The particular demands of low impact ecological enterprises which, when taken together, often create a functional need to live on site, are substantially different from those associated with conventional agriculture. For reference, and in support of our view, we have attached two appeal decision letters where small-scale low impact agricultural enterprises have been found to meet the functional / essential need test (attachments ELC.NDT.03 & ELC.NDT.04). For convenience, the key paragraphs have been reproduced below.

In the Greenham Reach Appeal¹ (allowed 18th April 2013, attachment ELC.NDT.03) for 3 ecological small holdings between 5.5 and 8.5 acres the Inspector was satisfied that the proposed small-holdings gave rise to an essential need for a worker to live on site. The key paragraphs on this matter are 22 – 24 and have been reproduced below:

22. The evidence of the appellant is that while some aspects of the three proposed smallholdings, such as the agroforestry plantations, could be wholly managed during the course of a normal working day there are other aspects which would require "out of hours" attendance, and so generate a need for a permanent onsite presence. I am told that such tasks, common to all three plots, would include morning and early-evening irrigation of crops to minimise evaporation loss; night-time hand-picking of slugs to minimise depredation of crops; shutting up poultry at dusk; and responding to extreme weather conditions, large pests and escaped livestock. I am also told that the wood burners proposed on Plot C to maintain temperatures within polytunnels would need to be re-stoked during cold winter nights, and the off-grid electricity powering heat lamps for chicks would require diligent monitoring; further, judgments about whether or not to use fleece to protect the salad crops proposed on Plots A and B may need to be made late in the evening, if cloud clears unexpectedly.

23. The Council contends that some of these arrangements appear to adopt a "hair shirt" approach to the management of the smallholdings, and points out that other less labour-intensive methods of controlling pests and heating polytunnels could be adopted.

¹ Ref: APP/Y1138/A/12/2181808, 2181821 and 2181807

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24. However, it is important to have regard to the full extent and context of the proposals for Greenham Reach. Fundamental to the establishment and operation of the smallholdings are the appellant's aims of addressing the need to reduce the negative environmental impacts of conventional farming and globalised food distribution, and the need to facilitate and learn from low impact development. To that end, they have put in place extensive safeguards to ensure that the proposed smallholdings would be operated in accordance with the principles of low-impact development, while providing opportunities for research into its operation and effect.

In an Appeal for a small holding and charcoal business on a 6 hectare site in North Devon² (2.8 ha pasture, 3.2 ha woodland) the Inspector found at paragraphs 10 to 13 of the Decision Letter (attachment ELC.NDT.04) that the functional need test was met, stating that:

10. In terms of the functional need, the appellant's case is based on sustainable land management and biodiversity enhancement. There is little evidence that since the previous dismissed appeal that the horticultural side of the appellant's enterprise has developed. In fact based, on my site inspection, it seems to be very limited, although I note that the appellant is building up the soil in an organic manner. The appellant's longer term intentions are to produce fresh salad leaves and vegetables and he contends that an on-site presence is required for the effective maintenance of the polytunnel, for low impact watering, ventilation and pest control.

11. However, since the previous appeal decision, the appellant has started a charcoal business and he markets bags of charcoal to a range of customers locally, including to a restaurant where Mr Nutt, at the hearing, praised the quality of the charcoal. The accounts submitted at Document 5 show a turnover from charcoal sales of £2161 in 2015/16, about £6000 for 2016/17 and increasing to £8000 in 2019/2020. Whilst the turnover and growth is modest, it does show evidence that the enterprise is becoming established.

12. The appellant has carried out 40 burns in the current year which produces about 40 bags of 2.5 kg of charcoal which he wholesales at £4 per bag. The burns last between 18-24 hours and need to be checked every 3 to 4 hours, including overnight. He considers that the constant monitoring of the burn is necessary to protect the charcoal rather than to prevent fire hazards, although I heard at the

² Ref: APP/X1118/C/16/3143669 & APP/X1118/W/16/3151414-15

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hearing from Mr Grugeon, who spoke in support of the appellant, that he always advises the Fire Service when he lights his kiln.

13. The Council acknowledges that some charcoal businesses in the district have demonstrated a functional need but due to the limited extent of woodland in this case, they doubt whether sufficient charcoal could be generated to warrant someone living on the site and why routine burns could not be supervised using normal safety measures. Notwithstanding the size of the woodland, I am satisfied that there is a functional need for residential accommodation

Minimum Wage Requirement

The draft SPD states at paragraph 3.16 that:

The local planning authority through the consideration of provided financial information will have to be satisfied that the on-going profitability of the enterprise is sufficient to sustain the worker living on the site, on the basis of wage levels at least equivalent to the National Minimum Wage and fund the proposed dwelling.

This financial requirement is overly onerous, would rule out most applications for rural workers dwellings for LID and has no basis in national policy.

The fact that NPPF does not require a financial test, does not preclude the option of such a test being incorporated into local plans. Nonetheless, we would suggest that in the absence of any other guidance on the matter, in such instances revoked PPS7: Annex A which, as mentioned above, is still widely referred to and provides a material consideration in many decisions should provide the bench mark.

The approach taken in PPS7: Annex A is far less onerous than the draft guidance requiring only that, for permanent rural workers' dwellings, the agricultural enterprise has been established for at least three years, been profitable for at least one, is currently financially sound, and has a clear prospect of remaining (paragraph 3: iii). Or, for temporary dwellings that there is clear evidence that the proposed enterprise has been planned on a sound financial basis (paragraph 12: iii).

Furthermore, at paragraph 8 PPS7: Annex A makes specific reference to subsistence enterprises and applying the financial test flexibly, thereby making explicit allowance for LID. Paragraph 8 states that:

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New permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. A financial test is necessary for this purpose, and to provide evidence of the size of dwelling which the unit can sustain. In applying this test (see paragraph 3(iii) above), authorities should take a realistic approach to the level of profitability, taking account of the nature of the enterprise concerned. Some enterprises which aim to operate broadly on a subsistence basis, but which nonetheless provide wider benefits (e.g. in managing attractive landscapes or wildlife habitats), can be sustained on relatively low financial returns.

This allows for applicants to demonstrate that their businesses are economically viable even when making low returns as their needs and living costs are low and therefore easily met.

Lack of guidance relating to LID

Given the above we would suggest that the absence of specific guidance relating to LID is an unacceptable omission from the Draft RED SPD.

Suggested modifications

Given the importance of local food provision and facilitating a shift towards more sustainable farming practices we would suggest that the RWD SPD should contain specific guidance on how to assess applications for RWD relating to LID.

Such an approach should recognise the importance of facilitating the formation of viable low impact ecological enterprises.

In this instance the need for specific guidance is made all the more important as the guidance as it stands will result in a bias against LID.

Conclusions

In our view, and for the reasons stated above, the Draft RWD SPD does not reflect the fundamental and well documented need to promote a shift towards more sustainable farming practices and as such should be amended accordingly.

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