



INSPECTOR SAYS YES!



Firstly, please accept our sincere apologies for not having produced a newsletter for so long. As you may know, we have been focusing almost all of our time developing our pilot site, Greenham Reach, including running our first planning inquiry. Since we are so small - around 0.5 FTE - the newsletter has for some time now been forced onto the backburner.

We are absolutely overjoyed to be able to share with you the news that we have been granted planning permission to develop three affordable residential smallholdings for new entrants to ecological agriculture. Our applications—made in December 2011—were recommended for approval by Mid Devon District Council’s planning department but refused by District Councillors in June 2012 (page 2).

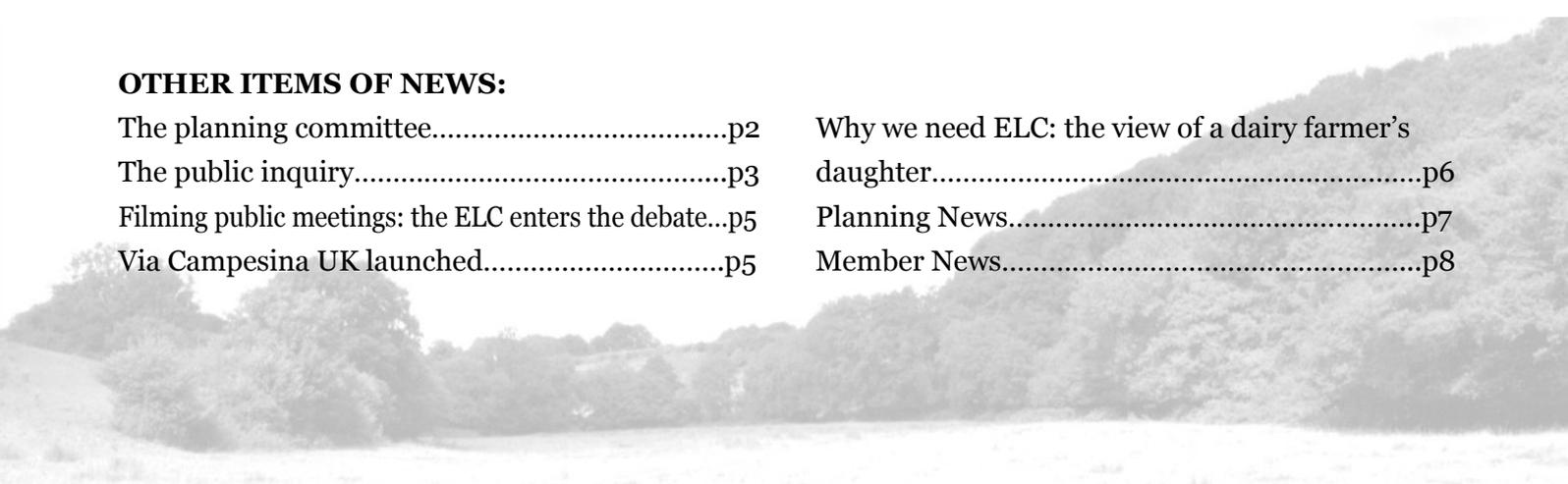
The Inspector deciding our appeals against the councillors’ decision did not agree with them that there was no ‘essential need’ to live on the land. The Council’s position at the inquiry was that we were taking a “hair shirt” approach to the management of the smallholdings; if we employed less labour intensive methods of land management no one would need to live on-site. The Inspector wrote that the Council had failed to have regard for our “aims of addressing the need to reduce the negative impacts of conventional farming and globalised food distribution”. Inspector Graham continued: “I accept that the labour-intensive nature of such practices, necessary to ensure that a sustainable livelihood could be developed without resort to agro-chemicals and the reliance on fossil fuels, would require the worker’s presence and involvement to such an extent that the need could only be met by living on-site”.

The Inspector’s decision also indicated that she valued both the co-operative model we have developed and the monitoring of, amongst other things, changes in biodiversity and productivity, which will be delivered alongside the smallholdings. Concluding the decision she wrote that these “other material considerations weigh heavily in favour of granting planning permission”.

This was a hard won permission, made possible through the goodwill of our advisors, members and supporters to whom we are sincerely grateful.

OTHER ITEMS OF NEWS:

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THE PLANNING PROCESS: THE PLANNING COMMITTEE

Our planning applications were first considered by the District Councillors of Mid Devon's planning committee in May 2012. The applications had been recommended for approval by the planning officer. The Planning Committee had a brief discussion and decided that they needed more time to read the application documentation and asked for the applications to be brought to the subsequent committee meeting in June.

We were disappointed that our ward councillor, Mrs Heather Bainbridge, after declaring that her son was an objector did not remove herself from the meeting. We were also genuinely shocked by the lack of essential knowledge: for example, one councillor asked 'if there was enough wind for PV (photo-voltaic panels)'. As others have found, planning committee meetings are extremely frustrating. The ELC was not permitted to make a presentation on the scheme, despite its novelty and complexity, nor allowed to correct misunderstandings (or errors) or take questions.

At the following committee meeting in June (2012) our applications were refused after an ill-informed discussion. The discussion opened with Councillor Bainbridge—who worked in financial services—telling the committee that her ward was 'a livestock rearing area' and inappropriate for market gardening. She went on to say: "There have been smallholdings, eco-warriors and communes in the countryside for many years, but not in this seriously farmed area". This statement contrasts with the Council's character assessment of the area which states that the area's key characteristics include "allotments and smallholdings".

The councillors' discussion focused almost entirely on the financial viability of the proposed smallholdings. The matter that the councillors should have focused on in this case was whether or not there were 'special circumstances' to allow for a dwelling in the countryside, such as an 'essential need for a rural worker to live permanently at or near their place of work' (paragraph 55 of the National Planning Policy Framework). None of the councillors considered essential need nor asked whether our pilot project – the provision of affordable and low impact smallholdings for new entrants to ecological agriculture – amounted to special circumstances.

Of the twelve councillors present, six voted in favour of refusing, two voted to allow the scheme and three abstained (the Chair did not cast a vote).

The first of the two reasons for refusal, drafted for the councillors by their planning officers, was that there was no 'essential need' for the smallholders to live on the site. The second reason reflected, we believe, the councillors' principal concern about our applications:

"If granted, based upon the supporting information submitted, the proposal would set a precedent for further dwellings, in association with permaculture and agroforestry proposals, in the countryside which the Local Planning Authority would find hard to resist."

We appealed their decision in August 2012.



Phil McLeish (barrister), represents us at our public inquiry
"probably the most important case I have ever worked on"

THE PLANNING PROCESS: THE PUBLIC INQUIRY

Our planning appeal inquiry ran from the 29th to the 31st January 2013 and was a nerve-wracking experience for us, with years of hard, largely unpaid work boiling down to a relatively brief chance to convince the Inspector—Jessica Graham—of the merits of our scheme.

The basic structure of the inquiry was that each side called their witnesses in turn (six from us and two from Mid Devon District Council), who were then questioned by the barrister for each side. Our pro bono barrister, Phil McLeish, was brilliant, and his searching questions were a definite highlight.

Members of the public were also allowed to say their piece. Ten spoke in support of our project over the three days: three members of the local transition group, three organic farmers (including Jyoti Fernandez and Chris Smaje (pictured)), a new entrant into farming, two climate scientists, and a local Parish councillor. It was notable that no-one attended to object to the scheme, with all submissions from the public gallery being fully supportive.

The Council's case was principally that there was no need for our prospective growers to live on the land; the Council proposed that the smallholders could rent or purchase homes in a nearby village and travel to their holdings. Evidence for the Council's case was given by ACORUS' Adrian Berryman. Without this need – referred to in planning policy as “essential need” - to live on the land, the Council's advocates argued, granting permission would set a precedent which would lead to a proliferation of dwellings in the countryside.

The Council's planning witness, Peter Rowan argued that in addition, we had not satisfied the tests within the repealed Planning Policy Statement 7 and emerging Development Plan Policy DM/10 as we had neither demonstrated ‘intent’ by putting crops into the ground before making the applications, nor demonstrated ‘sound financial planning’.

Peter Rowan, conceded that the project would deliver on all three pillars of sustainable development as set out in the National Planning Policy Framework (NPPF). He also admitted that neither he nor the councillors had ever considered whether the project's benefits would amount to ‘special circumstances’. **Continued overleaf.**



Jyoti Fernandez, farmer, Fivepenny Farm spoke of the need for sustainable family farms. Credit: Robin Mills.



Chris Smaje, horticulturist at Vallis Veg (holding pictured below) also spoke at the inquiry: “if this application is not allowed it is very hard to imagine any smallholding application would be permitted”



THE PUBLIC INQUIRY Continued from page 3...

This refers to paragraph 55 within the new NPPF which allow for dwellings in the countryside. During the inquiry the Council conceded that ‘sustainability credentials’ of our proposals were a material factor but disputed that this was significant enough to amount to a ‘special circumstance’.

Our expert witnesses provided considerable evidence. Agricultural appraiser Rebecca Laughton (pictured) provided extensive and extremely detailed proof of why the smallholders do need to live on site, a position supported by the ELC’s second witness, Roger Hitchings, senior consultant at the Organic Research Centre. Roger, a soil scientist and organic horticulturalist also provided evidence on the suitability of the site for the proposed businesses. This evidence was provided in response to the Council’s witness Adrian Berryman maintaining that the presence of rush on the land indicated unsuitability.



ELC’s witness Rebecca Laughton MSc in Sustainable Agriculture and author “Surviving and Thriving on the Land”

The ELC’s Zoe Wangler assumed the role of planning witness and as part of her evidence highlighted that without permission for the dwellings the scheme would not go ahead. The Council’s planning officer in her report recommending approval argued that this could be considered to constitute an ‘essential need’. Zoe also rebutted the Council’s argument that we had not demonstrated ‘intent’. The ELC’s Sandra Aldworth, chartered accountant, took questions relating to ‘sound financial planning’. Dr. Julia Wright, Acting Director of Coventry University’s Centre for Agroecology and Food Security was the ELC’s witness on sustainable agriculture and outlined for the Inspector the difference between conventional and ecological agriculture and the latter’s environmental benefits. The ELC’s Dr. Larch Maxey provided evidence on Low Impact Development and its social, environmental and economic benefits.

In his closing submissions our barrister Phil McLeish argued that whether or not the Inspector considered there to be an ‘essential need’, she should allow the appeals because of ‘special circumstances’; that the positive features of the scheme are capable of being given weight, particularly having regard to the purpose behind paragraph 55 of the NPPF which is to promote sustainable development.

For planning policy buffs, the planning policy arguments made by each side are set out in the closing submissions available to download from our website: <http://ecologicaland.coop/greenham-reach-appeal-documentation>.

Expressed interest in investing?

We will shortly be preparing our next share offering. Hoorah! For those that have expressed an interest, we will be back in touch.

MID DEVON DISTRICT COUNCIL CONTRADICTS GOVERNMENT POLICY OF OPENNESS AND TRANSPARENCY

One of the ELC's supporters openly made a video recording of Mid Devon District Council's June 2012 planning committee meeting so as to allow for an accurate written transcript to be made. The recording was then sent on to ELC's Managing Director as a private video via YouTube, so that the transcription could take place. Unfortunately, Google added a (non-functional) link to the video to their index which was apparently spotted by the Council. Although they were unable to view the video, their awareness of its existence led them to write to us claiming that it was a breach of policy to record public meetings from the public gallery without their permission. This does not seem to be mentioned anywhere in their public documentation, and is in contrast to the Department of Communities and Local Government's call for councils to permit amateur recording in the interests of openness and transparency.

We wrote to the Council highlighting this, and clarifying that just because the video was uploaded to YouTube this does not mean it was publicly viewable. We received no further correspondence on the matter.

However, the ELC gained an important insight as a result of the exchange and thanks to pro-bono advice from Bindmans Solicitors: the Human Rights Act 1998 makes clear that the Council cannot interfere with human rights, including the right to impart and receive information. *"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority..."* Although it is not an absolute right, interference with the right is only justified in tightly prescribed circumstances, in pursuance of a legitimate aim and where it is strictly necessary in a democratic society.

VIA CAMPESINA UK LAUNCHED

Via Campesina is an international organisation which represents 200 million small farmers, agricultural workers, pastoralists, fisherfolk and indigenous people. It campaigns for the rights of its members to be recognised by national and international polices and for "the right of communities to define their own food and farming systems" arguing that small-scale sustainable agriculture promotes social justice and dignity.

Membership is now open to anyone actively involved in farming, fishing or fibre enterprises and will cost around £30 a year. The UK branch intends to promote food sovereignty at all policy levels and campaign for the rights of small and ecological farmers. If you know any food producers who would be interested, please make sure they know about this exciting development. For more information contact Ash ashley@trillfarm.co.uk or see www.viacampesina.org (a UK website is being developed).



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WHY WE NEED THE ECOLOGICAL LAND CO-OPERATIVE: A VIEW FROM EMMA BRICE, A DAIRY FARMER'S DAUGHTER

Emma Brice wrote a moving letter to the Planning Inspectorate in support of our appeals:

“My name's Emma, I'm 26 and aim to run my own smallholding in the future.

I grew up on a dairy farm in East Devon, a farm that had been worked by my parents, grandparents and great grandparents. There were four farms on our lane alone, but all of these have now gone, my father's was the last to close in 2000. They all closed due to constraints on milk prices and I saw the very real consequences these external influences have on people and their livelihoods, their heritage. Since, I have always hoped that there is another, better way to live and make a living by farming for future generations....” We asked Emma to say more.

“Getting lost in maize, playing in straw bale dens, feeding calves and making hay with cousins, aunts and uncles, at times in neighbours' magical gardens with peacocks, Shetland ponies and a cream tea break. These are some of my favourite memories of growing up on a dairy farm in East Devon. My grandparents and great grandparents before us had worked this farm but when I was 14 there were no longer cows in the field outside my bedroom window, nor did the hum of the dairy start at 5am as it had every morning.



Emma at Blackbury Camp

The year 1999 marked the 'worst trading crisis since the 1930s' (1) for UK farmers as the milk cooperative, then 'Milk Marque', was split after an investigation by the Competition Commission. The report found that its monopoly position and price discrimination was operating 'against the public interest' (2). My father's farm stopped producing milk and the Friesians were sold in April 2000, just in time for the foot-and-mouth epidemic of 2001. The farm was the last of three to cease milk production in our lane alone; the continued falling of milk prices had brought about the end of dairy farming in the area. My father became a gardener, learning as he went along, to provide better support for his family and three children. His resilience is something that I have always been proud of, and perhaps a quality bred into farmers and those who work so closely with the ebb and flow of nature.

When I read about the Co-operatives's rejected proposal at Greenham Reach I felt despair for the future of small-scale farming. What is there to reject in creating honourable livelihoods that could provide real benefits in so many ways to the local area? That Devon once had farming at its heart makes these refusals more surprising and saddening. My hopes for the future are for a shift in perception and attitude and the dissolving of the prejudice that such projects face. **Continued overleaf...**

Continued from previous page... Current systems are clearly failing, and require considerable subsidies. We cannot live as we are without agriculture and I hope many come to understand this and in turn see land, not as a means to an end, but as an end in itself.

To achieve this change I hope that projects such as Greenham are allowed to flourish and lead by example, involving local communities, schools and groups as much as possible. This way others can learn and see for themselves sustainable, working farms in action, the journey of produce from soil, seed to shop, and spread the word and the knowledge that so many great things can be discovered when working with nature”.

1. Business: The Company File Milk Marque split 'welcome' (<http://tinyurl.com/c59mw52>)
2. Milk: A report on the supply in Great Britain of raw cows' milk (<http://tinyurl.com/cmuykzg>)

PLANNING NEWS: MID DEVON DISTRICT COUNCIL'S EMERGING AGRICULTURAL WORKERS DWELLING POLICY

Despite the fact that PPS7 and its rural worker's dwelling policy was dropped from planning policy last March and *was not* resurrected by Matthew Taylor in his review of planning guidance this last December, Mid Devon District Council (MDDC) pretty much duplicated the old policy in their emerging local plan. Except rather than requiring farmers to demonstrate that their businesses required them to be on the land “at most times”, MDDC asked for farmers to show that they needed to be present “at all times”.

ELC had several comments to make on this policy. We argued during the public consultation that rather than the test of ‘intent’ just being satisfied by farmers purchasing livestock or building a barn, intent could also be shown by work experience and/or education and training. MDDC took on board this line of reasoning and modified the draft policy accordingly. (A full explanation of our reasoning is given on our website: ecologicalland.coop/policy)

During our inquiry we argued that the emerging policy (DM/10) - by requiring farmers to be on-site “at all times” - was more restrictive than the previous test in PPS7 requiring presence “at most times” and therefore in conflict with the NPPF which represented a shift to a more flexible approach. MDDC's counsel did not accept this argument during the inquiry but the staff at MDDC drafting policy clearly agreed as they subsequently changed DM/10 to require farmers to be present “at most times” referring to one of our appeals for the reason for this additional modification.

Finally, ELC's Zoe Wangler argued at the Local Plan hearing that the definition of essential need used in DM/10 was not as clear as it could be and that this could lead to both farmers and MDDC wasting time and resources on applications. She provided MDDC with the Welsh Assembly's definition of essential need and MDDC was asked by Inspector Machin to review the wording and make a new submission by April 12.

The experience has left us feeling encouraged about engaging in the future in other local plan consultations and hearings. More information: ecologicalland.coop/policy.

MEMBER NEWS:WHAT HAPPENS NEXT?

Withdrawals: Investor Members have had their investment with the ELC since 2009, or over 4 years, and, you have been unable to withdraw your investment for over 2 years. It is a priority that this is rectified; we are looking to lift the suspension on the withdrawal of shares as soon as possible.

If all Investor Members wanted to withdraw their shares immediately then the Board would have to wait until at least two of three smallholdings are sold before lifting the suspension. If however only a few Investor Members are planning to make a withdrawal before the end of the year, we could lift the suspension sooner. Zoe Wangler will be calling members with investment in the ELC individually in the next two weeks to find out how quickly they need or want to make a withdrawal. She will update you all as soon as we know how quickly the suspension can be lifted.

Redemption of Interest Payment: Investor Members will remember that they were awarded an interest payment in 2011. This has not yet been distributed and will not be distributed until after the sale of all three of the smallholdings. As a reminder, the payment was 10% to those with transferable shares and 5% to those with withdrawable shares. Once the interest payment has been made we will issue members with a statement.

Next steps: Now that we know the result of our appeal(s), we are in a position to prepare a strategy for the coming years. As part of the process we will prepare a paper which will set out the issues that have been raised in the last five years and the potential routes forward. We will be inviting a number of people, including our members to comment on this.

The energy saving co-operative

Aside from its main aims and objectives, the ELC has the general aim of supporting the development and growth of the co-operative movement. It is with this aim in mind that we have circulated with this newsletter an invitation to invest in the Energy Saving Co-operative.



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