

Ecological Land Co-operative

PLANNING STATEMENT

Field to the south of Copyhold Cottages,
formerly part of Wilbees Farm,
Arlington, Hailsham, BN26 6RU
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For a Living, Working Countryside

This statement has been prepared by the Ecological Land Co-operative. It is written to be read in conjunction with the planning application, plans and other documents accompanying the application.

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1. SUMMARY

- 1.1 The Ecological Land Co-operative (**ELC**) is a social enterprise and not-for-profit community benefit society set up in 2009 to address the lack of opportunities for new entrants to ecological farming and horticulture.



Photos from Greenham Reach smallholdings. The ELC's first project has won wide-spread support including being featured as a CPRE case study, as a way of delivering diversity, sustainability and resilience¹.

- 1.2 The ELC provide an affordable route into ecological horticulture and small-scale mixed farming by providing new entrants to farming with: plots of land; off-grid services; a barn; permission to site a temporary dwelling; vehicle access and hardstanding; and a package of support for their new farm businesses, all well below market rates. The ELC then monitors our sites, reporting annually, on (among other things) the impact of the development on landscape quality and biodiversity. If after the 5-years of temporary consent the site has delivered on the objectives of the project, i.e. demonstrable environmental and social benefits alongside financial sustainability, the ELC seeks a permanent permission for the smallholders to self-build a low-impact home.
- 1.3 The ELC has to-date established one project, Greenham Reach (pictured above), a cluster of three affordable smallholdings in Mid Devon district on a

¹ <http://www.cpre.org.uk/resources/farming-and-food/farming/item/4347-new-model-farming>

8.85 hectare site. The proposal received planning officer recommendation, was refused by the planning committee and was then approved by PINS (April 2013, **Appendix 1**).

1.4 Greenham Reach is now occupied by three families each operating a small farm business from their holding. The 8.85 site provides five full-time jobs in agriculture, and organic, local produce to shops and restaurants and directly to customers. As of November 2016, the smallholders at Greenham Reach had between them hosted 4 school visits and 14 educational, open and work days, reaching some 390 participants. There has been over £130,000 of investment into the farm businesses, 9,000 kwh of renewable energy generated and site wide improvements in soil health. The annual monitoring reports have contributed to third party research, and the site has been profiled by media, including twice by BBC Radio 4's *Farming Today*, and by multiple organisations including the Council for the Protection of Rural England.

1.5 The ELC receives widespread support for our work. Our organisational supporters include:

- Action in Rural Sussex
- A-Team Foundation
- Big Potential (Big Lottery)
- Biodynamic Land Trust
- Campaign for Real Farming
- CAF Venturesome
- Charities Aid Foundation
- Co-ops UK
- Common Cause
- Coventry University
- Family Farmers Association
- Fund for Enlightened Agriculture
- Friends Provident Foundation
- Just Growth
- Kindling Trust
- Lush Cosmetics
- Ngage Solutions
- Organic Lea
- Permaculture Association
- Plunkett Foundation
- Polden-Puckham Charitable Foundation
- Scottish Crofting Federation
- SE-Assist Sussex
- Shared Assets
- Small Farm Training Group
- Soil Association

- Sustain: the alliance for better food & farming
- Sustainable Food Trust
- Sustrans
- Tenant Farmers Association
- Transition Network
- Wakelyns Agroforestry

The work of the ELC, and our model to deliver and regulate affordable smallholdings is set out in detail in **Section 2** of this document.

- 1.6 In September 2016, the ELC purchased the freehold of 7.5 hectares of land in the south Wealden with the intention of creating a second cluster of three affordable smallholdings for new entrants to ecological horticulture and mixed farming. **Section 3** sets out the planning history of the site.
- 1.7 As at Greenham Reach, we are now seeking a 5-year temporary permission for: 3 temporary agricultural worker dwellings; a single timber-framed barn with a roof-mounted PV array and two adjoining rainwater storage tanks; hardstanding; and changes to the access. **Section 4** details the proposed development (hereafter referred to as the Scheme). This section includes an explanation as to why the ELC is: seeking a 5-year temporary permission; making a single application rather than an application for each smallholding; and why we have not submitted farm business plans as part of our evidence on how we meet the criteria in saved local plan policy DC2 for new agricultural workers' dwellings.
- 1.8 We consider this application to be consistent both with the relevant policies of Wealden District Council's (WDC) development plan and the National Planning Policy Framework (NPPF). However, we feel there are two other routes available to the WDC to approve this application. In this planning statement we set out the detail of the approaches that we believe are available to WDC.
- 1.9 In **Section 5**, we consider this application as any application for a new home in the countryside, with no or little weight given to the wide range of benefits of our projects - recognised by PINS when permitting Greenham Reach - nor to

the extent our projects deliver on the objectives within WDC's development plan, the NPPF and other local and national government policy documents.

- 1.10 If the LPA were to take this approach in assessing our application, greatest weight would be placed on the application meeting criteria in paragraph 55 of the NPPF and saved policy DC2 of the Local Plan 1998. In this section, we evidence how the Scheme meets these criteria, not least the essential or functional need for the smallholders to live on site.
- 1.11 **Section 6:** again with reference to local and national policy for new homes in the countryside, we consider, as Lord Justice Sedley², the '*policy behind the policy*'. We argue that, with respect to new homes in the countryside, the underlying policy is explicit in both WDC's development plan and the NPPF, i.e. to: minimise the carbon footprint of developments; minimise the generation of road traffic; and ensure easy and equitable access to employment and services. We evidence how by virtue of being a Low Impact Development (LID) and providing on-site employment, the Scheme conforms to the underlying objectives of the policies on housing in the open countryside.
- 1.12 We look in this section at the High Court's finding that:
- "an unexpected but genuine application by somebody living by subsistence farming did not require a rigid application of criteria designed for commercial agriculture but a practical adaption of those criteria to secure the underlying purposes of the policy"*³.
- 1.13 We set out our arguments as to why this application also conforms with the *underlying policy* regarding rural workers' dwellings.
- 1.14 **Section 7:** The Scheme delivers on many of the development plan objectives and on WDC's statutory obligations:

² Petter and Harris v Secretary of State for DETR (1999)

³ Ibid.

- affordable housing;
- employment;
- climate change mitigation and a transition to a low-carbon future;
- economic growth in the south Wealden;
- provision of serviced plots of land for self-build homes;
- the support of small and start-up businesses;
- rural diversification;
- support for Wealden's farming enterprises;
- skills and education; and
- biodiversity gain and ecological networks; and

It delivers on these objectives while protecting and enhancing the Wealden's rural character.

- 1.15 The Scheme: provides greatly needed opportunities for new entrants to farming; facilitates the transition of land use from conventional farming to ecological low-carbon farming; produces local high quality horticultural produce; and provides an example of low-impact development.
- 1.16 The positive features of the Scheme might validly be treated as a material consideration, indicating the acceptability of a proposed development that is otherwise than in accordance with development plan policy. This Section details the benefits of the Scheme and the policy and law which supports WDC in placing significant weight on these benefits.
- 1.17 There is no policy within the development plan nor the NPPF which specifically deals with the Scheme. This is a proposal for a not-for-profit community organisation to set up, manage and regulate new starter farms for new entrants to ecological farming.

- 1.18 WDC does not have a five-year supply of housing land and therefore, according to a decision from the Court of Appeal in March 2016⁴, the development plan is to be considered out-of-date and its weight adjusted accordingly.
- 1.19 The NPPF states that where the development plan policies are absent, silent or out-of-date, it is necessary to conduct a balancing exercise, to assess whether the adverse impacts of an application would '*significantly and demonstrably* outweigh the benefits', and to consider whether specific policies within the NPPF indicate that the proposed development should be restricted.
- 1.20 Taking these in turn: we argue that the Scheme has no or limited adverse impacts, and as above, a wide-range of benefits. Further, with respect to paragraph 55 of the NPPF, insofar as delivery of the Scheme for practical reasons hinges upon the smallholders being permitted to reside on site, residence is also 'essential' to the proposed work at the site. This appears to have been the sense conferred by MDDC's planning officer when making her recommendation for our Greenham Reach site to be approved. In the alternate, the positive features of this Scheme might validly be analysed as a 'special circumstance' which, particularly having regard to the purpose behind paragraph 55 - to promote sustainable development - should be given due weight and significance by WDC.

⁴ Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v Cheshire East BC & SSCLG

ACRONYMS AND ABBREVIATIONS

CPRE	Council for the Protection of Rural England
DCLG	Department for Communities and Local Government
DEFRA	Department for the Environment, Farming and Rural Affairs
DETR	Department of the Environment, Transport and the Regions
ELC	Ecological Land Co-operative
ESGS	East Sussex Growth Strategy
EWHC	High Court of England and Wales
GHG	Greenhouse Gas
LID	Low Impact Development
LPA	Local Planning Authority
NPPF	National Planning Policy Framework
PINS	The Planning Inspectorate
PPS7	Planning Policy Statement 7
S106	Section 106 Agreement
TCPA	Town and Country Planning Act 1990
WCS	Wealden Core Strategy
WDC	Wealden District Council
WDPC	Wealden District Corporate Plan

2. THE ECOLOGICAL LAND CO-OPERATIVE MODEL

- 2.1 The ELC is a not-for-profit community benefit society, founded to support the creation of sustainable land-based livelihoods in England. These are livelihoods which create social and environmental value, whilst also generating an income from a farm, horticultural or other land-based businesses.
- 2.2 The ELC is a member organisation with its directors elected by the membership. It is registered with the Financial Conduct Authority Mutuals Team, registration number 30770R. Like all community benefit societies, the ELC's rules prevent its members from selling the ELC's reserves for their own financial gain (asset lock). We only accept equity finance in the form of community shares and debt finance from social lenders whose intentions with land we trust⁵.
- 2.3 As described in paragraph 1.3 above, the ELC has to date developed one cluster of smallholdings in Mid Devon District, permitted in April 2013.
- 2.4 The ELC retains ownership of the land it develops into smallholdings, selling affordable and long-term farm business tenancies of 100 to 150 years, to new entrants to farming. We ask to be obligated to deliver on our social and environmental objectives by way of a Section 106 Agreement (S106). The S106 also requires that the ELC monitor the smallholdings on an annual basis, including the farm business accounts of the smallholders and the impact of the project on landscape quality and biodiversity. An example of our annual monitoring reports for our first cluster of smallholdings, Greenham Reach, is provided at **Appendix 2** and the draft S106 Agreement proposed for this Scheme is attached at **Appendix 3**.
- 2.5 The smallholders who live and work on ELC's smallholdings are in turn obliged to operate their smallholdings in strict accordance with principles of

⁵ Currently we only have loans from [Cooperative and Community Finance](#) and the [A-Team Charitable Foundation](#)

low-impact living and land-based livelihoods set out in an over-arching Management Plan (**Appendix 4**), and could, ultimately, have their lease terminated if they failed to do so.

- 2.6 Aside from these 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 we create.
- 2.7 By financing our work through low and no cost community shares and loans, the ELC can provide a smallholding, infrastructure and package of support as described at paragraph 1.2 at a rate far below market rates. Should permission be granted for this Scheme, the forecast purchase price, paid to the ELC by the incoming smallholder over 25 years, is £430 per month or £5,160 per year for the first five years, increasing to £625 or £7,500 per year for the remainder of the term. This is far more proportionate to the expected net income from an established small farm businesses of less than £15,000 (see para 5.32) than average mortgage repayments for housing in the locality of £27,072 per year (see para 5.32).
- 2.8 The ELC includes in the farm business tenancy agreements a resale formula which prevents the smallholder from unduly gaining from the planning permission or planning 'uplift'. The tenancy agreement requires the smallholder, should they wish to sell, to sell the smallholding back to the ELC, and only at the cost that they purchased it for, multiplied by inflation, and with the value of their improvements. This is closely aligned with the supporting text to local plan policy DC2:

“it should be apparent that the long-term availability for farm workers [of new farm workers’ dwellings] would not be unduly restricted by the future value of a property”.

3. PLANNING HISTORY OF THE SITE

- 3.1 The site is subject to a planning permission relating to a 14-hectare solar park located on the neighbouring field to the south. The consents WD/2014/1838/MEA and WD/2015/6503/SO for the solar park include permission for the proposed site to be used for:
- a. an underground grid connection cable link; and
 - b. a drainage basin and associated drainage pipe.
- 3.2 South East Water state in their publicity materials⁶ that they intend to locate a new water treatment works in the same field to the south of the site in 2036 as part of their plans to expand Arlington reservoir.
- 3.3 A public footpath crosses the site.
- 3.4 The site is not within any of the District's existing or proposed designated areas. This is set out in detail in the accompanying Design and Access Statement.

⁶ <http://www.southeastwater.co.uk/our-environment/our-reservoirs/extension-of-arlington-reservoir>

4. PROPOSED DEVELOPMENT AND CONSENT SOUGHT

- 4.1 We purchased the freehold of 7.5 hectares of land in the south Wealden with the intention of creating a pathway into ecological, small-scale farming for new entrants, by selling affordable and long-term tenancy agreements to operate smallholdings on the land.
- 4.2 We seek a 5-year temporary planning permission for three temporary agricultural workers' dwellings, each associated with one of three smallholdings to be established on the site. The application also seeks permission for: one shared agricultural barn with PV array and rain water collection and storage; a new road access; and a barnyard area of porous stone including space for parking. The accompanying Design and Access Statement provides full details of the proposed development.
- 4.3 We have not submitted business plans for the three proposed smallholding businesses with this application. Only after a consent is granted can we responsibly advertise smallholdings and invite applicants to submit their business plans. By involving prospective smallholders before a consent has been secured we are effectively asking individuals and families to put their lives on hold for an unknown period while we work our way through the planning process with an unknown outcome.
- 4.4 At Greenham Reach we recruited prospective smallholders at the local planning authority's (LPA) request in May and June in 2011 and the LPA refused our applications a year later. The appeal was allowed in April 2013, two years later. By then, all of the original applicants for our smallholdings had taken up farm business opportunities elsewhere.
- 4.5 In place of submitting business plans, we are asking for a consent which requires, by condition, the submission of the business plans before the temporary dwellings can be occupied (**Appendix 5**).

4.6 WDC may feel that they are unable to decide our application in the absence of business plans for each smallholding to assess 'sound financial planning'. We refer WDC to paragraphs 5.20 to 5.28 which set out our evidence of sound financial planning, and again to the High Court decision *Petter and Harris v Secretary of State for DETR (1999)* which allows for an LPA to take a novel approach when applying policy:

“an unexpected but genuine application ... did not require a rigid application of criteria designed for commercial agriculture but a practical adaption of those criteria to secure the underlying purposes of the policy.”

4.7 We were advised in pre-application advice to make three separate planning applications. However, the planning inspector deciding our applications in Mid Devon found that:

“Since the land at Greenham Reach has been sub-divided into three separate plots, each to be leased to different occupiers, I can understand why the Council requested three separate planning applications detailing the agricultural activities that would be taking place on each. However, the evidence indicates that the development proposal as a whole, which has remained consistent throughout the application and appeal process, does not straightforwardly equate to establishing three conventional independent smallholdings.

Rather, the co-operative society would retain ownership of the land and would provide communal facilities for the benefit of all three enterprises ... The co-operative society would also have the responsibility of monitoring ...

In my judgment the ongoing involvement of the co-operative society is an integral component of the development that is here proposed, and forms part of the context in which the individual appeals should be considered.”
paras 5-7 (**Appendix 1**).

- 4.8 We are applying for a 5-year temporary permission. This is a departure from the recommended three-year permission (policy DC2). The reasons for this departure are:
- a. The ELC will need 12 months to advertise for and select smallholders, and allow WDC to consider the smallholders' business plans (point 4.3).
 - b. The three-year provision was created with conventional farms in mind. In general it takes considerably more time to establish a mixed ecological holding than a farm business developed on fewer outputs (milk, pigs, etc.) and which makes use of artificial inputs and machinery. Indeed, the Welsh Assembly, in the *Technical Advice Note 6: Planning for Sustainable Rural Communities* recommends that new sustainable farm businesses are granted, in the first instance, a five year temporary permission.
 - c. The ELC is focusing on providing affordable smallholdings to help those enter the sector that otherwise would not be able to afford to do so. In the course of our research for our publication *Small is Successful* (**Appendix 8**) we found that in order to avoid incurring debt, successful ecological farms followed a slow development trajectory, investing in the growth of the business as and when they could.
- 4.9 The granting of a five year permission has a number of precedents. E.g. it has been granted to Ourganics (1/W/04/000790), Tinkers Bubble (04/01235/COU) and Stewards Wood (APP/J9497/C/08/2083419-28, APP/J9497/C/08/2083429-38 and APP/J9497/A/08/2072884). Our own applications in Mid Devon were also granted a 5-year consent (**Appendix 1**). Fivepenny Farm received a four year permission (APP/F1230/C/04/1162420,21,22,25 and APP/F1230/C/04/1159852).

5. FIT WITH AGRICULTURAL WORKER DWELLING POLICY

- 5.1 The Adopted Core Strategy 2013 states that growth in rural areas will be “restricted primarily to that required to meet an essential rural need, support rural diversification and sustainability of the countryside”.
- 5.2 Paragraph 55 of the NPPF explains that locating new isolated homes in the countryside should generally be avoided, unless there are “special circumstances”. It goes on to list four examples of such special circumstances, which refer again to “the essential need for a rural worker to live permanently at or near their place of work in the countryside”.
- 5.3 Saved Wealden Local Plan 1998 policy DC2 states that “housing in the countryside is generally resisted” except for “those employed in agriculture or forestry”. It goes on to set out the criteria applications for temporary agricultural workers’ dwellings must meet. Evidence of:
- a. functional need (a term which can arguably be interchanged with the NPPF term ‘essential need’);
 - b. intent and ability;
 - c. sound financial planning;
 - d. no alternative accommodation; and
 - e. appropriate siting of the temporary accommodation.
- 5.4 Taking these in turn:

Functional Need

- 5.5 It is usual for an application for an agricultural worker’s dwelling to be accompanied by a business plan which evidences functional need by detailing the labour needs of the proposed or existing crops and/or livestock. In paragraphs 4.3 to 4.6 we set out why we haven’t submitted business plans for each proposed smallholding. If this application is permitted, we would expect that WDC would require, by condition, that three individual business plans,

one for each smallholding, be submitted to the LPA prior to the temporary accommodation being occupied by the farm worker. Each of the business plans would include precise details of the main hours required and the tasks that would require the farm worker to be “readily available to meet the ... needs of the enterprise at most times, day and night” (policy DC2).

- 5.6 We feel that the High Court *Petter and Harris v Secretary of State for DETR* (1999) gives planning authorities the discretion to take a novel approach to applying policy (para 4.6).
- 5.7 Our years of working with small scale ecological growers have provided us with a specialist knowledge base regarding the operation of said businesses. We have found that small ecological farm and horticultural businesses integrate many agricultural and horticultural enterprises to spread economic risk and even the annual workload. Many of the crops that a smallholder grows require a high attention of detail in order to achieve the high yields of high quality produce that make a smallholding viable. The tasks involved in running complex smallholdings will stretch over an extremely long working day, lasting from 5am to 10pm, and on some days to midnight. Night-time presence is required where there are animals (for lambing, to monitor hatching, etc.), and in all cases, for weather and pest emergencies.
- 5.8 It is vital that smallholders are able to maximise efficiency and attend immediately to even small crises so as to prevent unnecessary losses. Such efficiency relies on being able to integrate work on the smallholding with home life without the need of time consuming travel. It's not the single emergencies, but rather the accumulation of losses from numerous emergencies, small or large, arising from not living on site, that threaten the viability of a smallholding business.
- 5.9 The restrictions placed on ELC smallholders to manage their land ecologically, live a low-impact life, participate in extensive site monitoring and host school visits and open days place further demands on the smallholders'

time. This was recognised by the Inspector when deciding on the Greenham Reach appeals (**Appendix 1**).

- 5.10 The need for a worker to be readily available on small-scale horticultural units and mixed farms has been recognised in dozens of decisions. A table of some of these planning decisions is provided in **Appendix 10**, including Elbow Farm:

“the individual tasks involved in running the horticultural enterprise may not appear so great as to warrant a permanent on site presence. However, taken together the labour commitment is intensive and spread out over the day and night ... without living on site, there is no doubt that the venture would come to an end ... and the supply chain of vegetables built up in the locality would cease. This would be contrary to the NPPF's aim of supporting a prosperous rural economy.”

- 5.11 This has been the experience at Greenham Reach. In determining our applications at Greenham Reach the Inspector summarised our case regarding essential need:

“The proposed development seeks to use the land’s resources in a sustainable manner, aiming to develop ecosystems which have the diversity, stability and resilience of natural systems. Each of the smallholdings proposes to minimise its reliance on imported materials and energy derived from fossil fuels, so as to minimise its carbon footprint, and thus would be more labour-intensive, and require more human intervention, than more conventional, mechanised agricultural enterprises.

While some elements of ecological smallholding such as the production of top fruit, could be wholly managed during the course of a normal working day there are other aspects which require ‘out of hours’ attendance, and so generate a need for a permanent onsite presence. Such tasks 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; responding to extreme weather conditions, large pests and escaped livestock; and making judgments about whether or not to use fleece to protect the salad crops late in the evening, if cloud clears unexpectedly.”

- 5.12 The agricultural assessor giving evidence at the Greenham Reach inquiry, Rebecca Laughton BSc MSc, was asked if she knew of examples of ecological smallholders who don't live on site and are reliant on their business for their livelihood. She could provide no examples; all smallholders that depend on their holding for their livelihood live on site. When the Council's agricultural witness, Adrian Berryman BSc MSc of Acorus, was asked to provide examples of smallholders that lived off site, he could provide none.
- 5.13 Smallholdings can deliver more value when the workers are able to live close to their place of work. This allows them to cut commuting and rental / mortgage costs and removes the need for two pieces of land on which to work and live. It allows money to be unlocked for investment in the business, makes it easier to maintain infrastructure, systems, and site security, eliminates the need to commute, and improves family life and work/ life balance.
- 5.14 Finally, insofar as delivery of the Scheme for practical reasons hinges upon the smallholders being permitted to reside on site, residence is also essential to the proposed work at the site. This appears to have been the sense conferred by MDDC's planning officer when making her recommendation for our Greenham Reach site to be approved.
- 5.15 In **Appendix 11** we have provided illustrative functional need of an ecological, off-grid smallholding.

Existing Functional Need

- 5.16 Policy DC2 states that where a temporary consent is sought, the 'functional requirement' is 'to be proven'. It may be that WDC considers that a farm business must be existing and functional need established in order for

functional need to be proven. Summing up the case R. (on the application of Vale of White Horse DC) v Secretary of State for DCLG (2009) Robin Purchas Q. C. found that:

“a need will often necessarily be for accommodation to be put in place so as to secure the particular project. A construction that recognises needs as existing for an intended enterprise in this sense would well serve the overall purpose. However, I can see no purpose achieved by denying a need that has arisen to make provision for an intended enterprise. It would seem to constrain agricultural enterprise on a somewhat arbitrary basis” (para 45)

5.17 The view taken by Robert Purchas QC in this decision is supported by the position taken previously in the case of *Petter and Harris v Secretary of State for DETR* (1999).

Evidence of Intention and Ability

5.18 The ELC can without doubt evidence intent and ability. In the 8 years since we became an established, the ELC has:

- a. Established a community benefit society, developed a model to deliver affordable smallholdings, including bespoke lease, Section 106 Agreement, Management Plan and monitoring programme;
- b. Developed three affordable smallholdings in Devon (Greenham Reach) and facilitated over £130,000 of investment in the three farm businesses. The three smallholdings are occupied and two are already profitable, producing organic food for sale locally. As in paragraph 1.4, Greenham Reach has hosted 4 school visits and 14 educational, open and work days, reaching some 390 participants.
- c. We have, as proposed by us when submitting our planning application to MDDC, submitted to the LPA each year a monitoring report reporting on the Greenham Reach site. This includes: an annual ecological survey by an independent ecologist; annual traffic movements and

renewable electricity production; the results of regular site-wide soil tests; and an annual consultation with the Parish Council.

- d. Conducted a year-long research project into the viability of small-scale ecological agriculture, 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";
- e. Created a free publicly accessible web-resource on ecological agriculture (<http://ecologicalland.coop/uk-agroecology>);
- f. Harnessed the support of food and farming organisations who have provided our existing smallholders with support, and agreed to support future ELC smallholders in establishing their farm businesses; and
- g. participated in four research programmes and given evidence to the All Party Parliamentary Group on Agroecology on two occasions.

5.19 Also of relevance is the planning inspector's observations when deciding on our Greenham Reach application, namely:

"I consider that the co-operative society's role in assessing applicants, and subsequently assisting and monitoring their progress, would also help to ensure that prospective tenants were genuinely committed to this type of rural enterprise" (para 30); and

"the five years' work the appellant has put in to researching, consulting on and preparing its applications for this site constitute clear and convincing evidence of its firm intentions". (para 33)

Planned on Sound Financial Basis

5.20 The saved local plan policy DC2 requires applicants to provide clear evidence of sound financial planning.

5.21 For reasons that we have set out in paragraphs 4.3 - 4.6, we are not submitting individual smallholding business plans to evidence sound financial planning with this application. Rather we are asking WDC for a consent, and to be required, by condition, to submit business plans for each smallholding prior to temporary accommodation being occupied by a smallholder. As detailed at paragraph 4.65.6, we feel that decisions taken by the High Court allow an LPA to take a novel approach to the application of policy.

5.22 To illustrate smallholding viability, we have submitted our 2011 publication *Small is Successful* (**Appendix 8**) which provides examples of smallholding businesses. The research was well received, inviting such comments such as this one from the Sustainable Food Trust:

“The Ecological Land Co-operative’s research into the viability of smallholdings (see their report, ‘Small is Successful’) illustrates that the creation of affordable and sustainable land-based livelihoods is not only possible, but desirable” (**Appendix 6**).

5.23 *Small is Successful* was 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".

5.24 If WDC would find it helpful, we can also ask our smallholder members and other supportive smallholders to provide their business accounts to the LPA.

5.25 We would also comment that in addition there are other ways available to WDC to determine sound financial planning:

- a. As above, the ELC carried out research into the viability of smallholding and we continue to work with researchers and practitioners in the area of smallholding and small-farm viability, including the Soil Association, Coventry University, the Land Workers Alliance and the Organic Research Centre. We bring the knowledge we have gained in this work when selecting smallholders; and

- b. We bring sector experts directly into smallholder selection and later mentoring and support. At Greenham Reach we provided each smallholder with a farm business mentor. We would also provide mentoring to the smallholders at Arlington should this application be allowed.

5.26 The ELC has, with the support of the Big Lottery, carried out its own business planning and our 2015-2020 Business Plan (**Appendix 9**) attracted over £300,000 in equity and debt finance in the form of community shares and loans from social lenders.

5.27 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 [our emphasis] 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”.

5.28 On this basis, the financial viability test is not relevant in determining this application. The future of the proposed holdings here is certain: they would always remain in agriculture for reasons set out in **Section 2** and below in paragraph 6.4.

Siting

5.29 Submitted block plan reference L_001 illustrates that the proposed locations of the temporary dwellings are such that they are ‘able to serve the functional requirement of the holding’, each being sited on the holding, but as close to the hedge as possible to mitigate adverse visual impact. Please see the submitted Design & Access Statement for more details.

Alternative Accommodation

- 5.30 Policy DC2 requires applicants to establish that there is no other suitable accommodation sufficiently close and affordable within the local area. A search run on Right Move on 4th September 2015 showed 2 properties as sold in the last seven years in the BN26 6RY postcode, i.e. only 0.3 properties per year. The search was run again on 13th January 2017, and no further properties showing as having been sold. This demonstrates that availability is an issue.
- 5.31 The average price for the 29 properties sold *within one mile* of the postcode in the seven years up to 13/1/2017 was £478,931. In the ELC's experience, the build cost of a *low-impact* self-built dwelling is far lower than the average cost of a self-built dwelling (£168,033⁷). Other low-impact developments report build costs between £27,000⁸ to £100,000⁹, less than 25% below the average price of properties sold within one mile of the site.
- 5.32 Assuming a 10% deposit, and an interest rate of 3.92%, the annual repayments on a 25-year interest-and-capital repayment mortgage for a property sold for £478,931 would be £27,072 per year. In a recent publication from Exeter University¹⁰, small farms in England and Wales are reported to have a Farm Business Income of less than £15,000. This demonstrates that affordability of open market housing is an issue.
- 5.33 WDC recognises in its Core Strategy that affordability of housing is an acute problem:

“Demand [for housing] has in the past exerted considerable upward pressure on house prices, and has caused a widening gulf between local incomes and market prices, and led to severe shortages of affordable housing” (page 6).

⁷ Wallace, A, et al., 2013, *Build It Yourself?*, Centre for Housing Policy, University of York

⁸ Simon and Jasmine's family house, Lammas Low Impact Initiative, as featured on Grand Designs, October 2016

⁹ Chris Smaje's family house, Vallis Veg, Somerset

¹⁰ Winter, M, et al., 2016, *Is There a Future for the Small Family Farm in the UK?*, Exeter University

5.34 This was recognised in Wealden Local Plan at para 7.10:

“there is a general consequence that many first time buyers, key workers and lower income households find it extremely difficult to gain a foothold in the local housing market”.

5.35 The primary reason WDC has given in the Wealden Local Plan: Issues, Options and Recommendations publication for creating a new local plan is the lack of housing:

“The Planning Inspector that examined the Core Strategy required the Council to review the Core Strategy in 2015. The Inspector considered that for good reasons the housing numbers in the Core strategy did not necessarily meet need and the Inspector wanted to make sure that future plans reflected any change in circumstances which may allow more growth”
(para 1.10).

6. 'POLICY BEHIND THE POLICY' FOR ISOLATED AND RURAL WORKER DWELLINGS

6.1 The Court of Appeal judgement *Petter and Harris v SSETR and Chichester DC* 1999 considered the application of the financial test in deciding an application for an agricultural worker's dwelling. In this judgement, the court found that:

“an unexpected but genuine application ... did not require a rigid application of criteria designed for commercial agriculture but a practical adaption of those criteria to secure the underlying purposes of the policy.” and *“The simple words of the policy and of the policy document must be interpreted with that overall intention in mind”*.

6.2 We believe that our Scheme does not conflict with 'the policy behind the policy', or intent of policy DC2. We also believe the Scheme does not conflict with the 'policy behind' the development plan and NPPF which both seek to allow development which is sustainable. Taking these in turn:

6.3 The overall intention of policy DC2 is “to avoid abuse and an unwarranted proliferation of development in the countryside”. The policy document goes on to state that the financial and functional need tests are applied “to ensure that proposals are genuine, that they are reasonably likely to materialise and are capable of being sustained for a reasonable period of time such as to justify the scale of the residential proposal”.

6.4 The Scheme is unusual and fulfils the underlying purpose of policy DC2 in ways atypical to an application for an agricultural worker dwelling:

- a. The Scheme is being proposed by ELC, a community benefit society and not-for-profit. We have clear objectives within our constitution to promote sustainable rural livelihoods and community and co-operative ownership of land. The ELC has as much protection as possible in law

of its assets for the sole purpose of facilitating sustainable rural livelihoods.

- b. The ELC would retain the freehold of the entire site and is being asked to be bound by way of a S106 Agreement and corresponding Management Plan to ensure the site is only occupied by agricultural workers providing a livelihood for themselves from the holding.
- c. The ELC has a history of providing and monitoring landholdings for agriculture, including selecting suitable smallholders.
- d. Our smallholders are supported by us and our supporters through the establishment of the smallholding business in farm business planning and accounting, site development, land management and co-operative working.
- e. Should the smallholder not be operating a farm business on their holding, the lease allows the ELC to evict the smallholder from their holding.
- f. The ELC has the support of numerous other organisations committed to facilitating and supporting land-based livelihoods and to protecting land for sustainable and affordable use.

6.5 Turning to policy which restricts housing in the open countryside. Planning policy by and large restricts such housing because it is relatively unsustainable: 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; and housing may have an adverse impact on landscape character and amenity.

6.6 With respect to new homes in the open countryside, the underlying policy is explicit in WDC's development plan, i.e. to: minimise the carbon footprint of

developments; minimise the generation of road traffic; and ensure easy and equitable access to employment and services. These underlying objectives are largely reproduced in the emerging Local Plan's core principles to "pro-actively drive and support sustainable economic development" and "support the transition to a low carbon future".

- 6.7 Again, the proposed Scheme is unusual and fulfils the underlying purpose of development plan policies in ways atypical to an application for a dwelling in the open countryside:
- a. The Scheme was designed with sustainability as its starting point and core objective; it is facilitating both a transition to ecological food production and low impact living.
 - b. The Scheme provides on-site employment.
 - c. The proposed Management Plan places restrictions on all traffic movements to and from the site, with controls in place via the proposed S106 Agreement to guard against vehicle movements exceeding those stipulated.
- 6.8 As set out in evidence at our Greenham Reach appeals by Dr Wright PhD, MSc, PgDp, BA, Deputy Director, Centre for Agroecology and Food Security¹¹, ecologically produced food minimises fossil fuel-based inputs for farm machinery and fertilizers, contributing to a reduction in GHG emissions from agriculture (including carbon and nitrogen).
- 6.9 As detailed in the Ecological Appraisal submitted with this application, ecological farming increases ecosystems services including soil quality and biodiversity.
- 6.10 In his evidence for our Greenham Reach appeals, Dr. Larch Maxey LLB., M.Sc., Ph.D., FRGS, Research Fellow at the Centre for Sustainable Futures

¹¹ <http://ecologicaland.coop/sites/ecologicaland.coop/files/JWProof.pdf>

documented that carbon and ecological foot-printing (CFP & EFP) carried out for existing low impact developments (LID) shows that they deliver significant improvements on national and regional CFP and EFPs¹².

“Independent research over the last fifteen years has found that LID represents some of the most sustainable development and innovation in the UK, and has been unusually successful at delivering on all three components of sustainability (economic, social and environmental)” (para 3.7)

- 6.11 By way of example, Lammas, a similar proposal to this proposed Scheme, a cluster of 9 ecological smallholdings in Pembrokeshire, won the Low Carbon Communities Challenge; it’s ecological footprint is 1.5/hectares per capita, or 34% the Welsh average.
- 6.12 The LID features of this Scheme include: renewable energy generation; rainwater harvesting; compost (dry) toilets; on-site grey water treatment; and low traffic generation. Should the Scheme prove successful, after a temporary consent, the ELC would only allow smallholders to build a permanent house which was a good example of ecological development in terms of design, materials and life-time energy use.
- 6.13 According to the Joseph Rowntree Foundation’s Rural Housing Policy Forum¹³ and the Taylor Review of Rural Economy and Affordable Housing¹⁴, 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.
- 6.14 Matthew Taylor MP concluded in his review of rural economy and affordable housing that:

¹² <http://ecologicalland.coop/sites/ecologicalland.coop/files/LMProof.pdf>

¹³ Best, R & Shucksmith, M. (2006) Homes for rural communities, Report of the Joseph Rowntree Foundation Rural Housing Policy Forum, Joseph Rowntree Foundation.

¹⁴ Taylor, Matthew (2008) Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing, DCLG.

“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”.

6.15 In the paragraphs above we have set out why we consider this Scheme adheres to the underlying objectives of the development plan policies regarding dwellings in the open countryside and agricultural workers’ dwellings. What we consider also of significance is the number of development plan policies and objectives, and statutory obligations that the proposed Scheme would deliver on. The Scheme would:

	As identified in:
Be a sustainable economic development, supporting the transition to a low carbon future	WCS SPO9, emerging local plan
Produce a net gain in biodiversity	WCS SPO1, WCS12, BP5 p. 23, emerging local plan
Mitigate and adapt to climate change	WCS SPO9
Generate renewable energy	WCS SPO9
Augment the ecological networks in the locality	WCS12, BP5, p.20
Provide employment in the south Wealden	WCS SPO6, WDCP
Provide ‘the opportunity for people to work close to where they live’	WCS, SPO6
Enable rural diversification	WCS, p.15; ESGs
Support Wealden’s farming enterprises	WDCP, ESGs
Provide housing without a need to connect to the mains sewerage in an area with limited capacity of	Emerging local plan

the waste water treatment

Provide affordable housing in a district with a critical shortage	WCS SPO3; emerging local plan; WDCP
Retain the Wealden's rural character	WCS, p.v; emerging local plan; WDCP
Allow for the establishment of three new (start-up and small) businesses	WCS, p.16; WDCP; ESGS
Provide plots for self-builders, i.e. the smallholders	Self-build and Custom Housebuilding Act 2015

7. MATERIAL CONSIDERATIONS AND WEIGHT OF DEVELOPMENT PLAN

- 7.1 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.
- 7.2 The Planning Inspector granting permission for our scheme in Mid Devon wrote that she attached great weight on material considerations, principally the Scheme's sustainability credentials "which are considerable" (para 34), alongside the facilitation of research in the field of sustainable agriculture and LID, and the provision of affordable access to land.
- 7.3 The Scheme is unusual in that it delivers a wide range of benefits with little or no adverse impacts, and with a carefully thought-through set of safeguards (**Section 2**). The ambition and scope of this Scheme with regard to sustainable development is entirely unusual and exceptional. The experts who have given evidence on behalf of the ELC or have come out in support of our work include climate scientists, specialists on organic agriculture, agro-ecologists and others who have spent their lives attempting to study and practice sustainable development.
- 7.4 With respect to weight given by WDC to the development plan versus material considerations, we respectfully refer to the NPPF at paragraph 14. Here it states that where policies are absent, silent and/or out-of-date, it will be necessary to conduct a balancing exercise, and to assess whether the adverse impacts of the proposed development would *significantly and demonstrably* outweigh the benefits. Decision makers are also to consider whether or not specific policies within the NPPF restrict the proposed development. WDC's development plan policy WCS14 is aligned with this as is the emerging Local Plan:

"Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise".

7.5 There is no policy within the development plan which specifically deals with proposals to set up, manage and regulate new starter farms for new entrants to farming nor with proposals for low impact development. Further, WDC does not have a five-year supply of housing land and therefore, according to a decision from the Court of Appeal in March 2016¹⁵, the development plan is to be considered out-of-date and its weight adjusted accordingly.

7.6 Turning then to the benefits of the Scheme:

Opportunities for New Entrants to Farming

7.7 It is well recognised that new entrants to farming and horticulture face significant, currently largely insurmountable, barriers to accessing land to set up their own enterprises. This crisis is identified in two of the letters of support submitted with this application:

“With astronomical land values, new entrants to the agricultural industry need a steady supply of openings such as those provided by your co-operative. However, there is a significant unfulfilled new entrant demand”
George Dunn, Tenant Farmers Association

“Our Future Growers scheme trains new organic growers, many of whom face significant difficulties in finding affordable and available land to set up their own enterprises ... the Ecological Land Co-operative is able to create new opportunities for new and young farmers that are otherwise not available” Rachel Harries, Soil Association

7.8 The provision of holdings for new entrants has been government policy since the 1908 Smallholdings and Allotments Act. Yet between 1966 and 2013, and contrary to government recommendations, the total number of smallholdings in England fell from 12,882 to 2,448, a reduction of 81%¹⁶. Over the last

¹⁵ Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v Cheshire East BC & SSCLG

¹⁶<https://www.gov.uk/government/publications/sixty-second-annual-report-to-parliament-on-smallholdings-in-england-1-april-2011-31-march-2012>

decade 2006-2016, the average price of bare agricultural land has increased by over 160% to £7,773 per acre¹⁷, making it increasingly difficult for new farmers to finance the purchase of land.

7.9 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. 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”.

7.10 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”. This was also the finding of the Affordable Rural Housing Commission.

7.11 That this crisis in rural housing extends to the Wealden is acknowledged in many of the Council’s planning documents (see paras 5.33 to 5.35 above).

7.12 By delivering affordable smallholdings for new entrants the Scheme would be delivering on government policy, planning policy, and national guidance and legislation.

Supporting the Transition to Sustainable Food Production and Distribution

7.13 In a recent publication, *New Model Farming*¹⁸, CPRE recommend that there are “changes to land-use planning to deliver allotments, community right-to

¹⁷https://www.farminguk.com/News/UK-s-Brexit-could-have-impact-on-land-values-over-next-few-years_44470.html

¹⁸ <http://www.cpre.org.uk/resources/farming-and-food/farming/item/4347-new-model-farming>

grow plots and smallholdings [emphasis added]”, and that this is “*needed for the government to increase the diversity, sustainability and resilience of the farming sector*”. The CPRE included Greenham Reach as a case study in this publication.

- 7.14 Dr Wright PhD, MSc, PgDp, BA, Deputy Director, Centre for Agroecology and Food Security, Coventry University, wrote in evidence for our Greenham Reach appeals:

“Significant reports including from government concur that agricultural business-as-usual is not an option, and that farming structures will need to change dramatically with the adoption of alternative models of production and distribution toward bio-diverse, multifunctional ecologically based farming practices”.

“ecological practices avoid ammonium nitrate fertiliser the production of which emits GHGs, it encourages carbon sequestration, and livestock emissions are lower if the livestock are fed on legume pasture rather than feed concentrates.”

“Because of the tendency toward polycultures, organic methods, and localised cropping systems, ecological agriculture practices are more successful at supporting a broad and adapting diversity of crop species and livestock breeds ... As well as this broad range of agrobiodiversity, wild diversity is also encouraged because of the low or zero use of toxins and the more diverse range of environmental niches on farm.”

- 7.15 As evidenced by Dr Wright (see para 6.8), the ELC demonstrates such practice.

- 7.16 The accompanying Ecological Appraisal considers that:

“It is likely that the site’s ecological health would be increased by the proposed land use. The potential to enhance biodiversity, natural capital

and ecosystem service provision is significant through the proposed use of the land for low-impact, ecologically sensitive livelihoods.”

7.17 WDC both in its emerging Local Plan and in policy SPO1 commit to supporting rural developments which protect and enhance biodiversity. In the Core Strategy, WDC state:

“the Council will ... work with partners to maximise opportunities to ensure habitats, biodiversity features and ecological networks are maintained, restored, enhanced and where possible created to achieve a net gain in biodiversity and sustain wildlife”.

Facilitating Domestic Horticultural Production

7.18 The total area of horticultural land in England has declined over the last 28 years from 222,431ha to 161,445ha (2014), representing a fall of 27%¹⁹. In light of the fact that the UK has been steadily increasing its consumption of imported fresh fruit and vegetables, 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”²⁰.

“One of the aims in DEFRA’s Business Plan is to promote increased domestic food production, as we recognise the benefits that regional and local and seasonal food can bring to both producers and consumers alike.”²¹

¹⁹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539797/hort-dataset-22jul16.ods

²⁰ www.appg-agscience.org.uk/linkedfiles/Fruit%26VegTaskForceReport.pdf

²¹ <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmenvaud/writev/food/sf38.htm>

- 7.19 If permitted, the Scheme would provide for three new primarily horticultural businesses supplying into the local community.

Sustainable Rural Diversification and Growth

- 7.20 The objectives of WDC and ELC with regard to sustainable development and growth in rural areas appear closely aligned. In its Core Strategy (page 16) WDC aim to “encourage and support business ... in order to improve economic prosperity and reduce economic disparities” with particular focus on the south Wealden and including supporting small and start-up businesses. WDC also aim to support “rural diversification where appropriate, particularly where needed to support the landscape”.
- 7.21 “A particular challenge for the Local Authority is to also meet the need for housing and employment growth whilst ensuring that habitats and species within the District are protected, conserved, managed and enhanced” (page 19, Background Paper 5: Biodiversity). By allowing this Scheme, WDC will see the creation of c. 5 full-time rural jobs in the south Wealden and the provision of affordable housing *alongside* improvements in the site’s ecosystem services and reduced atmospheric emissions from agriculture, housing, energy, and transport.

Climate Change Mitigation and a Transition to a Low-Carbon Future

- 7.22 Policy SPO9 states that WDC “will ensure development takes full account (by mitigation or adaptation) of the likely forecast impacts of climate change including: minimising the emissions of greenhouse gases; the use of non-renewable energy and natural resources; and by encouragement of construction using sustainable techniques”. This proposed Scheme provides for all three of these strategies to transition to a low-carbon future as set out in paragraphs 6.8 to 6.11.
- 7.23 Finally, the Office for Civil Society’s Inclusive Economy Unit calls on civil society organisations to help deliver public services. Should the proposed Scheme be granted planning permission, the ELC would be able to provide

new entrants with a low cost, albeit unconventional, route into agriculture. The ELC would provide the smallholders 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 as being vital to the future of farming and in the public interest.

8. CONCLUSION

- 8.1 The ELC provide an affordable route into ecological horticulture and small-scale mixed farming to new entrants. We help address the lack of opportunities for new entrants, and support small start-up businesses and rural diversification. Through facilitating low impact development, and a transition to ecological farming, our work supports a transition to a low carbon economy, provides biodiversity gains and contributes to climate change mitigation and adaptation.
- 8.2 We consider this planning application to be consistent with the agricultural worker dwelling policies within WDC's development plan and the NPPF, and that there are no material considerations that indicate that this application should not be approved. We feel there are *also* other routes available to the WDC to approve this application, specifically, to find that:
- a. the application adheres to the '*policy behind the policy*' on rural workers' dwellings. The proposal is genuine, likely to materialise and capable of being sustained for a reasonable period of time (policy DC2, saved local plan policy);
 - b. by virtue of being a low-impact development, the application adheres to the '*policy behind the policy*' on dwellings in the countryside. The Scheme would have a minimum carbon footprint, minimal road traffic, and would provide on-site employment;
 - c. the benefits of the Scheme are multiple and outweigh its adverse impacts;
 - d. as delivery of the Scheme for practical reasons hinges upon the smallholders being permitted to reside on site, residence is 'essential'; (para 55, NPPF) and

- e. the positive features of this Scheme constitute a 'special circumstance' (para 55, NPPF).

8.3 The ELC seeks to contribute to a strong and healthy rural economy by facilitating sustainable land use by small-scale producers. It is our hope that the proposed agricultural smallholdings will be a credit to the community of Arlington and to Wealden District Council, and that you will be able to support the endeavour.