

# **PLANNING BARRIERS FACED BY NEW ORGANIC HORTICULTURAL BUSINESSES IN ENGLAND**

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## Summary

One of the primary challenges faced by new organic horticultural businesses is gaining planning permission for their farm business infrastructure or for temporary accommodation. New entrants to horticulture can very rarely purchase an existing farm business with buildings and a residence due to high costs. At the same time there are very few agricultural tenancies available and even fewer which are suitable for horticulture.

The effort required to obtain planning permission places burdens on new horticultural businesses and without fail slows the businesses' growth trajectory. Of greater concern, is that for some fledgling businesses, the scale of the challenge is insurmountable and the businesses either significantly scale down or close down.

Common experiences witnessed by the authors include being refused support and guidance from a planning officer; long waits for applications to be determined by the local planning authority (LPA); and being refused planning permission by the LPA but being granted it upon appeal to the planning inspectorate (PINS). It is common that at appeal, LPAs (or perhaps their legal team) add to their reasons for refusal. This adds further to the appellant's work and costs as they have to address additional, often obscure issues.

This report provides seven examples where a new entrant to organic horticulture has sought permission from their local authority, either for infrastructure or temporary accommodation.

## Context<sup>1</sup>

It is widely recognised that there has been a marked increase in average farm size since the mid-20<sup>th</sup> century and a corresponding decline in small farms<sup>2</sup>. At the same time that there has been a marked increase in the price of farmland, particularly smaller plots suitable for horticulture, and a decline in the availability of both land for sale and rent<sup>3</sup>. As a result, new entrants into horticulture face a number of constraints that are often not shared by existing horticulturalists:

- The high price of land is misaligned with the horticultural income that can be earned from it. Currently the sale price of land is 70 or even 100 times its rental value, when 25 times is traditionally regarded as a normal balance. This is one reason why new horticultural businesses develop on-farm processing and direct sales — there is more return per acre of land.
- Renting land can be affordable but under existing conditions it is hard to obtain a lease that is secure enough to warrant investment.
- For the last 15 years the thrust of policy has been to convert unused agricultural buildings to other uses — culminating in the Class Q Permitted Development Rights which allow a landowner to convert barns into up to three market dwellings. While occasionally a new entrant may be lucky enough to benefit from Class Q rights, on the whole they act against the interests of new entrants since they increase the value and hence the availability of land with agricultural buildings.
- As a result of all the above, financial pressures force some new entrants into buying bare land holdings, or holdings with only very elementary agricultural buildings, meaning that they have to engage immediately upon a lengthy and complex series of planning applications.
- The price of renting a residence in the countryside is notoriously high and more than can be afforded by many otherwise viable agricultural enterprises.
- The planning system is resistant to any development in the open countryside, and while agricultural buildings and dwellings are potentially a valid exception, there are persistent reports that many LPAs are uncooperative and unnecessarily dismissive of new agricultural developments.
- The process of applying for planning permission, particularly for an agricultural dwelling, is challenging, stressful and requires skills that some prospective farmers do not have and would rather not acquire, while planning consultants and planning solicitors are expensive.

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<sup>1</sup> Fairlie, S. (2018). Trial by Ordeal: Planning problems faced by small farmers. A presentation to the Conservative Rural Affairs Group (<https://drive.google.com/open?id=1cVEDEIsRyqN7Ws-kty0cFWuLyNM791D>)

<sup>2</sup> See for example, *Is there a future for the small family farm in the UK?*, Winter, M. et al., University of Exeter, 2016

<sup>3</sup> See for example, *Making Land Available for Woodland Creation*, Lobley, M. et al., University of Exeter, 2012

## Current Policy

There is currently a dearth of national planning policy in respect of agricultural buildings and dwellings. The National Planning Policy Framework (NPPF) has little to say on the subject on the subject. Paragraph 29 states that:

*‘development plans should promote the development and diversification of agricultural and other land based rural businesses’*

Paragraph 55 states:

*‘Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work’*

The National Planning Practice Guidance (NPPG) is equally reticent. Whereas there are 28 pages of advice on Advertisements and 50 pages on Tree Preservation Orders, there are just four paragraphs on Rural Housing — by far the shortest of the 51 chapters in the NPPG — and nothing on agricultural dwellings.

In the absence of national policy, local plans forge their own policies. Although there are variations between different LPAs, policies for rural worker’s dwellings are usually based on the advice contained in Annex A of Planning Policy Statement 7 (PPS7), which was withdrawn when the NPPF was introduced. In principle the criteria within PPS7 were sensible, however the terms used, such as ‘essential need’ and ‘financially viable’ are undefined. In the absence of any further guidance the criteria are therefore left open to interpretation, which varies from generous to highly restrictive. Further clarification on what exactly ‘essential need’ means and why farmers often need to live on their land would be extremely helpful.

Lack of essential need is the most common reason for refusal of permission for agricultural workers’ dwellings on small farms and bare land holdings. Alongside the traditional understanding of “essential need”, which is “to deal quickly with emergencies or processes requiring essential care at short notice”<sup>4</sup>, there are five other main reasons why small-scale farmers often need to live on their farm:

- (i) It is in general much more practical and efficient to reside on site;
- (ii) Farmers often have to work unsociable hours.
- (iii) Commuting, sometimes more than once in a day, can be very draining, even if the distance is relatively short; and it is undesirable in respect of traffic generation and carbon emissions;
- (iv) An agricultural enterprise may generate sufficient income to provide a livelihood and enable the farmer to build a dwelling or live in a mobile home on site — but not be adequate to afford the very high cost of renting a rural dwelling;
- (v) Protection from theft and vandalism.

In many cases, where LPAs have refused on grounds of no essential need, Inspectors have noted in their appeal decisions that while individual needs would not on their own justify a dwelling, it is the

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<sup>4</sup> Planning Policy Statement 7: Sustainable Development in Rural Areas, Annex A. Office of the Deputy Prime Minister.

combination of multiple tasks needing to be carried out from early in the morning until late in the evening, and sometimes overnight, which makes it impractical to live off-site. The key point here is that it is usually more efficient to live on site and to integrate early morning and late evening tasks with home life. Inefficiencies caused by living elsewhere can jeopardise the viability of the business. If a grower's working day starts at 5am and continues until 10pm, they need times when they can return home for meal-times, breaks or to carry out domestic or office tasks. LPAs often suggest inappropriate automated technologies to mitigate the need to live on site. In many cases automated systems, irrigation for example, are already employed, but still need to be checked. However, the capital costs of some automated systems are prohibitively expensive for a small enterprise in comparison to returns. Furthermore, diverse agroecological systems are often less well suited to automation, compared to industrial monocultures, due to the specialised needs of different plants, and it is human skill and knowledge that is necessary to make judgements about irrigation, heating, ventilation and harvest.

### **Why New Entrants Meet Resistance from LPAs**

There are understandable reasons for LPA's resistance to new agricultural projects, notably that planning consent for agricultural buildings is notoriously susceptible to abuse. Barns may be used or converted to some other use, and dwellings may be occupied by people who are not farmers or growers. The fact that agricultural ties are not tied to the enterprise which justified the planning permission, but merely stipulate that the dwelling is occupied by someone working or last working in agriculture or forestry, or their widow/widower or dependant, leaves them open to abuse. The practice of land owners capitalising on the value of their land by gaining permission for an agricultural workers' dwelling and then, if they cannot find an agricultural buyer after having the property on the market for six months at a standard discount price of 30%, having the agricultural condition removed, has been the basis of well-documented scams carried out over many years<sup>5</sup>. Such scams naturally make LPAs suspicious of potential abuse. A solution to this problem would be to tie rural workers' dwellings directly to the enterprise which justifies their permission through a Section 106 agreement, and monitor the development of the enterprise by requiring the submission of an annual report or summary of accounts.

Another reason is that although planning officers' expertise is in land use planning, many (not all) planning officers have scant understanding of or sympathy for agriculture and in particular, organic horticulture. They are taught little about horticulture in college or throughout their continuing professional development, whereas the unsustainability of dispersed development in the open countryside features strongly.

New entrants to organic horticulture often come from outside of the area where they are establishing their business, and practice a form of agriculture which is counter cultural to the existing local conventions of either large scale arable or livestock. Existing farmers can feel criticised, and existing residents can feel threatened. It is easy to understand therefore why their representatives, the members of the planning committee, may also be unsupportive of a new entrants' planning applications.

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<sup>5</sup> Fairlie, S (2007). The Scandal of Tied Dwellings. The Land Magazine 4, Autumn 2007, p36-41.

### **Promoting Horticulture in the Green Belt**

Until the Second World War, the area around London and other large cities was the domain of market gardeners, dairy farmers and hay dealers - all making maximum use of land that was ideally placed for supplying a huge metropolitan market. Yet now, much of the Green Belt around London, despite its privileged position, is underused, and some is a blighted no-man's-land where horses graze dock-sick fields, while landlords wait for planning restrictions to be removed. There is a strong case for encouraging horticulture, alongside small-scale dairying and livestock in green belt areas to provide food for urban populations<sup>6</sup>. A survey of the public by Natural England and CPRE in 2010 found that over 80 per cent of respondents would rather buy food grown in the Green Belt that surrounded them than food produced elsewhere, including vegetables, fruit, meat and milk. Seventy-eight per cent agreed that "If farmland around England's towns and cities isn't being fully used, then it should be used to grow food to feed the people who live in the local towns and cities."<sup>7</sup> With the rise of interest in urban and peri-urban horticulture and a demand for opportunities to grow commercially or take part in social prescribing projects or community gardens, there is a case for promoting the use of Green Belt and other peri-urban land for local food production. Yet within the National Planning Policy Framework there is no support for horticulture or agriculture within Green Belt areas. For example, paragraph 141 encourages LPAs to, "*plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land*"<sup>8</sup>, but does not mention agriculture or horticulture. Peri-urban horticulture provides valuable opportunities for public engagement through volunteering, community supported agriculture, care farming and social prescription, while enhancing biodiversity and regenerating derelict land. Locating more such holdings, as well as straight production horticulture, in the Green Belt would enhance local food security, reduce food miles and improve health by increasing access to fresh vegetables and fruit.

### **Encouraging a New Generation of Horticulturalists**

There is a need to increase UK horticultural production to meet health guidelines encouraging people to eat more fruit and vegetables<sup>9</sup>. At the same time, Brexit provides a significant threat to domestic horticulture through restrictions to labour supply. A new generation of organic and agroecological growers are feeling held back by planning restrictions, which mean that only the most determined succeed in negotiating the planning system to gain permission to proceed. The seven case studies in this document illustrate some of the challenges faced by new entrant growers, and represent only a small sample of the holdings that have experienced planning problems. Alongside the high cost of land, lack of access to development capital and inadequate training opportunities, planning restrictions currently represent a significant barrier to the development of a thriving small-scale UK horticulture sector.

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<sup>6</sup> Fairlie, S. (2017) Farming Policy after Brexit: A report for the Greens. Prepared by Simon Fairlie with input from the Landworkers' Alliance. Commissioned by Molly Scott-Cato, Green MEP for SW England and Gibraltar, p16. <https://drive.google.com/open?id=1cVEDEIsRyqN7Ws-kty0cFWuLyNM791D>

<sup>7</sup> Natural England and CPRE, Green Belts: A Greener Future, CPRE, 2010 p51, <http://www.cpre.org.uk/resources/housing-and-planning/green-belts/item/1956-green-belts-a-greener-future>

<sup>8</sup> Ministry of Housing, Communities and Local Government. National Planning Policy Framework (2018)

<sup>9</sup> Food Foundation (2017). Farming for Five-a-Day: Brexit bounty or dietary disaster?

## Case Studies

Table 1: Summary of Case Studies

Business	Produce	LPA	Permissions Refused by LPA	Planning History	Had legal representation ?	Impact on Business
<b>Green and Pleasant</b>	Covered and field scale veg on 6.5 acres, supplying local wholesale markets and veg box scheme	West Dorset DC and Cornwall Council	Temp. worker's dwelling (single)	Three applications refused by the two LPAs. One appeal against an Enforcement Notice by West Dorset allowed. One appeal against Cornwall refused, and second allowed.	No, all appeals by applicant.	In combination, 4 years in applications and appeals, £3,000 professional fees, own work/time not recorded by applicants.
<b>Chagfood Community Supported Agriculture</b>	Field scale veg on 6 acres, 4 x 650m <sup>2</sup> covered cropping	Dartmoor National Park	Barn for packing	Two planning applications refused by the LPA, successful retrospective application.	N/A	2 years for permission. Marginal direct costs, work c. 170 hours.
<b>Avalon Glasshouse</b>	1,500m <sup>2</sup> heated glasshouse crops & field vegetables	South Somerset District Council	Glasshouse	Two applications to the LPA refused, glasshouse allowed at appeal.	Yes, represented at appeal.	3½ years for permission. Costs over £10,000, work c. 2,300 hours <sup>10</sup> .
<b>Elbow Farm</b>	Salads, field scale veg, soft fruit and orchard	East Devon District Council	Temp. worker's dwelling (single), glasshouse and solar array	Application was refused by the LPA and allowed at appeal.	Yes, represented at appeal.	1 year for permission. Costs £4000. Own time not recorded, but significant hours spent.
<b>Ecological Land Co-operative</b>	Multiple farms across 45 acres, largely field and covered vegetables.	Mid-Devon DC and Wealden District Council	Temp workers' dwellings (one per holding), shared barn and solar arrays	Appeal against refusal by Mid- Devon allowed. Appeal against Wealden aborted by Wealden two weeks before who instead granted permission.	Yes, represented at appeal, & solicitors' advice.	3 years and 2 years for permission in Mid Devon and Wealden respectively. Costs over £10,000 each in Mid Devon and the Wealden.
<b>Fresh and Green</b>	Covered and field scale veg on 13 acres and veg box scheme	East Devon District Council	Packing shed and mobile home.	Packing shed refused by the LPA along with two applications for (the same) mobile home, the latter allowed at appeal.	No, all appeals by applicant.	2½ years for permission. Costs over £5000 and innumerable hours.
<b>Champernhayes Flowers</b>	Cut flowers and foliage on 1.5 acres	West Dorset District Council	Temporary worker's dwelling (single)	Initial application for workers' dwelling refused after long delay. Appeal lodged quickly but further delayed. Result pending	No, but used a planning consultant	Appeal result pending, 1 ¾ years after first planning application. Costs over £12,000 and expansion on hold.

<sup>10</sup> Costs and time also include those associated with an application for a temporary worker's dwelling, appealed at the same time as the refused application for the glasshouse.

### **Case Study 1: Green and Pleasant, Agricultural Worker's Dwelling**

Dan Newbury and Natalie Pattison established a new organic horticultural business in 2006 after each completing two-year farming apprenticeships. Their new business, Green and Pleasant, was established on a 6.5 ha holding rented from a 1,000 ha Estate in Dorset. By 2008 the couple were producing 68 varieties of fruit and vegetables and supplying 170 vegetable boxes per week to local residents.

Dan and Natalie moved into the mobile home on the holding, provided as part of their 15-year agricultural tenancy. A breach of planning control notice was served by the LPA requiring the cessation of the mobile home for residential purposes and its removal. The notice was appealed and allowed in 2008 following a public inquiry<sup>11</sup>.

The LPA said at the inquiry that they were concerned about the future of the business after the ten-year break point in the tenancy, and the lease end in 2021. The LPA also said they were concerned that the business was not sufficiently profitable. The planning inspector allowed the appeal, and of significance to this report, found a straightforward solution to address the LPA's primary concern. To address the issue of the ten-year break point and end to the lease in 2021, the inspector suggested a planning permission linked to the appellants and their business. The inspector did not agree with the LPA's view that the business wasn't viable and a three-year temporary planning permission period was granted.

Dan and Natalie decided to relocate their business at the end of the temporary planning consent, in early 2011. This was not a decision taken lightly, but their business was sustaining severe crop damage by pheasants from the Estate's shoot and they didn't have the support of their landlord for a permanent agricultural workers' dwelling.

In 2012 the couple bought a 2.7 ha site in Cornwall and started their second organic market garden business, Slight Hill Farm. Again, their accommodation was a mobile home on site with planning permission applied for retrospectively. As the couple had been found to have a viable business in Dorset, they thought that gaining planning permission would be relatively straightforward. The couple were so confident that they applied directly for permanent planning permission. Dan wrote of the experience:

*"We have had an immense struggle with the LPA throughout the planning application process, they refused on several occasions to meet with us, [and when they agreed] informed us the decision had already been made. Throughout there has been no guidance from the council on our application"*

Their application was refused by the LPA, and then dismissed at appeal; although the Inspector accepted that there was an essential need to live on-site, he felt that their business in Cornwall needed

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<sup>11</sup> Appeals Decision APP/F1230/C/07/2055628, 29 April 2008

to be established for a longer period to prove financial viability to the extent that it would justify a permanent rather than temporary consent<sup>12</sup>.

The couple submitted a second planning application, this time for a temporary permission for their worker's dwelling. Permission was again refused with the LPA who argued that there wasn't a functional need to reside on site, and that the financial information provided was insufficient. The LPA's decision was appealed and allowed and in May 2016 the couple were granted temporary permission to live on their farm<sup>13</sup>. The couple had spent £3,000 on applications and planning consultants (they did their own legal work).

The couple would agree that their first application to Cornwall Council ought to have been for temporary consent, but in any event, their LPA also refused their application for a temporary consent. They write of the process:

*"The planning process we have been involved in has impacted significantly on the growth of our business. Firstly, through the additional financial burden ... Secondly in terms of time ... time that could have been spent working on our holding, or recuperating from the work load of being a grower ... it is difficult to put an exact value to the time lost, and the financial burden it represents. Thirdly Stress. The level of stress that we have experienced throughout this process cannot be exaggerated. ... Starting a small business in most instances has stress associated with it, however to face losing so much if the decision goes against you is a vast additional burden to carry. I can't exaggerate the knock-on effect that the stress has caused. There are highs and lows associated with horticulture that are outside of your control, such as the weather, but the extra burden of planning related stress can greatly exacerbate these potentially difficult conditions. ... I love growing organic vegetables, and Slight Hill and all it represents has been the culmination of mine and Natalie's working careers to date, however purely due to the stress of the planning, there have been times when I've just wanted to be somewhere else doing something different."*

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<sup>12</sup> Appeal Decision APP/D0840/A/14/2218235

<sup>13</sup> Appeal Decision APP/D0840/W/15/3132813

## Case Study 2: Chagfood, Barn

Chagfood is a Community Supported Agriculture (CSA)<sup>14</sup> scheme and Community Interest Company on the edge of Dartmoor, established in 2010 by Ed Hamer and Annkatrin Hendry. Ed grew up locally, to school teacher parents, and gained experience working on his neighbours' farms as a teenager.

Ed and Annkatrin started on a 1-acre site, and expanded in 2013 to include a 5-acre field nearby. Over the last nine years, Chagfood has grown from supplying 25 household subscriptions with vegetables grown to supplying 110 households, plus £7,000 worth of vegetables to wholesale customers. It employs two full-time and two part-time workers and has an annual turnover of over £65,000.

To deal with their growing sales volumes Ed applied for permission for a 14 x 5 metre barn. This was refused by Dartmoor National Park Authority on landscape grounds, so a second application was submitted for a smaller building which addressed the landscape officer's concerns. This too was refused on landscape grounds, despite 96 letters of support from local people and not a single letter of objection. Following a further unhelpful meeting with the planning officer, Chagfood decided to build the barn anyway, as not having a shelter and packing area on their larger site was severely hampering the development of the business. Within a week an enforcement officer had paid a visit, and Chagfood put in a third application which was granted. Had Chagfood been operating on a site larger than 5-ha, they would have had permitted development rights, which allow larger land owners to build barns of up to 1000m<sup>2</sup>.

All in all, it took two years from the initial application, as well as an estimated 21 days full-time work and the cost of two pre-application planning meetings and for the retrospective application. During this time, vegetables had to be transported back to the original site for packing before delivery, adding significant inefficiencies to the business. An on-site packing facility and rest room is essential for the CSA to operate effectively, and the two-year delay and considerable time cost of negotiating planning permission has hampered development of the business.

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<sup>14</sup> Community Supported Agriculture is a form of subscription agriculture, in which the financial risk, and in some cases, some production work, is shared by a community of members who commit to buying a year's supply of produce through an annual subscription.

### Case Study 3: Avalon Glasshouse



Pictured above: PV panels and wind generator provide power for off-grid glasshouse, and Peter preparing to plant his first crop of tomatoes.

For many years grower Peter Wright has wanted to apply his knowledge of electrical engineering to his profession of organic horticulture by trialling an off-grid glasshouse, heated using both direct (biomass) and indirect (electricity) renewable energy to grow vegetables without using fossil fuels. In 2008 he began discussions with his LPA, South Somerset District Council (SSDC), in 2010. His proposal to SSDC was for 1,500 square metres of reclaimed glasshouse on his 7-acre field, producing certified organic salad vegetables (tomatoes, cucumbers, salad leaves and other produce) for the local wholesale market. The methods he will use to heat glasshouse include biomass boilers burning willow grown on-site, hot water pipes and a thermal roof screen to keep heat in, while rain water collected from the roof will be stored in a reservoir and pumped for irrigation. Despite initially receiving encouraging pre-application advice, Peter applied twice for planning permission and was refused both times for a number of reasons including: Lack of functional need, landscape grounds (despite his field being adjacent to an existing (rural) settlement, Barton St. David) and unsuitable access to the site. He also faced strong opposition initially, from local residents and the Parish Council.

An initial pair of applications for the glasshouse and an agricultural workers dwelling was made in May 2011, and refused. In 2012 he appealed at public enquiry, but had to withdraw from this appeal since the application did not include key elements such as the wind generator and reservoir that were essential for the operation of the proposed business. He had been advised by his planning consultant that it was better to simplify the application by not including these extras, and that their approval would be routine at a later date.

The second application was made in September 2012, including the reservoir and wind

turbine, but it was refused again, for the same reasons cited above. At the subsequent appeal the Inspector decided that the access issues, which related to whether the Appellant had private access rights over a public footpath, were not a planning matter. The Inspector found that there was no landscape issue, and that the proposed glasshouse was appropriate to its rural location, writing:

*“The Council concentrated on the change in landscape character that the proposed development would produce. ... I find it difficult to support the view that a horticultural development of the form and limited scale proposed would be so inappropriate in a rural area as to represent an unacceptable change in character”.*

The LPA also contested that there was a functional need for Peter to live on-site, stating that many of the tasks cited as requiring overnight attention could be automated. This is an objection frequently raised by LPAs, who fail to recognise the high capital investment required for such systems, which cannot be repaid by the income from growing organic vegetables. In general, the diversity of crop lines grown on agroecological horticultural enterprises relies on human input to undertake the diverse range of tasks required to raise seedlings, transplant and harvest, including irrigation and ventilation. While machines are used where appropriate and available, they are often better suited to the kind of large-scale monocultures grown by industrial horticulturalists, where crops are more standardised. In Peter’s case, the technologies being used were innovative and of his own invention. The boilers would require night time stoking and careful monitoring to ensure their efficient functioning, to heat both the main greenhouse space and the hot water required for the seedling propagation benches. Hot water pipes provide a steadier heat than electric “hot wires” and in January and February when many early seedlings are raised, it is impossible to rely on solar and wind generation entirely. Mr. Hitchings, an experienced expert witness was called to corroborate Peter’s functional need, and was unable to identify a similar successful horticultural operation producing organic crops where there was not an opportunity to live on or immediately adjacent to the site.

The LPA had not chosen to commission an agricultural appraisal, and at appeal the Inspector found “the Council’s refutation of evidence (of functional need provided by the appellant) unconvincing and its witnesses did not appear to have great knowledge of the conditions under which the proposed development would operate...”.

The LPA had also questioned the financial viability of the planned business, due to the low investment costs and low income projected. Much of the equipment and materials for this project have been reclaimed or sourced second-hand, rather than being purchased new, keeping costs low, while Peter chooses to live simply, meaning his personal living expenses are not high. The Inspector took a pragmatic view, saying, *“There are uncertainties associated with the start-up of any business, but I heard nothing to persuade me that the risks here were greater than could normally be accepted”.*

The Inspector chose to grant permission for the glasshouse, but not the agricultural worker's dwelling<sup>15</sup>, due to the length of time it would take to build the glasshouse delaying the horticultural activities that justified the functional need by several years. Work on the site commenced in Spring 2014 and is nearing completion in Spring 2019, which will be Peter's first growing season. During this period, he has lived on-site in a static caravan, which is permitted for people employed in construction of an approved development by the Caravan Sites and Control of Development Act 1960. He submitted an application for an agricultural workers' dwelling in November 2018, and is currently awaiting a decision. Almost four years passed between Peter's initial discussions with his LPA about the glasshouses and being granted consent to start building the glasshouse. Peter estimates that the total time to date of his planning applications is 2,300 hours and that they have cost him c. £10,000 in professional's fees<sup>16</sup>.

Business proposals such the one described here represent a desire among young, environmentally motivated growers to apply their knowledge and ingenuity to solving the problems of producing food with minimal emissions and efficient resource use. The type of diverse organic and agroecological systems employed, combined with a philosophy of using second hand materials to keep costs low and re-use materials, represent a radically different pathway to that of industrial horticulture production which requires high capital investment. While Inspectors seem able to engage with the wider environmental issues drawn into such a planning case, at local authority level there seems to be no allowance for the type of low capital input innovation typified by smaller organic and agroecological growers. If a new generation of horticultural entrepreneurs is to be encouraged it is essential that they are given a smoother ride through the planning system than Peter Wright.

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<sup>15</sup>APP/R3325/A/13/2191744

<sup>16</sup>Peter also applied for temporary worker accommodation (single) and the estimated time and costs include costs associated with two applications and an appeal (co-joined with the glasshouse appeal) for said worker accommodation.

#### Case Study 4: Elbow Farm, Temporary Worker Dwelling



Elbow Farm is a mixed holding of 4.2 acres, located outside the village of Beer in East Devon. It comprises 0.5 acres of vegetables grown in no-dig growing areas, polytunnels and a glasshouse; soft fruit and top fruit dispersed throughout the site, 30 laying hens producing free range eggs, geese for the Christmas market and a few breeding ewes for occasional meat sales. Produce is sold locally in 25 vegetable boxes, and wholesale to local shops and restaurants including Seaton's Jurassic visitor centre and River Cottage.

Joe Fitzgerald and Georgina Wood purchased land to start Elbow Farm in 2009. Initially they applied for and received planning permission for polytunnels and a barn in 2010, which they were granted. Anticipating local opposition to residential permission, they moved onto the land with their two daughters in July 2011, without planning permission. This was done after careful consideration and research:

*"This was the approach that was best suited to our situation, because the business required an immediate on-site presence for it to be a success. Many organic growers are unsuccessful with planning, not for want of trying, but because applicants do not have a fine enough grasp of planning law. Many applicants run out of steam to fight against all sorts of prejudices to their application, and out of funds to pay for professional expertise and legal costs. However, our research drew attention to a large number of cases where applicants had applied for dwellings retrospectively and been successful at appeal, albeit after initial LPA planning permission refusal".*

They applied to East Devon District Council (EDDC) for planning permission for a temporary worker's dwelling but were refused in November 2011, on the grounds that there was no functional need for an enterprise of this scale. An appeal was lodged with HM Inspectorate in January 2012 leading to a hearing and site visit in July 2012, at which the LPA decision was overturned and they were granted three years temporary permission. The Inspector's view was that:

*“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.”*

After three years, in 2015 the couple were granted permanent planning permission based on the fact that they had demonstrated their financial viability. In the year when they gained permanent planning permission, Elbow Farm had a turnover of £19,215 and a net profit of £14,200, providing a modest livelihood for the family and a seasonal worker. The fact that the family live on their land, means they are able to minimise living costs through renewable energy generation, rainwater harvesting and subsistence food production. LPAs often overlook the cost savings it is possible to make by living in a low impact way, and consider businesses unviable because they cannot provide a “conventional” income level. Businesses such as Elbow Farm are characterised by keeping costs low through being highly labour intensive and the couple choose a low consumption lifestyle in line with their values.

Having permanent permission has provided valuable security, but pressure placed on the family by the planning process has been immense.

*“Addressing the demands of planning became a part time job for my partner and I, which we needed to do alongside the full-time roles we had on our small-holding, compounded by the insecurity the planning process instilled while we also juggled building a liveable abode and bringing up a family”.*

Joe and Georgina would prefer to have gone through the correct channels of applying for planning permission before moving on, but had witnessed the fact that many small-scale enterprises are dismissed out of hand as not being economically viable or having a functional need. LPAs seem to lack understanding that it is a combination of needs of a horticulture business that requires an on-site presence 24 hours per day, not one over-riding need. Their LPA officer’s report was dismissive of many points of agricultural need and overlooked issues to do with environmental sustainability. Fortunately, however the HM Inspectorate’s report highlights the agricultural needs of organic growers to live onsite and the merit in ecological sustainable businesses. On reflection, Joe Fitzgerald feels:

*“The planning process could be improved if LPAs were willing to establish a positive dialogue with small scale and organic growers. Perhaps experienced organic growers could be enlisted in a supportive role to provide advice and liaise with the LPA to allay their concerns”*

He also believes that the current requirement for growers to become experts in planning in order to gain permission is creating an unnecessary barrier to aspiring growers who may not have the ability to navigate the planning system, even though they are skilful growers. Such a barrier must be addressed in order to encourage more primary food businesses, which enrich the local economy, provide rural employment and food security while providing an example of how to live and work ecologically sustainably.

## Case Study 5: Ecological Land Co-operative: New Entrant Scheme



**Pictured above:** smallholders at Greenham Reach, Devon, the first of the ELC's smallholdings

The Ecological Land Co-operative (ELC) is a community benefit society and not-for-profit established to create new affordable residential starter farms for new entrants to ecological farming. The first applications made by the ELC, in 2011, were for a cluster of three starter units from 2.5ha to 4ha. The applications sought permission for a temporary residence on each of the three holdings and a shared barn. The applications were recommended for approval by the planning officer but refused by the planning committee on the grounds that:

*"... no such special circumstances have been justified and there is no essential need for a rural worker to live on the site contrary to the NPPF. 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 difficult to resist."*

The subsequent appeal was allowed by the planning inspector<sup>17</sup> but the whole process took two years and tens of thousands of pounds, both for the ELC and for Mid Devon District Council, the latter who spent £18,076.65<sup>18</sup> on legal costs alone.

In 2018, at the end of the temporary consent the ELC put in applications for permanent planning consent for the three holdings. This time the decisions were taken by the planning officer who agreed the applications verbally but at the time of writing, a year after the applications being made, the applications remain undetermined.

In May 2016, the ELC started to develop its second site, again seeking to provide a cluster of three starter holdings for new entrants. The ELC approached the local planning authority, Wealden District Council (WDC) the following August for a pre-application meeting and were told that there was no availability until mid-November. The afternoon before the pre-application meeting the ELC were

<sup>17</sup> Appeal Decisions APP/Y1138/A/12/2181807, 2181808, 2181821, 18/04/2013

<sup>18</sup> Freedom of Information request to Mid Devon District Council 04620, dated 30/01/2017

called by the planning officer inviting them to cancel the meeting. The ELC went ahead with the £425 pre-application meeting held not in a meeting room, but in the busy foyer of WDC's offices. Three weeks later WDC wrote:

*"This potential development would be an unusual and complex case ... I am not persuaded that there is a case to be made to establish a site similar to that in Devon at Arlington and I would not invite an application."*

This was the beginning of two years of extremely difficult communications between the ELC and WDC in which WDC ignored 70% of the ELC's emails and calls and refused to enter into discussions about the concerns that they said they had regarding the ELC's proposal. WDC failed to respond to a formal complaint made by the ELC and also actively discouraged the application by contacting the ELC asking them to withdraw their application and offering a refund of the application fee.

In November 2017, sixth months after their application had been validated, the ELC appealed on non-determination. A public inquiry was scheduled for September. In August 2018, two weeks before the appeal and two years after the ELC had first sought a dialogue with WDC, and after much expense by both parties in preparation for the appeal, WDC granted the 5-year temporary consent for which the ELC had originally applied.

## Case Study 6: Fresh and Green, Shed and Mobile Home



Pictured above: field crops and covered crops at Fresh and Green

Ruth Hancock is a first-generation farmer, having started her agricultural journey first through work experience and then a 3-year National Diploma in Agriculture. In 2006 she set up Fresh and Green on a 12.5-acre field in Ottery St Mary with her partner Mole, producing fruit and vegetables for a vegetable box scheme. Fresh and Green is now a thriving business, supplying 80 vegetable bags per week, as well as eggs from a flock of 50 hens and provides a livelihood for one and a half full time equivalents, as well as a seasonal trainee (April-October).

In February 2007 Ruth and Mole applied for a 200m<sup>2</sup> packing shed and growing on area under permitted development rights. This was refused due to the holding being located within an AONB. They applied again later that year and were granted permission, a year after their first application. Their applications for polytunnels however, were not refused.

In January 2011, the couple applied for permission to station a mobile home as an agricultural workers' dwelling, but were refused in June by EDDC, on the grounds that they did not consider there to be a functional need. This decision was made without a site visit or undertaking an agricultural appraisal, Although the case was taken to committee, with only three minutes permitted for their consultant to state their case, permission was refused on a vote of 7 to 6 against. During this process, with no site visit and only a three-minute slot for the consultant at the committee meeting, there was no opportunity to for the applicants to explain why living on site was necessary.

The couple applied again in June 2012, but again the LPA refused permission on the grounds that they did not consider there to be a functional need. This time the case was won at appeal, in April 2013, where the Inspector considered the case fully at a hearing and carried out a site visit, concluding that:

*“an essential need for a worker to live at the site in order to effectively care for the plants has been demonstrated”*

According to Ruth,

*“The Inspector seemed quite bemused as to why we had had to take the case to appeal. I guess that part of the problem was that because I was (just about) holding it together whilst commuting from four miles away, the planners thought I could keep doing that forever, despite all the reasons we gave them why I couldn’t”.*

The couple received their permission in May 2013<sup>19</sup>, nearly two and a half years after first applying to the LPA. The planning process has cost them over £5,000, as they used a planning consultant for the first application, and the appeal will have cost the Council a considerable amount of tax payers money. Ruth did the second application, appeal documents and representation herself, but this absorbed considerable amounts of time, taking her away from the business of actual growing over many weeks. The constant thinking and worrying about the planning provided an additional tax on the business and put huge pressure on their relationship. Ruth describes how,

*“It overtook our lives, the uncertainty of it, the extra workload and anxiety on top of the usual day to day stress of running a horticultural business, especially from a remote location. I think it did lead to some sort of post project depression, or even post-traumatic stress reaction, as once it was over, I ran out of steam and found it difficult to carry on. The mental impact of the stress lasted for several years. I suspect many a relationship has foundered on the stress that is engendered by it all.”*

This case study illustrates the difficult position that growers are placed in when they decide to apply for residential permission prior to moving onto site, rather than moving on and applying retrospectively, and how they don't feel that they are listened to in the process. If a business is appearing to be run successfully with no dwelling, then LPAs usually do not see that there is a functional need, when in fact the pressure of trying to run a business from off-site is far less efficient and more stressful than living on-site and does not support the development of a successful and thriving business. At time of writing, Ruth and Mole are finalising the plans for a modest agricultural workers' dwelling, which they plan to submit with an application for permanent permission. Their functional need is the same as it was previously and the business is still financially sound, so they are hopeful that this will be a formality.

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<sup>19</sup> Appeal Ref: APP/U1105/A/12/2189525

## Case Study 7 - Champernhayes Flowers and Foliage



Pictured above: Pop up market stall selling Champernhayes Flowers and flowers growing in the field

In 2012 Zanna and Jonny Hoskins bought 1.5 acres of land in West Dorset with the intention of establishing a floriculture business, as part of a low impact, eco-friendly smallholding which would also provide a proportion of the family's food. After an initial year of observation, they spent the next three years planting with a mixture of annuals, perennials and shrubs for spring and autumn flowers, foliage and berries, and rented a workshop in the nearby town of Bridport from which to start trading and test the market. Half an acre is currently planted with flowers, and half an acre is orchard, used for blossom and livestock grazing. The aim is supply local, seasonal flowers from spring, and by using foliage and berries as well as flowers, to trade over a longer season than most other British cut flower growers.

Champernhayes Flowers has had a strong start, supplying weddings and other events as well as a flower shop in a local town. Zanna is the main grower and florist and work comes through her Instagram page, website (<http://www.champernhayesflowersfoliage.co.uk/>), word of mouth and trade passing her workshop. By the end of 2018/19 the business was turning over nearly £16,000, with costs of £9,500, and future projections look very promising if planning permission is granted. There is a strong niche market for locally grown British flowers and requests for flowers come from all over the country. However, apart from exploring the possibility of a weekly journey to London wholesale markets, shared with other local producers, they are keen to keep the business local and sustainable.

While the business was established, Zanna and Jonny and their young family lived in rented accommodation in a nearby village. However, from the start they knew that they would need to live on-site to really make the business operate efficiently.

When they decided that the business was solid enough, they engaged a planning consultant and sought pre-application advice from the LPA in May 2017. They wanted to be up-front about their intention to live on site from the start, rather than causing anxiety among neighbours by not being transparent, and have generally had good support. They were advised by the Local Planning Authority in the pre-app that the size and siting of the timber clad bungalow was likely to be OK, subject to support from the Agricultural Assessor at Reading Agricultural Consultants. An application was submitted in October 2017, but no

decision was made until April 2018, when the application was turned down. The LPA considered there to be no essential need and that the proposed house was larger than necessary, which contradicted the pre-app advice. An appeal was submitted in May 2018, but no response was received from the Planning Inspectorate until January 2019. The appeal hearing was held in early April 2019 and they are still awaiting the result (APP/F1230/W/18/3203500).

In the meantime, an opportunity to start trading with “Rambling Rose” flower shop arose in August 2018. It was already proving to be a struggle to run the business from a distance, and this new development meant they would need to be on site much more during the Autumn, Winter and Spring of 2018/2019. In addition to the usual horticultural essential needs, such as early season seedling propagation, watering early in the morning and in the evening and removal of slugs, several needs specifically relating to flowers and foliage apply. These include the need to cut flowers early in the morning or in the evening, when the carbohydrate level in the stems is high, to increase how long they last, and protection of foliage with fleece to prevent cosmetic damage by frost. Harvesting flowers for weddings takes place over two days, both requiring early starts, to meet the varying needs of different types of flower. The practicalities of combining weekly flower cutting and all the other early morning and evening jobs with looking after a family makes living off-site both inefficient and stressful. The family therefore moved onto the land in a static caravan in October 2018, in order to meet the demands of the business.

The planning process has absorbed vast amounts of time, both in preparation prior to making an application during 2016 and 2017, several months of correspondence with the planning consultant and also with the case officer at West Dorset District Council. The latter caused anxiety and frustration, as their case seemed to be repeatedly side-lined, with no decision being made until six months after the application was submitted. Even after the planning officer had told them permission would be refused, they had to chase the LPA for weeks before they published their report, with reasons for refusal, so that an appeal could be submitted. Further time was absorbed, at an extremely busy time of year (April/May 2018) to prepare the appeal and further meetings and preparation were needed in January 2019 for the April 3<sup>rd</sup> appeal hearing. To date, the planning process has cost the Hoskins in excess of £12,000 on top of the costs of land purchase, infrastructure and business start-up. Planning costs include the pre-application advice (£250) and the planning application (£385) and appeal (£350), and the planning consultant (pre-application £3540 inc. horticultural appraisal, first application £4215, appeal £3000, and post submission work £840).

Living on-site has enabled the business to be run much more efficiently and the site is better managed as a result. Trade is good and the business has been ready to expand for the last two years, yet has been held back by the Hoskins not having the confidence to further invest the holding without planning permission. If they fail to get planning permission, they don't feel they could sustain the stress of living off site again, calling into question the future of the business. They are keen to plant more shrubs for foliage and have been offered additional space on a neighbour's field. However, this represents a large investment, and they are

holding back until the planning permission and exact siting of the buildings is confirmed, to minimise the risk of having to move and potentially lose shrubs.

The long delays and uncertainty engendered by the planning process, combined with the contradiction between pre-app advice and planning result on house size, and lack of understanding of the needs of a highly labour intensive, specialised business have stifled the development of a successful enterprise and caused considerable stress to the family.



Pictured above: Wedding flowers from Champernhayes Flowers and Foliage

## About the Authors

**Simon Fairlie** has been providing support and advice on planning issues to small-scale growers and farmers for over 20 years, and is the author of 'The Rural Planning Handbook' and 'Low Impact Development: Planning and People in a Sustainable Countryside' as well as a regular contributor to The Land magazine. Simon also runs a micro-dairy, is a grass management enthusiast and manages the Scythe Shop, offering Austrian scythes and beginners' scything courses.

**Rebecca Laughton** is an organic market gardener and the horticulture campaigner for the Landworkers' Alliance. She has worked on organic farms and market gardens for 22 years, as well as researching and writing about local food systems and land-based communities. She is author of 'Surviving and Thriving on the Land: How to use your time and energy to run a successful smallholding'; co-author of 'Small is Successful'; and author of 'A Matter of Scale: A study of the productivity, financial viability and multifunctional benefits of small farms'.

**Zoe Wangler** is an environmental researcher, and is a co-founder and director of the Ecological Land Co-operative (ELC). The ELC is a not-for-profit providing affordable access to land for sustainable rural livelihoods. In her work at the ELC Zoe has been responsible for multiple successful planning applications for new farm businesses, and provides planning advice and support to ecological growers and farmers.

**The Landworkers' Alliance** is an organisation of small and medium scale, agroecological family farms, agricultural labourers, horticulturalists and woodland workers. Such land workers are in a strong position to address many of the challenges facing UK agriculture today. Our vision for UK agriculture includes more farmers, better quality food, a fitter population, a healthier environment, fewer greenhouse gas emissions, increased biodiversity, and flourishing, vibrant rural economies. We uphold the principles of food sovereignty. Small scale farmers comprise about 50% of humanity and produce 70% of the food we all need to survive, and yet they constitute some of the most marginalized and culturally stigmatised people in the world. The UK is no exception; the political interests of traditional farmers are not represented by either a major political party or a vocal trade union.

**The Landworkers' Alliance** was founded in 2012 by a group of like-minded producers who recognized the need for a political campaigning alliance to work alongside existing growers' forums. The LWA was officially accepted as a full member of La Via Campesina in June 2013.

[www.landworkersalliance.org.uk](http://www.landworkersalliance.org.uk)

