

Planning Issues for Smaller Horticulture-Based
Farms Seeking On-Site Dwellings - Bannau
Brycheiniog National Park, Monmouthshire
& Powys

Final Report for Our Food 1200

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1. Task & Approach

1.1.1 The brief for this work is as follows:

Our Food 1200 has a broad objective to increase small-farm regenerative agriculture in Monmouthshire, Powys and the Bannau Brycheiniog National Park - with a target of securing 1200 acres of regenerative horticulture to provide enough fresh, seasonal vegetables for the region's population.

Two core issues in delivering this objective are access to land and housing for farmers. Farmhouses are being sold to non-farmers at inflated prices and houses for landworkers are not being replaced. The application of planning policy and guidance for new farmworkers' dwellings is restrictive and potentially biased against small farms, and horticulture in particular.

On behalf of Our Food 1200, Conservation Farming Trust is seeking a proposal to provide guidance for local authority planners about how to support small farm housing needs and how to navigate planning policy and guidance around this. This will include:

- *increasing planners' understanding of what small-scale regenerative horticulture is - especially the need for full time attendance on site,*
- *how this type of housing - in either multi-enterprise developments or single dwellings on agricultural fields - can meet the policy requirements,*
- *examples of relevant planning cases / decisions from elsewhere in the UK.*

1.1.2 The brief therefore targets that the requirements for new dwellings on small farms, particularly those which are horticulture-based, might be being applied too restrictively to allow such enterprises to flourish.

1.1.3 Re-localising food production is an important issue in tackling climate change, especially of fruit and vegetable production. Its levels are now greatly reduced, yet small-scale horticulture is able to create high productivity and profitability from a variety of relatively small sites, with wider environmental benefit and potential health benefits if the greater availability of fresh local produce is linked to better diets.

1.1.4 There are two routes to gain consent for such a dwelling under Welsh National Policy

- Rural Enterprise Dwellings
- One Planet Development.

1.1.5 TPG will tackle this brief as follows:

- Summary review of national and local policy and guidance, literature and planning decisions
- Conversations with identified individuals / organisations
- Half day workshop with Bannau Brycheiniog, Powys & Monmouthshire planners / others
- Findings and recommendations.

2. Policy & Guidance Review

2.1.1 Policy and guidance for Rural Enterprise Dwellings (RED) and One Planet Development (OPD) is detailed and lengthy, and will only be summarised here.

2.2. Rural Enterprise Dwellings

National Policy and Guidance

2.2.1 Planning Policy Wales 2021 (PPW) identifies Rural Enterprise Dwellings as acceptable development in the open countryside¹:

The purpose of 'rural enterprise dwellings' is to enable rural enterprise workers to live at or close to their place of work, including encouraging younger people to manage farm businesses and supporting the diversification of established farms....

All applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need. It will be important to establish whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time....

Applications for rural enterprise dwellings must only be permitted where the rural enterprise dwelling appraisal provides conclusive evidence of the need for the dwelling.

2.2.2 Technical Advice Note 6 2010 (TAN6) expands upon PPW. We concentrate on its guidance for new dwellings for small-scale enterprises, as this is the main target of this report. Paragraph 4.6 of TAN6 lays out the requirements:

a. clear evidence of a firm intention and ability to develop the rural enterprise concerned (significant investment in new buildings and equipment is often a good indication of intentions);

b. clear evidence that the new enterprise needs to be established at the proposed location and that it cannot be accommodated at another suitable site where a dwelling is likely to be available;

c. clear evidence that the proposed enterprise has been planned on a sound financial basis;

d. there is a clearly established functional need and that need relates to a full-time worker, and does not relate to a part-time requirement;

e. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building on the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the workers concerned;...

2.2.3 A three year trial run with a temporary dwelling is also allowed for where the case is not completely proven for a permanent dwelling. Such applications are therefore required to be accompanied by a RED appraisal to address the functional, time, financial and other dwelling tests, as a cascade. These are then expanded further in the Practice Guidance (2011).

2.2.4 The functional and time tests and the financial test are the main issue where small-scale horticulture may experience too restrictive appraisal. In terms of functional need, assessment often focus on the scale of businesses and particularly on head of livestock, as proxies for need, which can overlook the particular needs arising in small-scale horticultural

¹ There is also an 'other normal planning requirements test' which is not expanded in this report.

enterprises. Similarly for the financial test, it can be overlooked how many of the farm household needs which would otherwise have to be purchased can be acquired from site.

2.2.5 The Practice Guidance sums up essential functional need as follows:

4.2 An essential functional need relates to a specific management activity or combination of activities which require the ready presence of a worker at most times if the proper functioning of an existing enterprise is not to be prejudiced and which cannot be achieved by any other practical means such as electronic surveillance.

4.3 It is a need determined by the character and management requirements of the enterprise, and not by any personal preferences or circumstances of any of the individual(s) involved.

4.5 Functional need is primarily concerned with the management of risk within the operations of an enterprise such that, without the ready attention of a worker(s), any particular event or combination of events could lead to adverse animal welfare, crop or product quality, or health and safety consequences which might threaten the stability and economic well-being of an enterprise. In all cases, these would be circumstances which could not be properly managed within normal working hours.

4.8 The functional need test is not an absolute test. Individual circumstances often vary between enterprises, even between rural enterprises of the same type and general location. Similarly it is not a test which is susceptible to the application of predetermined standards or thresholds.... Consequently, an important aspect of assessing the functional needs of an enterprise is a consideration of the scale and nature of the enterprise concerned.

2.2.6 For a new dwelling for a new or existing enterprise the time test requires that there must be a requirement for a full-time worker. The Practice Guidance focuses on the use of Standard Man Day (SMD) calculations as 'a reasonably robust form of labour planning', and points to standardised sources of such information such as the John Nix Farm Management Pocketbook.

2.2.7 For the financial test is primarily to ascertain whether '*The rural enterprise and the activity concerned should be financially sound and should have good prospects of remaining sustainable for a reasonable period of time, usually at least 5 years.*'². Business plans and financial records will be used to assess this. The Practice Guidance adds particular details:

- That all labour required must be adequately remunerated either as a wage or a return
- That the labour cost must relate realistically to the skills of the individuals concerned
- That the absolute lowest threshold of remuneration will be the statutory minimum wage.

2.2.8 Each of these, perhaps unintentionally, detrimentally impacts on small-scale farms, especially horticultural ones, as is explained below.

Local Policy

2.2.9 Both the Brecon Beacons Local Development Plan 2007-2022, the Monmouthshire Local Development Plan (2011-2021) and the Adopted Powys Local Development Plan 2011-2026 do not contain a policy for REDs, instead it defers to national policy and guidance.

² TAN 6 4.10.1

2.3. One Planet Development

- 2.3.1 One Planet Development (OPD) is a progressive national policy supporting self-sufficiently based consents for whole land use systems where applicants live on site and meet most of their needs from the site, and in consequence are able to reduce their personal Ecological Footprints. It is supported in PPW, described in greater detail in TAN6, and is also the subject of detailed Practice Guidance³.
- 2.3.2 As of January 13th, 2023 there are 43 approved applications, comprising 45 individual OPDs⁴, and a total of 58 individual smallholdings operating under One Planet, or similar low impact guidelines in Wales.

National Policy and Guidance

- 2.3.3 PPW summarises OPD as follows:

4.2.38 One Planet Development (OPD) is development that through its low impact either enhances or does not significantly diminish environmental quality. OPD may take a number of forms and can either be single homes, co-operative communities or larger settlements. They may be located within or adjacent to existing settlements, or be situated in the open countryside.

4.2.39 OPD located in the open countryside should provide for the minimum needs of the inhabitants in terms of income, food, energy and waste assimilation over a period of no more than five years from the commencement of work on the site. This should be evidenced by a management plan produced by a competent person(s). Where this cannot be demonstrated, proposals should be considered against policies which seek to control development in the open countryside. Planning authorities should follow the guidance in TAN with regard to the requirements of OPD and associated management plans.

- 2.3.4 The guidance in the Practice Guidance is detailed, and cross refers to TAN6 comprehensively, therefore the focus of this document is the Practice Guidance. The essential characteristics of OCOPD are laid out in paragraph 1.9 of the Guidance, that OPD's must:
- Have a light touch on the environment – positively enhancing the environment wherever possible through activities on the site
 - Be land-based– the development must provide for the minimum needs of residents in terms of food, income, energy and waste assimilation in no more than five years
 - Have a low ecological footprint – the development must have an initial ecological footprint of 2.4 global hectares per person, or less with a clear potential to move to 1.88 global hectares per person over time – these are the Ecological Footprint Analysis benchmarks for all One Planet Development (para 2.11)
 - Have very low carbon buildings – these are stringent requirements, stipulating that buildings are low in carbon in both construction and use
 - Be defined and controlled by a binding Management Plan (MP), which is reviewed and updated every five years

³ <https://www.gov.wales/sites/default/files/publications/2019-06/planning-permission-one-planet-developments-in-open-countryside.pdf>

⁴ <https://www.oneplanetcouncil.org.uk/approved-applications/> -

- Be bound by a clear statement that the development will be the sole residence for the proposed occupants.

2.3.5 Paragraph 1.10 of the Guidance goes on to explain:

To meet these essential characteristics residents of One Planet Developments have to live quite differently (much more sustainably) than is the norm in the 21st century. One Planet Development therefore is not just describing a physical development. It is describing a way of living differently where there is a symbiotic relationship between people and land, making a reduction in environmental impacts possible. The management plan for a One Planet Development, therefore, describes both the nature of development and the way of life that will be pursued in association with that development.

2.3.6 Because of the need to guard against abuse of this type of policy, the Guidance is therefore very detailed and effectively lays out a comprehensive set of requirements for OCOPD. Paragraphs 2.19 and 2.20 of the Guidance lays out how to assess OCOPD applications.

2.3.7 James and Bill from TPG were the main authors of the OPD Practice Guidance and have been involved in around a third of all OPD cases. OPD sites often feature horticulture, to feed residents, and as a source of necessary income. Some OPD sites will focus on subsistence living, but others feature more commercial-scale growing operations whilst also conforming with the other elements of OPD policy and guidance.

2.3.8 In some ways this is about choice or emphasis – the wish to be an ecological farm. In other ways this is also about an apparent separation in Welsh policy and guidance. The REN Practice Guidance states the following when referring to OPD:

5.2 The Rural Enterprise Dwelling policy is concerned with providing support to rural businesses. It relates to commercial entities, and the testing of their financial soundness or prospects derives from the normal economic principles applied to businesses. It is not a policy concerned with unconventional or subsistence enterprises which are the subject of a separate policy approach elsewhere in TAN 6.

2.3.9 This is not a perfect fit, though, as case law⁵ does bring the issue of subsistence into consideration for REDs and their tests, and some OPDs are more than subsistence enterprises and in some ways conventional and successful small farms, often horticulturalists.

2.3.10 For the purposes of this work it is clear that the OPD route is also available for horticultural enterprises, which will necessarily be different from those pursuing the RED route.

Local Policy

2.3.11 Neither the Bannau Brycheiniog NPA, Monmouthshire CC or Powys CC have local policy for OPD. The National park has Supplementary Planning Guidance 'Enabling Sustainable Development in the Welsh National Parks' which summaries OPD but does not add substantially to the Practice Guidance.

⁵ Petter and Harris v Secretary of State for Environment, Transport and Regions and Chichester District Council: CA 15 Mar 1999

3. Analysis / Commentary

3.1. RED

3.1.1 As outlined above the focus of this report is the functional and financial tests.

Functional Test

3.1.2 Paragraph 4.7.1 of Tan 6 points out that appraisals should consider:

The functional test to provide evidence of whether there is a need for a resident worker for the proper functioning of the enterprise.

3.1.3 The words 'proper functioning' are key here and are repeated in paragraph 4.8.1 which then continues:

It should relate to unexpected situations that might arise, for which workers are needed to be on hand outside of normal working hours for the particular enterprise.

An example is then given:

Such requirements might arise, for example, if workers are needed to be on hand night and day to deal with an emergency that would threaten the continued viability and existence of the enterprise without immediate attention.

3.1.4 The key factors in functional need are actions that need to be attended to in order to contribute the proper functioning of an enterprise to ensure its viability. This is not explicitly a requirement to look after poultry or livestock.

3.1.5 It is a common feature of many smaller intensive horticultural enterprises, often with direct sales marketing to increase profitability, that a large range of activities must be addressed in a timely way and at the right times of the day, ideally in the right weather and environmental conditions to ensure success, and in addition to also respond to any unexpected emergencies that may occur such that significant losses are not incurred by the business.

3.1.6 The viability of such enterprises has been explored in research^{6,7,8} and publications⁹. Our work with smaller scale growers has confirmed that well-managed enterprises of a smaller scale, managed with appropriate technology for the scale and nature of the site can be profitable and viable and resilient over significant periods of time. There is a significant jump required by a business to scale up beyond this viable smaller scale to the sort of scales where an employed workforce is a required and where significantly more investment is needed. Consequently, an important aspect of assessing the functional needs of an enterprise is a consideration of the scale and nature of the enterprise concerned.

3.1.7 Due to the scale and nature of smaller but viably scaled horticultural enterprises tasks are often mostly undertaken by the owner operator(s) who can, if the conditions allow, attend to sufficient tasks in a flow throughout the day around longer breaks (offering the chance to

⁶ Laughton, R. (2017) A Matter of Scale: A study of the productivity, financial viability and multifunctional benefits of small farms (20 ha and less). Landworkers' Alliance and Centre for Agroecology, Coventry University.

⁷ Can an organic market garden based on holistic thinking be viable without motorization? The case of a permaculture farm. 2015 Authors: K. Morel, C. Guégan, F.G. Léger <https://doi.org/10.17660/ActaHortic.2016.1137.47>

⁸ https://ecologicaland.coop/wp-content/uploads/2018/06/Small_is_Successful_0.pdf

⁹ <https://ecologicaland.coop/small-farm-profits/>

attend to domestic activities) such that the tasks get done at the most sensible time, in the best conditions available, whilst still attending to them in a timely way with the aim of minimising losses and damage from weeds or pests. It can be necessary to alternate tasks and time work to avoid conditions such as repetitive strain injury.

- 3.1.8 This pattern of working can, if carried out expertly, enable a much larger quantity of higher quality and niche crops to be grown whilst reducing the inputs and costs associated with the production such that a smaller scale enterprise can be profitable and viable. If not close at hand this pattern of working becomes unviable and the additional costs and losses occurred can undermine the viability of the venture.
- 3.1.9 Owner operators may also employ seasonal labour at the busiest times of year or sometime make use of volunteers¹⁰. However, for much of the year and for many of the tasks to be attended to on a smaller scale intensive horticultural holding it is not economically viable to employ someone due to the timing and length of the tasks to be attended to which may not generate sufficient work to attract or employ a worker. It is more viable to attend to these tasks as and when possible, which may often be out of 'normal' hours.
- 3.1.10 The length of the working day is dictated by both the total number of hours to be worked, and by when the tasks necessary for the effective operation of the business require to be attended to.
- 3.1.11 Daily labour demand for any enterprise will vary over the week and season but can be more than ten hours in one day. However, the timespan across which these tasks need to be attended to can be in excess of fifteen hours over a day in the summer and in excess of ten hours over a day from December to March. This is the working pattern for many horticulturalists without unexpected occurrences requiring urgent attention. Some labour is required seven days a week.
- 3.1.12 The practice guidance gives as an example of functional need:
- where the productive processes or the quality of crops and products are dependent upon the maintenance and security of controlled environments using automated systems, such as in protected cropping horticulture and intensive livestock units. However, it is often possible to achieve adequate surveillance through remote means such as CCTV and temperature and other environmental sensors*
- 3.1.13 However this possibility does not mean that such measures are the most effective or efficient way to meet these needs. Crop covers, floating covers and cloches can extend 'controlled environments' out into the plot beyond polytunnels and glass houses and so out of range of such systems. Investment in the costs and system changes to facilitate automated systems at scale may not be the best management decision for viably scaled horticultural enterprises.
- 3.1.14 A decision to utilise a higher level of hand labour can also be a sound business decision, based upon the specific conditions of the site and the intensive methods of production, interplanting and successional sowing, resulting in higher yields of high value crops and reduced costs to the grower. Smaller scale mechanisation may also still involve a significant input of labour to ensure the attention to detail that allows this scale of business to remain profitable. Many growers will now utilise a compact tractor or two wheeled cultivator to increase efficiency but still require other hand input to be made and time the

¹⁰ though volunteers can bring additional pressures of training and care beyond the normal workload.

work when conditions are appropriate. Many intensive horticultural systems grow a large variety of different vegetables on the same limited area of land. Such production methods are different from single crop field scale systems which often rely on higher inputs, larger machinery and higher investment in infrastructure and mechanisation in order to reduce labour.

- 3.1.15 Automation of some tasks may be technically possible and is often utilised by larger enterprises in order to reduce their labour costs and not to remove the need for labour. In any case it is good practice to have a worker on hand carrying out other tasks whilst automated systems adjust the temperature, or turn watering on and off, in case something fails. Failures of automated systems that go unnoticed can cause severe losses and expense. Many experienced growers will use these times, often at the extremes of the day to observe and monitor the general health of their crops at all stages of growth and identify where pests are gaining a foothold and if necessary take prompt action.
- 3.1.16 Vegetable production is about seed to harvest and all the steps in between. There are many factors beyond the control of a grower that can affect a potential harvest such as weather and pests. Weather and local environmental conditions will greatly affect when it is possible to undertake a variety of tasks such that they will be most effective, reducing the requirement for additional labour and increasing the chances of a crop succeeding well or a population of pests establishing to damaging levels. However, the effects of these factors can be greatly reduced or removed entirely if there is a human presence on site that can deal with emergencies as soon as they become apparent. Grower's incomes are reliant on their crops: the crops are, on a regular basis, reliant on experienced observations and rapid responses to any perceived issues. The work is not a 9 –5 job with a structured daily timetable - it requires people of a certain mettle who are prepared to work outside what many people regard as normal working hours.
- 3.1.17 In addition to the structure of an effective functional flow of work tasks to suit the scale of a holding, there are a range of emergency situations that can occur within horticultural businesses that can cause substantial losses significant enough to impact the profitability and viability of what are often smaller scale enterprises. Examples of emergencies reported by growers from our work include:
- Failure of watering systems leading to over or under watering
 - Failure of pipework leading to flooding /water damage to crops
 - Loss of stored water or damaged supply not noted in a timely way further impacting crops due to unavailability of water
 - Extreme weather causing damage:
 - Frost events
 - Heat events
 - High winds collapsing or severely damaging infrastructure
 - Snowfall damaging infrastructure
 - Winds removing crop covers allowing pests to access crops
 - High winds causing crop covers to beat and damage crops
 - High winds dragging crop covers through crops
 - Pest animals not responded to in a timely manner

- Escaped livestock accessing crops
- Animals becoming trapped in nets
- Animals trapped inside sheltered cropping damaging crops
- Outbreaks of disease not being spotted and addressed in a timely way
- Being unable to access a site due to weather conditions
- Not responding to environmental conditions in sheltered cropping in a timely way leading to losses
- Vandalism
- Theft.

3.1.18 The pressure of addressing every-day tasks of commercial horticultural growing of a viable scale when not resident and whilst also attending to domestic commitments (eating with your family, ensuring children's needs are met etc.) can often mean two or three return visits during the course of a day, due to the timing of tasks and necessary responses to environmental conditions. If sufficient attention is not given to observing and monitoring crops, due to pressure of time to complete specific tasks in limited time windows, then the risk of unexpected events or emergencies not being attended to rises and losses increase with the risk of spiralling impacts.

3.1.19 There are trade-offs between running what are often complex horticultural businesses of a viable scale, keeping costs and inputs down, the demands / timing of weather and environmental windows, the costs and availability of hired labour, the timing of harvesting and the scheduling of deliveries and the physical and mental well-being of the farmer (health and safety). The proper functioning of the enterprise, necessary to maintain its profitability, can be greatly affected by these factors which are driven by the needs of the business and not by the personal preference or circumstances of any individual.

3.1.20 It is important when assessing enterprises to appreciate the interconnected nature of all the activities proposed on the site, which when viewed as a system constitute a viable, diverse rural enterprise and allow for the required flexibility to act swiftly to address issues as they arise ensuring the effective operation and proper functioning of the business.

3.1.21 The functional test should not focus on one specific task or the needs of one particular species of animal which must reach a certain scale to 'pass' irrespective of other factors. Many elements of a successful enterprise that when examined in isolation might not create a functional need, when taken together as a whole system can be seen to be significant enough do so. The proper functioning of a complex viable horticultural enterprise of only a few acres in size will rely upon the timely actioning of a range of tasks across an extended period of time often beyond 'normal hours'. That a mixture of activities and needs can be taken together with possible emergencies to comprise an (essential) functional need for a resident farmer has been accepted in several Inspector's decisions in England that we are aware of, which are provided as Appendix A.

3.1.22 The accounts and business plan can show that the enterprise is likely to be profitable viable but it could not support the costs of renting or buying an accommodation in the locality. This is a material consideration that has also been considered to contribute to the functional need in England. The Inspector for Slight Hill¹¹ found:

¹¹ Appeal Ref APP/D0840/W/15/3132813

The Council argue that it would be possible for a worker to reside in the local area where property is readily available to buy and rent. However, given that there are no available properties in the immediate vicinity of the appeal site, I am not persuaded this would enable the appellant to respond adequately to emergencies when they were to occur. Additionally, the business is in its infancy and is being operated on a subsistence basis with most spare capital being ploughed back. It is therefore inconceivable that the business could afford to pay out an additional £600-700 per month in rent or mortgage payments and continue to trade. The appellant and his family would therefore be without an income and the business that has been built up over the last two years would cease. This would be contrary to the Framework's aim of promoting the development of agricultural businesses and supporting a prosperous rural economy. I do not therefore consider that the functional need could be satisfied through other accommodation.

- 3.1.23 Some horticultural enterprises may also have small numbers of livestock and / or poultry often utilised in the wider management of the holding, helping to manage fertility or pests. The care and welfare of these animals will add to the tasks and timing of tasks to be attended to and add to the range of potential emergencies. The tasks to manage the core horticultural business will still contribute the majority of the functional need, yet often we see the animals being cited as the justification for a resident farmer.

Time Test

- 3.1.24 The 'time test' is intended to determine if the need of the holding relates to a full time labour input. The Practice guidance (Dec 2011) suggests that this 'full time' should be demonstrated by the use of the Standard Man Day (SMD) measure, although Paragraph 4.13 of the Practice Guidance states:

'The labour requirements of a rural enterprise can be derived from either published standard data sources or from appropriate record keeping'

- 3.1.25 There is no requirement in national policy for the working hours necessary for the effective operation of a small farm business to be assessed using the SMD measure, nor is this system suitable for assessing complex viable scale horticultural systems.

- 3.1.26 Within the SMD system of assessment 'full time' is considered to be 45 weeks (allowing for sickness and holidays) of 39 hours a week, to which an additional 10 hours a week overtime is then added resulting in 45 weeks of 49 hrs a week totalling 2205 hours in a year. This is then converted into 275 days of 8 hour 'standard man days'. Working hours complying with the working time directive¹² would suggest a lower maximum of 2160 hrs a year. Based upon an 8 hour day many reasonable people would consider 40 hours a week for 52 weeks minus 5.6 weeks statutory holiday totalling 46.4 weeks of the year to be a full time job. This would imply 1856 hours.

- 3.1.27 SMD as laid out in the Nix farm management handbook is ill suited to estimate the time requirements of intensive horticulture and direct selling enterprises or smaller diverse enterprises. The Nix handbook informs us of this, stating:

'this data is designed to reflect commercial scale agriculture and so will be of limited value to smallholder scale production operations.'

¹² <https://www.gov.uk/maximum-weekly-working-hours/calculating-your-working-hours>

3.1.28 The Nixs Farm Management Handbook also points out that the Organic Farm Management Handbook is the appropriate reference for Organic holdings. The Organic Farm Management Handbook states:

'Farming and growing on small production holdings is quite different from the larger scale units that are generally reported in this Organic Farm Management Handbook. Not only are the expectations and nature of the business different, but operating on a small scale often with high labour input, low mechanisation and marketing to several outlet types including direct, means that costs, yields and returns may bear little similarity to larger holdings. This is particularly the case for smaller growers, who make up a distinctive, innovative and important sector of organic production.'

3.1.29 Our experience also lends us to consider that the SMD figures published do not reflect the complexity or range of tasks required to manage these viably scaled horticultural enterprises. Our approach is to utilise grower's own farm records and research from appropriate equivalent ventures which genuinely reflect the difference between different scales of farming.

Financial Test

3.1.30 Paragraph 5.3 of the Rural Enterprise Dwelling Practice Guidance states:

To be viable or sustainable any business enterprise must be:

- *profitable - income must exceed expenditure on a regular basis;*
- *feasible - have sufficient funds to support on-going trading operations; and*
- *worthwhile - provide a reasonable return on the resources used in it.*

3.1.31 The Rural Enterprise Dwelling policy requires that evidence of actual or potential economic performance is submitted in support of proposals (TAN 6, paragraph 4.10.2). Paragraph 5.15 of the Rural Enterprise Dwelling Practice Guidance states:

The profit available to an enterprise will be tested in terms of its ability to provide a realistic return to unpaid labour, and to fund/support the proposed dwelling.

3.1.32 Paragraph 5.16 continues:

With regard to the realistic return to unpaid labour, cross referencing to the labour assessment undertaken in the context of the functional test will be necessary. All labour required must be adequately remunerated either as a wage or a return, with an explicit entry in the financial appraisal showing 'drawings' in the form of money or kind. It will not be realistic for a worker providing in excess of a standard day's work to be costed and assessed on the basis of the basic daily rate. Furthermore, the labour cost must relate realistically to the skills of the individuals concerned. The absolute lowest threshold of remuneration will be the statutory minimum wage but, in the majority of cases, higher levels of remuneration will be appropriate.

3.1.33 We disagree with the requirement implied that a business needs to generate a net profit above the wage for a full-time worker based upon the Minimum Wage / National Living Wage in order to provide confidence that the enterprise is founded on a sound financial basis and viable or will remain viable for the foreseeable future. It is unclear if the Statutory Minimum Wage referred to is the National Minimum Wage or the Welsh Agricultural Minimum Wage, and these are different amounts. Other finance may be available to fund the proposed dwelling.

3.1.34 There are a number of reasons for our concern, which are in summary:

- National policy for rural worker’s dwellings does not require a level of profitability based upon the Minimum Wage (MW)/ National Living Wage (NLW) or Wales’ Agricultural Minimum Wage¹³ (AMW)

- Planning Policy Wales (PPW) is supported by Technical Advice Note 6 (TAN 6) which only states in paragraph 4.10.1:

The rural enterprise and the activity concerned should be financially sound and should have good prospects of remaining economically sustainable for a reasonable period of time, usually at least 5 years.

- The MW or NLW or AMW is unsuited to be used as a proxy for an arbitrary level of profitability as laid out below
- The level/amount of profit required by an enterprise to demonstrate financial resilience and viability will vary on a case-by-case basis depending upon the specific circumstances and nature of the enterprise

- The case law in relation to the profitability and viability of rural enterprises has been established by the Court of Appeal. The relevant case is the Court of Appeal decision in *Petter and Harris v Secretary of State for the Environment, Transport and The Regions and Another*. The *Petter and Harris* decision found that:

Profitability was no guide to its [the enterprise’s] genuineness and a poor guide to its probable continuation.

Court decisions are binding on the decision-maker.

3.1.35 The Minimum Wage (MW) or National Living Wage (NLW) is not a suitable metric to use to set an arbitrary level of profitability for a smaller rural enterprise, in order to assess its longer-term viability, particularly new and establishing enterprises. The specific reasons for this are:

- Self-employed people i.e. owner operators of small businesses, are specifically excluded from the legislation^{14, 15}. This a key point when considering an owner operated business
- MW and NLW rates are recommended by the Low Pay Commission (the basis of the UK Government’s figures) or by the Agricultural Advisory Panel for Wales
- There is not one ‘National Minimum Wage’ and in addition they vary over time
- MW and NLW rates will cover costs that are often reduced or not incurred by self-employed rural worker’s living and working on their own holding as laid out below
- Households may have other incomes, not laid out within the farm business accounts and which would not be considered under rural enterprise, but which would contribute towards meeting their overall financial needs in line with the intention of the MW legislation

¹³ <https://www.gov.wales/agricultural-wages-minimum-rates-pay>

¹⁴ The following reference lays out whom is entitled to claim min wage and living wage

<https://www.gov.uk/national-minimum-wage/who-gets-the-minimum-wage#:~:text=People%20classified%20as%20'workers'%20must,Wage%20or%20National%20Living%20Wage.>

¹⁵ The Agricultural Wages (Wales) Order 2022

- The imposition of MW and NLW rates as a proxy measure for the suitable level of profitability may stifle entrepreneurship for establishing smaller horticultural enterprises.

How are the Levels of Minimum Wage and National Living Wage Calculated and What are They Intended to Ensure?

3.1.36 The following text is from the gov.uk guidance for the minimum wage:

There are different minimum wage rates for workers depending on their age. The top rate (called the National Living Wage) applies to workers aged 23 and over. (Until 1 April 2021 it applied to workers aged 25 and over.) Other rates are known as National Minimum Wage rates.

3.1.37 The National Living Wage rates are the National Minimum Wage rates for workers aged 23 and over. These are set by the UK Government on the recommendation of the Low Pay Commission who consider evidence and research submitted by others in coming to their recommendation. The Agricultural Minimum Wage in Wales is set by the Agricultural Advisory Panel for Wales.

3.1.38 The Minimum Wage or National Living Wage for a self-employed person is £0.00 per hour which suggests the net profit requirement to achieve the equivalent of MW or NLW for a self-employed person is therefore £0.00. From www.gov.uk:

The following types of workers are not entitled to the National Minimum Wage or National Living Wage:

- *self-employed people running their own business.*

3.1.39 The National Living Wage level is set in order for it to progress such that it aims to reach two-thirds of median earnings (of those eligible for the National Living Wage) by 2024. The MW and NLW is intended to protect employees not owner operators. Its non-application to the self-employed recognises that it is important to not stifle entrepreneurship, including for establishing rural enterprises. The actual financial needs of the farmer are a more relevant measure.

3.1.40 The Resolution Foundation produces an annual report entitled 'Calculating the Real Living Wage'¹⁶ (RFLW). The Joseph Rowntree Foundation contributes to this via its annual 'Minimum Income Standard'¹⁷ report. There is no direct connection to the UK Government's National Living Wage however the hourly rate recommended is broadly similar and we consider that there are parallels to be drawn when considering viability and when considering the amount of income required to provide families and individuals with the means to purchase a range of goods and services.

3.1.41 For a rural enterprise run by its owners a significant proportion of these goods and services are often provided for by the nature of the enterprise and the holding themselves, and therefore not required to be 'purchased' by the owner operators. This was the basis for the Petter and Harris case as it can increase the viability of small businesses deliberately run to reduce their costs and provide for many of the needs of the operators. The judgement included the following:

¹⁶ <https://www.livingwage.org.uk/calculating-real-living-wage-2022>

¹⁷ <https://www.jrf.org.uk/report/minimum-income-standard-uk-2022>

Here, 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. Profitability was no guide to its genuineness and a poor guide to its probable continuation. The true question should have been whether the unit was sustainable in the hands of the first applicant and in that sense viable and likely to continue so, which would have probably been answered affirmatively had it been addressed by the inspector.

3.1.42 The column headings for the Resolution Foundation report calculations setting their RFRLW rates are:

- Core Basket of goods and services taken from 'the Minimum Income Standard' which includes:
 - Housing (maintenance costs not addressed by 'Rent' below)
 - Domestic fuel
 - Food and drink
 - Clothing
 - Household goods and services
 - Health and personal care
 - Transport and travel (including travel to work)
 - Social and cultural participation (including trips to green spaces etc.)
- Rent
- Council tax
- Childcare.

3.1.43 For a self-employed rural worker running their own business, often from their own land, many of these costs will be reduced or not incurred. We lay out the approximate proportion of the total RFRLW that these costs would utilise for a range different small farm households we have appraised below:

- Housing costs excluding rent are approximately 5-8% of the RFRLW
- Domestic fuel costs can often be reduced due to wood-fuels from the holding and by renewable energy systems (approximately 9-10% of the RFRLW)
- The costs of food and drink are often reduced due to consumption of produce from the enterprise (approximately 22-25% of the RFRLW)
- Clothing is approximately 3-5% of the RFRLW.
- Household goods and services including internet and phones are approximately 5-8 % of the RFRLW
- Health and personal care is approximately 5-8% of the RFRLW
- Travel to work is greatly reduced and many travel costs are absorbed into the operating costs of the business through combining journeys and the maintenance costs of farm vehicles (approximately 10-25% of the RFRLW)
- Social and cultural participation in NLW contributes to quality of life. Quality of life is often stated by rural workers to be increased through access to open spaces and the great outdoors (approximately 19-25% of the RFRLW)

- The actual costs of rents or mortgages (approximately 19-25% of the RFRLW) can be much reduced though on site housing either in caravans or a permanent home.
 - The costs of rental or land or housing are often covered by the business accounts. In some cases the applicants have no rent or mortgage to pay.
- 3.1.44 An important point is that it is our experience that individuals seeking to reduce their climate impacts and establish more climate resilient livelihoods and businesses are often happy and content with significantly lower levels of consumption of goods and services over the average and consider this to be desirable. This makes lower than average levels of income more viable.
- 3.1.45 Consumer surveys across a wider range of potentially less environmentally motivated individuals support this. Deloitte's survey 'How consumers are embracing sustainability' notes:
- In 2022, our research indicates that with fewer choices and opportunities due to the impact of inflation and supply chain disruptions, consumers are finding more 'innovative' ways to spend less, for example by adopting a more sustainable lifestyle and choosing goods that are more durable or that can be reused or repaired easily.*
- 3.1.46 The Environment and Climate Change Committee report: In our hands: behaviour change for climate and environmental goals¹⁸ (Oct 2022), supports this finding and notes that:
- recent survey findings indicating a willingness or desire among a majority or significant minority of respondents to undertake certain changes across consumption, travel, energy use and diet*
- 3.1.47 A recent appellant at an English appeal did not incur an estimated 43% of the costs that would be covered by the RFRLW due to living and working on his land. In our experience of other households living on their own holding this saving can be as high as 60-65% of the costs particularly if they have no mortgage or rent to pay.
- 3.1.48 If we assume a NLW of £10.40 per hour from April 2023, based on a 37.5 hour week as the NLW methodology, the total income for the year would be £20,280. A reduction of 43% of the costs due to the goods and services that arise from the activities on the holding would decrease the required net profit to £11,560 whilst still providing for all the items the Resolution Foundation suggested a living wage should cover. The appellant's actual income totalled £16,307. This significantly exceeds £11,560 and was plausibly projected to increase.
- 3.1.49 Due to the relatively low costs associated with some small farms the return on investment represented by these levels of profitability can also be significant (see Appendix A).
- 3.1.50 We agree that workers employed by a business should be paid Minimum Wage.
- 3.1.51 We are clear based on the applicability of the MW / NLW legislation, and the broader consideration of what costs a 'National Living Wage' should cover that the Minimum Wage or National Living Wage is not an appropriate standard by which to assess the financial viability / profitability of small agricultural enterprises.
- 3.1.52 Furthermore, detailed examination of the financial needs that a number of researching organisations consider a National Living wage should cover to allow a reasonable quality of life shows that in many cases nearly half of them would be accounted for by various

¹⁸ <https://committees.parliament.uk/publications/30146/documents/174873/default/>

aspects of the enterprise and holding, and therefore not required to be met through financial income. This further makes the point that the MW / NLW is not sensible to apply as a prescriptive test.

- 3.1.53 The financial viability of each enterprise should be assessed against the actual financial needs of the specific applicants and not an arbitrary proxy minimum profitability figure. It is a fundamental principle of the planning system that each case is examined on its merits.
- 3.1.54 OPD is a fundamentally different form of development, being based on a consent of an entire land use system, and therefore simply passing smaller agricultural enterprises which do not meet the requirements of the practice guidance over to OPD is not a satisfactory response as it effectively seeks to classify small-scale farm enterprises of any sort as OPD. There may well be '*unconventional or subsistence enterprises*' which are nonetheless useful members of a local food network and not OPD as both will be selling food. In this respect the RED practice guidance feels dated and narrow.

3.2. OPD

- 3.2.1 The sections above dispute elements of the practice guidance for REDs in application to small, predominantly horticulture-based enterprises. There is no such dispute or OPD, and therefore this section merely summarises how small, predominantly horticulture-based enterprises may also fit the requirements of OPD where there is a choice to be an ecological farm.
- 3.2.2 In summary, OPD requires that much of the household's needs are met from the site – food, energy, water, waste assimilation and minimum income needs. Minimum income needs cover:
- Clothes
 - Travel
 - IT / communications
 - Council Tax
 - Food not grown.

This can amount to between approximately £5,000 to £10,000 for households of between two and five or more people, and has to be provided from grown or reared produce.

- 3.2.3 There is also a requirement to meet a household ecological footprint of 2.4 global hectares per person, with clear potential to move towards 1.88 global hectares over time within five years of first occupation, and other detailed monitoring requirements. All of these requirements are captured in a binding Management Plan (MP), which is conditioned as the foundation of the consent and reviewed at least every five years.
- 3.2.4 Another important feature of OPD is that the MP contains an exit strategy, whereby should the MP not be followed and corrective action not taken the dwelling and any other elements of the development not helpful to leave behind are required to be removed.
- 3.2.5 It is not a requirement of OPD that income is minimised. Beyond meeting the minimum income needs other household expenditure is allowed, but will be captured by the ecological footprint calculation.
- 3.2.6 All OPD's, because of the requirement that their minimum income needs are met from on-site growing / rearing, and that they have to substantially feed themselves, will contain a significant proportion of horticulture and other farming activities. We are aware of a number of OPDs where horticulture, sometimes with a small amount of incidental animal

rearing, is the lead enterprise, and of a scale where it is sufficient to support the household on its own. The largest has an area of field-scale vegetable production and two very large polytunnels, and turns over in excess of £30k a year.

4. Summary & Conclusions

4.1. Summary

- 4.1.1 In our experience there is no reason why well-executed horticulture-based enterprises should not satisfy the functional and time tests, and we have solid experience of this in decisions made by LPAs and by Inspectors. There is an apparent bias, probably unintentional, in the minds of certain assessors and planning officers against such enterprises due to their scale and lack of animals, but we hope that can be overcome with the fuller information provided here.
- 4.1.2 Turning to the financial test, again we are well versed in small horticulture-based enterprises comfortably satisfying this test. However, the practice guidance's approach to 'minimum wage' is problematic and overly generalised. When the circumstances of these sorts of enterprise are considered in detail, and the specifics of the various version of 'minimum wage' are also paid attention to, the fit with these enterprises is not reasonable, and in effect a bias against them. Case law and recent decisions in England also do not support such a rigid and prescriptive approach to viability, which arises differently on different sorts of farms, and often on smaller horticulture-based ones. We suggest that the practice guidance is of limited application in this respect.
- 4.1.3 The practice guidance flags OPD as an alternative route for small enterprises it does not favour. However, not all of these will be a good fit with OPD, which is a fundamentally different sort of development. OPD can also be a good home for small horticulture-based enterprises which also wish to have strong ecological principles. As such we believe there is no firm dividing line in reality, and it is unhelpful for the RED practice guidance to assume this.
- 4.1.4 Considered on their merits, we feel there are strong cases for small horticulture-based enterprises to gain temporary and then permanent consents for REDs, and as OPDs. We understand that there is a longstanding professional bias against such farms (too small, not enough animals...) but suggest that recent experience and the changing asks of farming and local food systems, means that it is time to re-examine these issues. This may be in planning decisions to come, with the better understanding laid out above, and also in future revisions of policy and guidance.

4.2. Workshop

- 4.2.1 The workshop was well attended with representatives from Our Food 1200, Bannau Brycheiniog National Park, Monmouthshire & Powys County Councils.
- 4.2.2 The report was well received and its findings supported, including the increasing importance of small scale horticultural production to wider environmental concerns, and the importance of reproducing the National Park landscape and others as living landscapes.
- 4.2.3 Our Food 1200 introduced their two IWA articles¹⁹ which, amongst other things, showed that a two-acre commercial fruit and vegetable growing enterprise, operating on regenerative principles, has a net income of £35,000-£40,000, compared with £34,300 for the average Welsh farm, 57% of which is subsidy (the former receiving no

¹⁹ <https://www.iwa.wales/agenda/2023/06/how-wales-gets-its-food-back-fruit-and-veg-farming/>,
<https://www.iwa.wales/agenda/2023/06/getting-back-our-food-let-there-be-farms/>

subsidy). This demonstrates the importance and validity of such farms as part of a spectrum of all farms, and their need to be supported.

- 4.2.4 It was therefore recognised that new policy and guidance was needed to provide better support for the residential needs of small scale horticulturally-based enterprises and potentially other land-based enterprises also delivering wider policy objectives. It was simultaneously recognised that such policy and guidance would still need to differentiate between viable businesses with a genuine need to live on site and other rural enterprises. This is not a matter of generally loosening control, more one of adding to the scope of policy and guidance to meet currently understood needs.
- 4.2.5 Whilst it was understood that OPD offered an alternative to REDs, the meeting felt that addressing the change needed to REDs was where future work should be focused, as the OPD route is already open, but the RED route partly closed, and also more appropriate for more applicants / enterprises.
- 4.2.6 In the National Park it was discussed that REDs, including for small scale horticulture, may have important roles in reproducing the landscape and other special qualities of the protected landscape, and this may be able to be captured by policy and guidance.
- 4.2.7 The three Authorities resolved to investigate how to progress changes to policy and guidance. As all three defer to national policy on these matters, and their review of Local Development Plans is some way distant, the focus is likely to be on producing Supplementary Planning Guidance for REDs, which may be shared across the three Authorities. It was also discussed that other Welsh Authorities may wish to join in this work, but not at the expense of slowing it down.

4.3. Recommendations

- 4.3.1 It is recommended that the three Authorities produce shared Supplementary Planning Guidance for REDs focused on the importance of REDs for enterprises delivering outcomes necessary to tackle the climate and ecological emergencies, and more widely produce the living rural landscapes needed to secure resilience and vitality in the communities, economies and land management of rural Wales. In the National Park this should include reproduction and evolution of the special qualities of the protected landscape.
- 4.3.2 It is also recommended that the three Authorities seek to join with other Welsh Authorities in this work, and potentially the Welsh Government, but not at the expense of slowing it down.
- 4.3.3 In parallel it is recommended that Our Food 1200 and the Authorities compile and maintain a collection of smaller horticulture-based businesses and best practice in this sector (including from outside Wales), to be of use to officers, independent assessors and applicants.
- 4.3.4 Finally, it is recommended that officers and councillors from the three Authorities, and fellow farmers and growers, are invited to visit successful smaller horticulture-based businesses on a regular basis, together. In our experience there is no substitute for seeing and experiencing what such businesses are like. They also have much to learn from each other.

5. Appendix A

- 5.1.1 In this Appendix we lay out the detail of three farms which we have first-hand experience of, which contribute to our expert opinion. We have done this in the form of a table which references four Appeal Decisions (also provided as evidence) and four applications that have been approved that did not go to appeal because all parties agreed that there was an essential need for the owner operators of the horticultural businesses to be resident on their holding for the effective operation of those businesses and other appropriate tests had been met.
- 5.1.2 These holdings are cited here because they are horticultural enterprises whose essential need case was made either entirely without livestock (Sydling Brook and Slight Hill), or in all other cases with very low numbers of animals. In all cases the animals contribute mostly to the wider management of the farm system and the subsistence of the farmers, make a very small contribution to profit and would not be considered of a scale sufficient to create an essential need if viewed in isolation. The essential need case was considered to be made based upon a mixture of contributing factors.
- 5.1.3 The table in the Appendix lists:
- Four Inspector's Decisions
 - One farm, Trevalon, with subsistence animals
 - One farm, Sydling Brook, without animals
 - One farm, Slight Hill, without animals
 - One farm, Cuddiford Meadow, with a small flock of poultry and two pigs.
- 5.1.4 It also details the development of three farm businesses that we have direct experience of. It shows a comparison of their size and performance upon the granting of temporary permissions and then their size and performance upon granting of permanent permissions or their latest figures. The figures are given with the permission of the farms but they request that the information remains confidential. The farms are:
- Slight Hill, horticulture without animals
 - Mora Farm, horticulture with a small flock of poultry
 - The Real Food Garden, horticulture with a small number of animals.
- 5.1.5 The table details:
- Four determined planning applications for rural worker's dwellings on these three farms which have been granted accepting the essential need case for what are essentially horticultural enterprises, based upon a mixture of contributing factors
 - An update from Mr Newbury the owner/operator of Slight Hill Farm, a vegetable only farm, showing how the business finances have developed since being granted permanent permission for the dwelling in 2019
 - One planning application for permanent permission (Real Food Garden) which is not yet determined, but which has had the essential need case agreed by the LPA land agent as a matter of public record.
- 5.1.6 Information for each farm is given in columns within the table. These decisions are particularly of note and relevant to this holding because the farms in question are all:

- In the South West and have a similar grade of agricultural land
- Are all small farms.
- Crop similar acreages of outdoor vegetables. Some a little smaller and some a little larger
- Have similar amounts of sheltered cropping for vegetables
- Produce a similar range of many different vegetable crops
- Propagate their own seedlings
- Market through a mix of outlets and direct sales.

5.1.7 None of these farms would have passed the 'minimum wage test' at the time of their application for a temporary rural worker's dwelling. However, performance over time has shown them to be resilient.

5.1.8 The table groups the applications for temporary and permanent permission for each farm. This helps demonstrate their ongoing profitability, viability and resilience, despite modest levels of profitability at the time of the temporary application.

Appendix – Detail of Smaller Farms. Functional need and Financial performance

Comparison of Inspector's decisions, other small farms		Acres (Ha)	Acres (Ha)	m2 (Ha)			All figures at time of appraisal or decision if known	All figures at time of appraisal or decision if known		
Site Name	Farm size	Horticultural area size	Tunnel area	Business	Markets	Turnover	Net Profit	Return on investment	Notes	
Appeal decisions PINS ref										
APP/K0805/C/07/2058055 and 2058053	Trevalon, Herodsfoot, Uskeard, PL14 4RS	18 acres (7.39 ha)	3.95 acres (1.6 ha)	two tunnels plus a smaller propagation tunnel	field scale vegetables, sheltered cropping in tunnels, Propogation of seedlings for use on site plus some fruit	<ul style="list-style-type: none"> veg boxes restaurants & retail local produce markets. 	Not available	Not available. But Inspector accepted it was viable	Not available	Functional / essential need accepted
APP/F1230/C/07/2055628 and 9	Sydling Brook, Upsydling, Dorchester, Dorset DT2 9PQ	16 acres (6.5 ha)	8 acres (3.25 ha)	four tunnels	field scale vegetables, sheltered cropping in tunnels, Propogation of seedlings for use on site	<ul style="list-style-type: none"> veg boxes restaurants & retail 	Not available	10,929	Not available	Functional / essential need accepted. Financial performance considered acceptable and has been proven by time, see Slight Hill.
APP/D0840/W/15/3132813 - Temporary permission	Slight Hill, Heamoor, Penzance, Cornwall TR20 8UJ.	6.5 acres (2.6 ha)	2 acres	185 m2 + 185 m2	field scale vegetables, sheltered cropping in tunnels, Propogation of seedlings for use on site	<ul style="list-style-type: none"> veg boxes wholesale 	Not available	14,064	Not available	Functional / essential need accepted See permanent permission and update below
APP/J9497/W/21/3272334	Cuddyford Meadows, Rew Road, Ashburton TQ13 7EJ	3.8 acres	0.5 acre	200 m2	Intensive no/min dig bed vegetables (0.25 acre at application), sheltered cropping in tunnels, Propogation of seedlings for use on site plus some fruit and small flock (40 birds) chickens and pigs 2 sows plus litters.	<ul style="list-style-type: none"> farm stall restaurants, direct sale & retail glamping 28 days 	37,680	20,750	Not available	Functional / essential need accepted.
Applications that didn't go to appeal										
PA19/04689 - Permanent Permission	Slight Hill, Heamoor, Penzance, Cornwall TR20 8UJ.	6.5 acres (2.6 ha)	2.3 acres	185 m2 + 185 m2 plus two additional in future	field scale vegetables, sheltered cropping in tunnels, Propogation of seedlings for use on site	<ul style="list-style-type: none"> veg boxes restaurant and retail wholesale 	30,391	16,639	not calculated	Functional / essential need accepted Actual performance at time of application
UPDATE FROM OWNER 2023	Slight Hill, Heamoor, Penzance, Cornwall TR20 8UJ.	6.5 acres (2.6 ha)	2.5 acres	702 m2 in four tunnels	field scale vegetables, sheltered cropping in tunnels, Propogation of seedlings for use on site	<ul style="list-style-type: none"> veg boxes restaurant and retail wholesale 	£42,720	27,408	Not available	actual performance from accounts 2021 / 22
PA17/01490 - Temporary Permission	Land at Kilham Farm (Mora Farm), St Neot, Cornwall, PL14 6HG	11.3 acres	4 acres (3 acre fruit and 1 acres vegetables)	200 m2	Fruit growing, Vegetables , sheltered cropping in tunnels, Propogation of seedlings for use on site and small flock 40 chickens and 70 ducks for christmas.	<ul style="list-style-type: none"> supplies a local veg box scheme restaurants & retail 	20,650	-2,950	not calculated	Actual performance at time of temp application.
PA21/05638 - Permanent Permission	Mora Farm, St Neot, Cornwall, PL14 6HG	11.3 acres	6 acres (4 acre fruit and 2 acres vegetables)	200 m2 + 125 m2 + 3,600 m2 (seasonal spanish tunnels)	Fruit growing, field scale vegetables, Intensive no/min dig bed vegetables, sheltered cropping in tunnels and spanish tunnels, Propogation of seedlings for use on site and small flock (20 birds) chickens.	<ul style="list-style-type: none"> supplies a local veg box scheme restaurants & retail 	80,056	37,000	23%	Note the difference when small enterprises are supported
PA18/00063 - Temporary Permission	The Real Food Garden, Trelowarth, Kerriers Road, Inchs Bodmin, PL30 5LR	3.96 acres,	1.5 acre	120 m2 + 156 m2 + 30 m2 prop	Intensive no/min dig bed vegetables (0.7 acre at application), sheltered cropping in tunnels, Propogation of seedlings for use on site plus some fruit and small flock (40 birds) ducks and chickens.	<ul style="list-style-type: none"> veg boxes restaurants & retail local produce markets. 	11,020	4,417	not calculated	Actual performance at time of temp application
PA22/07974 - Permanent Permission - being determined County land Agent has supported the essential need.	The Real Food Garden, Trelowarth, Kerriers Road, Inchs Bodmin, PL30 5LR	9.72 acres	2.05 acre	120 m2 + 156 m2 + 30 m2 +30 m2 prop plus one additional proposed	Intensive no/min dig bed vegetables, plus field scale vegetables (2.05 acre at application), sheltered cropping in tunnels, Propogation of seedlings for use on site plus some fruit and small flock (40 birds) ducks and chickens, small numbers of 6 sheep and pigs 3 sows and litters .	<ul style="list-style-type: none"> veg boxes farm stall restaurants & retail local produce markets. 	71,315	36,259	31%	Note the difference when small enterprises are supported

Slight Hill, Cornwall. Mr Newbery. This red line 6.5 acres.



Mora farm, Cornwall. Mr Baker. This red line 11.3 acres

<https://www.morafarm.co.uk/>



Real Food Garden, Cornwall. Ms Bine and Ms Lake. This red line 9.72 acres.

<http://www.realfoodgarden.co.uk/>





Appeal Decisions

Inquiry held on 9/10 July 2008

Site visit made on 10 July 2008

by **Roger Priestley BA(Hons) DipTP**
MRTPI FRGS

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
12 August 2008

Appeal Refs: APP/K0805/C/07/2058055 and 2058053 Trevalon, Herodsfoot, Liskeard PL14 4RS

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Mark Simon (ref. 2058055) and Orchard Land Trust Ltd (ref. 2058053) against an enforcement notice issued by Caradon District Council.
- The Council's reference is MA/LI/041136.
- The notice was issued on 17 September 2007.
- The breach of planning control as alleged in the notice is (i) the unauthorised residential use of a static caravan and (ii) the unauthorised siting of a storage container.
- The requirements of the notice are :
 - (i) Cease the residential occupation of or remove the static caravan from the site; and
 - (ii) Permanently remove the storage container from the site.
- The period for compliance with the requirements is 2 months.
- The appeal by Mr Mark Simon is proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 as amended. The ground (c) appeal relates to the storage container only.
- The appeal by Orchard Land Trust Ltd is proceeding on the grounds set out in section 174(a), (c) and (g). The ground (c) appeal is likewise made in respect of the storage container only.

Appeal Ref: APP/K0805/A/07/2058497 Trevalon, Herodsfoot, Liskeard PL14 4RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Orchard Land Trust Ltd against the decision of Caradon District Council.
- The application Ref 07/00175/FUL, dated 1 February 2007, was refused by notice dated 3 May 2007.
- The development proposed is mobile home, for residential use by key agricultural worker, as workers rest room and office.

Decisions

The s.174 appeals

1. I direct that the enforcement notice be corrected by the deletion of allegation (i) and the substitution of "a material change to a mixed use for agriculture and for the stationing of a caravan for residential purposes". I allow the appeal on ground (a) insofar as it relates to the residential caravan and I grant planning
-

permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the stationing of a caravan for residential purposes subject to the following conditions:

- (a) The use of the land for the stationing of a caravan for residential purposes, as hereby approved, shall be temporary and the residential use shall be discontinued and cease on or before the expiration of 3 years from the date of this decision or upon the cessation of the caravan's occupation by Mr M Simon and his dependants.
 - (b) The occupation of the caravan shall be limited to a person solely or mainly employed on the agricultural unit at Trevalon in agriculture and to any resident dependants.
2. I direct that the enforcement notice be varied by the substitution of 12 months for 2 months in the time for compliance in clause 6. I dismiss the appeal and uphold the enforcement notice as corrected and varied insofar as it relates to the storage container, and I refuse planning permission in respect of the storage container, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The s.78 appeal

3. I allow the appeal, and grant planning permission for the stationing of a mobile home, for residential use by key agricultural worker, as worker's rest room and office, as already carried out at Trevalon, St Keyne, Liskeard PL14 4RS, in accordance with the terms of the application, Ref 07/00175/FUL, dated 1 February 2007, and the plans submitted with it, subject to conditions set out above.

Procedural matters

The allegation

4. A material change of use is alleged in relation to the siting of a caravan for residential purposes. The parties are agreed, however, that the notice should more accurately describe a mixed use reflecting the agricultural use of the land. I shall correct the notice to this effect and am satisfied that I can do so without causing injustice.

The requirements

5. Insofar as the static caravan is concerned the requirement is to either cease the residential occupation or remove the caravan from the site. At the commencement of the Inquiry the Council asked that this be varied so as to require both the cessation of the residential use and the removal of the static caravan from the land.
6. The injustice argument for the appellants has force in that implementation of such a variation would place them in a worse situation than if the notice had not been appealed. It follows that I do not intend to vary the notice. In any event I am alive to the extent to which the caravan as a matter of fact is arranged and used as a farm office by Mr Simon. The strong likelihood is that should residential use not be permitted then use as a rest room and farm office

would continue. At the inquiry attention was drawn in this regard to the finding in *Wealden DC v. SSE and Day [1986]* that a use for the purposes of storage, shelter and food preparation was ancillary to the primary agricultural use such that no development or breach of control had occurred.

The s.78 appeal – description of development

7. The application as submitted was for a mobile home for residential use by key agricultural worker, as worker's rest room and office. The Council's revised wording which appears in the refusal notice would not appear to have been agreed by the appellant at any stage and I shall therefore proceed on the basis of the application as initially described. As the development has already commenced I shall consider the application as retrospective, relating to an application made under s.73A of the Act, as amended.

The site visit

8. My site visit was carried out during the morning of 10 July. Mr Taylor of The Byre, Coombe farm, St Keyne and Mr and Mrs Wright of Coombe Farm House arrived at the site at the appointed time but Mr Simon was unwilling for them to be on his land. I indicated that I would proceed at the site itself accompanied by the principal parties only. Mr Taylor complained at being excluded but I explained that the inquiry had adjourned and that I would not be hearing evidence. At the same time I agreed to a request to view the land afterwards from Coombe Farm House and Coombe Barn (Mr Mallard). Mr and Mrs Wright and Mr Mallard were opposed to Mr Simon being present on their land. Both Mr Simon and Mr Andrews, the Council's representative, were agreeable for me to continue with this part of my visit in their absence. These procedural arrangements were explained when the inquiry resumed.

Background

9. Trevalon Organic Vegetables is an organic horticultural enterprise established by Mr Simon, company secretary of Orchard Land Trust Ltd which purchased the 7.39 ha of land in 2005. When the enterprise was established Mr Simon was living at Portwrinkle some 9 miles to the south east; he moved to the site in February 2007. Trevalon is now registered with the Soil Association and received full organic status in September 2007. The first full season of vegetation production was in 2006/07 when 0.6ha were cultivated. At the time of the inquiry some 1.6ha were being used for vegetable production. Two polytunnels are in use and also a propagation polytunnel. An area of fruit trees and bushes has also been planted and a barn nears completion. Planning permissions have been granted for the erection of further polytunnels. Two people are employed on Wednesdays and Thursdays when delivery of boxed vegetables takes place and three customers work on a casual basis in exchange for vegetable boxes. There is also currently, for 8 weeks, a volunteer worker from France who occupies one of 4 tourer-type caravans on the land. Another of these caravans is used for the storage of cardboard boxes prior to their use.

The ground (c) appeals – The storage container

10. The metal storage container measures some 6.1 metres in length, 2.4 metres in width and 2.4 metres in height. It weighs around 3 tons and rests on railway sleepers. It was off-loaded by crane when it was brought to the site in

September 2006 and has not been moved since. It is used as a vegetable storage / packing facility.

11. When considering that the container has been in the one position since being moved onto the land, its size, substantial weight and the resultant likelihood that it could not be moved without the use of a crane or similar lifting gear, I find as a matter of fact and degree that its siting has amounted to operational development. I find close comparison with the Thurrock and Rochdale decisions which the Council have drawn to my notice. I appreciate that in the 'Twin Oaks' case handed in for the appellants the Inspector found a container and van body to amount to a use of land, but as there is little information apart from the indication that the container in that instance was small I am unable to ascribe that case any significant weight.
12. The present container cannot amount to a temporary building under Part 4 Class A of the GPDO since planning permission has not yet been granted for a permanent storage / packing facility [proviso A.1(b)]. The container, moreover, does not store materials or equipment connected with the pole barn now nearing completion and is unrelated to the construction of that barn. The appellants cannot benefit from the provisions of Part VI of the GPDO since the container was plainly not designed for agricultural purposes. It follows in these circumstances that the ground (c) appeals fail.

The s.174 ground (a) appeal, the deemed application and the s.78 appeal

The caravan

13. I address these appeals together since in effect they concern the same development, and consider the main issue to be the agricultural need for the residential accommodation on the holding bearing in mind prevailing planning policies and in particular the advice set out in Annex A to Planning Policy Statement (PPS) 7 – Sustainable Development in Rural Area. Although not clear from the application form it was made plain for the appellants at the opening of the inquiry that a temporary permission was sought. I proceed on this basis.
14. Annex A to PPS7 in relation to temporary dwellings sets out in paragraph 12 the criteria which should be satisfied for planning permission to be granted. Criterion (i) calls for clear evidence of a firm intention and ability to develop the enterprise and the Council take no issue on this point. Given Mr Simon's experience living and working full-time on an organic farm that grew vegetables for a box scheme before moving to Cornwall, and the extent to which the existing enterprise, incorporating the provision of the polytunnels and the barn, has already developed, I see no reason to conclude otherwise. I reach this view having taken into account the concerns of a local resident as to continuing piecemeal development. I have also borne in mind the article about Trevalon in the Telegraph Magazine which refers amongst other things to the 'Community Farm'.
15. Criterion (ii) concerns functional need. There is at present on the holding a predominance of salad crops, and cultivation and harvesting is almost continuous. Mr Simon raises his own transplants and I can appreciate that by doing so plants such as sweetcorn which I heard is particularly sensitive can be re-planted when they have reached their optimum growing point and when soil

and weather conditions are most appropriate. It is plainly imperative to maximise efficiency.

16. A thermostatically controlled gas heater is used in the propagation tunnel, connected to an alarm that will alert Mr Simon when the temperature drops below 3°. I fully accept that this could require action late at night or in the early hours of the morning during March and April when a large number of seedlings are being propagated. As to crops growing outside the polytunnels I can appreciate also that specific localised conditions might not necessarily be reflected in meteorological predictions and have noted that Mr Simon has placed a fleece over crops at midnight when a frost was expected so as to allow him to harvest the crop the next day.
17. This, moreover, is an exposed site and I heard that Mr Simon once saved the polytunnels by moving 200 bales of hay up the hill in the middle of the night to form a wind break. A polytunnel frame of the variety used at Trevalon and costing around £1000 could be saved from contortion by cutting the plastic and I accept that such an eventuality could only be properly watched for by on-site presence. Weather conditions were atrocious on the first day of the inquiry when Mr Simon was necessarily away from the holding for several hours. The agriguard covering was in part blown off and I saw the next morning that the crops which had been left exposed had been badly affected by pests, in all likelihood, rabbits. That said, I do not attach weight to the threat to outdoor crops from stock from neighbouring farms as I believe that this could be prevented by attention to gateways.
18. There is also a security factor here, albeit by itself of limited weight. During the first year of the operation prior to Mr Simon moving onto the site half a dozen incidents occurred, reported to the police, including an arson attack on a caravan, the theft of a post box and a gate lock being super-glued. There have been no such incidents since Mr Simon moved onto the site in February 2007.
19. The role of routine jobs on the holding is also material when considering the hours involved. Irrigation in the height of summer takes some 2½ hours both morning (07:00 – 09:30) and evening (18:30 – 21:00); as much as 10,000 litres of water can applied per day on a schedule involving altering pipes every half hour. Efficiency is again important since the water source is a tank filled steadily by a spring and once empty takes all day to fill. The early morning work at Trevalon also involves the harvesting of salads and other leaf crops such as spinach and chard when they are cool and full of moisture. Taking all these factors together, I consider it to be essential for the proper functioning of the enterprise for someone to be readily available at most times.
20. Criterion (iii) requires clear evidence that the enterprise has been planned on a sound financial basis. A business plan was prepared in January 2007 setting out the nature of the organic horticultural enterprise including the vegetable box proposals, the wholesale of vegetables and salads, and the diversification into fruit trees/soft fruits. Much progress has been made.
21. Having said that, the profit and loss projections were overly optimistic. The demand for boxed vegetables has exceeded what has been available from the holding and the amount of bought-in produce has been greater than anticipated. The draft accounts, moreover, for 2007/08 show that if the

bought-in produce for that year were deducted there would have been an overall loss rather than profit. The information in this respect supplied on the second day of the inquiry showed that boxed deliveries for the first week of July 2008 totalled in value some £344 of Trevalon produce and approximately £277 of produce bought-in and then marked up for re-sale. Mr Simon concedes that there is "a hole in his record keeping. I am conscious, however, that there were difficult conditions in the summer of 2007 with high rainfall experienced. I am mindful also that Mr Simon's business partner Mr Cavendish left during the winter of 2007/08 and that as a consequence he has had to undertake a larger proportion of the work himself.

22. Despite these setbacks and the limited detail at this stage on the split between Trevalon and bought-in sales, I am content that the enterprise nonetheless has been planned on a sound financial basis. Paragraph 1.47 supporting Local Plan countryside housing Policy H07 states in terms that temporary accommodation may be granted for up to 3 years to allow an applicant the time to demonstrate that the business is sustainable.
23. Turning to criterion (iv), the suggestion that the appellant looks to rent a dwelling in Liskeard or nearby village which has a greenhouse or similar facility for plant propagation or which has space in a garden for a structure to be so used, is to my mind unrealistic. Without an on-site presence Mr Simon would be unlikely to propagate his own seedlings, and, irrespective of additional cost, the efficiency of the enterprise would be compromised. His capital, moreover, has gone into the business and additional polytunnels which have received planning permission are proposed. I can well understand Mr Simon's concerns as to the viability of the enterprise in the context of the likely costs of renting alternative accommodation in the area. Mr Simon, moreover, has 2 sons aged 9 and 11 in his care 3 to 4 days a week and, albeit a personal consideration carrying more limited weight, this is nonetheless material in the context of the long working day at Trevalon. I am not therefore satisfied that the functional need could be met by other accommodation which is suitable and available.
24. Annex A criterion (v) requires other normal planning requirements to be met and in this regard I have considered the objections of the Council and others as to the visual impact of the caravan in what is designated locally as an Area of Great Landscape Value (AGLV). It falls within the South Caradon Landscape Character Area. The caravan is situated on high ground above the well wooded and heavily incised valleys of the East and West Looe rivers. Even so, and whilst recognising that my inspection took place in mid summer with trees and hedges in full growth, views of the caravan from public vantage points are limited. The enforcement notice as I have explained does not seek the removal of the caravan and in any event if a residential use is not permitted then the use of the caravan for purposes ancillary to horticulture would be likely to take place. This is a pertinent fall back position, and against this background I find no substantive landscape objection.
25. The requirements of Annex A paragraph 12 in relation to temporary accommodation are met; a temporary permission would be consistent with the objectives of Policy H07.



Appeals Decision

Inquiry held on 29 April 2008

Site visit made on 29 April 2008

by **Colin A Thompson** DipIArch DipTP
RegArch RIBA MRTPI IHBC

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
9 May 2008

Appeals References: APP/F1230/C/07/2055628 and 9 Sydling Brook, Upsydling, Dorchester, Dorset DT2 9PQ

- The appeals are under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
- The appeals are by Daniel Newbury and Natalie Pattison against an enforcement notice issued by West Dorset District Council.
- The Council's reference is ENF/07/00289.
- The notice was issued on 21 August 2007.
- The breach of planning control as alleged in the notice is the change of use of the land to land used for the stationing of a mobile home (within the hatched area on Plan B, shown for identification purposes only) for residential purposes.
- The requirements of the notice are:
 - (a) cease the use of the land for the stationing of a mobile home for residential purposes, and;
 - (b) remove from the land the mobile home together with any ancillary equipment associated with the unlawful use.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g), of the Act.

Decision

1. I allow the appeals, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the change of use of the land to land used for the stationing of a mobile home for residential purposes (within the hatched area on Plan B attached to the notice, shown for identification purposes only) subject to the following condition:
 - 1) The use of the land for the stationing of the mobile home for residential purposes, as hereby approved, shall be temporary and the residential use shall be discontinued and cease on or before any of the following events: the expiration of 3 years from the date of this decision; or upon the cessation of the mobile homes' occupation by Mr Daniel Newbury, Ms Natalie Pattison and their dependant(s); or on Mr Daniel Newbury and Ms Natalie Pattison stopping organic vegetable and fruit production on the Upsydling Estate.

The Notice

2. The breach of planning control refers to the stationing of a mobile home /caravan on the land. I saw that a covered lean-to had been added to one of its sides. For completeness the notice could be varied to refer to this additional structure.
3. The requirements of the notice state that the mobile home together with any ancillary equipment associated with the unlawful use should be removed from the land. The appellants make the reasonable observation that it is only the residential use of the mobile home which is objected to. Should it (the mobile home) be used for agricultural purposes associated with their business, such as for a worker shelter, store /office, then its stationing on the land might not be development requiring planning permission. Varying the requirements of the notice, so that the mobile home shall simply cease to be used for residential purposes, could overcome any potential difficulties.
4. Both the above variations are reasonable and would add clarity and will be made should I dismiss the appeals and uphold the notice. They are relatively minor matters which would not cause injustice.

The Ground (a) Appeal

Background

5. This ground is that planning permission should be granted.
6. The site is within a farmyard but for planning policy purposes it is located in open countryside which is also part of a designated AONB. There are longstanding national and local policies which require that residential development in such areas is controlled strictly.
7. Annex A to Planning Policy Guidance 7: Sustainable Development in Rural Areas (Annex A) and Policy HS6 of the West Dorset Local Plan (Policy HS6) are germane. They set out the requirements for the grant of planning permission in the circumstances of these appeals.
8. The land is rented from Upsydling Estate which is an organic farm of some 1,012 hectares which has been owned and managed by Mr Alistair Cooper since 2003. There is currently no agricultural housing available on the estate. Of the 6 estate dwellings used by agricultural workers all are occupied and there is a waiting list. Mr Cooper employs some 13 people presently; not including the appellants who, apart from having a symbiotic relationship with the estate (they provide produce for the Organic Farm Shop and borrow pigs for ground clearance /fertilization), are a separate business.
9. Setting aside countryside conservation concerns the Council confirm that there is no objection to the siting of the mobile home, which is well related to existing buildings, and agree that the unlawful use of land has had little visual impact on the character of the surrounding rural area. Vehicular access is also acceptable. The accommodation is modest and is appropriate for the functional requirements of the holding. No dwellings, or buildings suitable for conversion to dwellings, appear to have been sold or alienated from the wider holding recently.

10. The Council have also accepted that there is clear evidence of a firm intention and ability to develop the enterprise concerned. But retain some fears about the future of the business after 2016 or 2021 (these dates are respectively the 10 year break point, and lease end, for the appellants' use of the rented land).

My assessment

11. From what I saw on the accompanied site visit I agree with the above concessions. In particular there is clear evidence of a firm intention and ability to develop the enterprise concerned. Not only have the 4 polytunnels been purchased and put in place but also there is an extensive irrigation system on the land and investment in other farm machinery was apparent. The 3 hectare or so orchard, which is presently being planted, is proof of a developing and expensive longer term commitment.
12. The Council's concerns regarding the shortness of tenure for the land could be overcome by linking any planning permission directly to the appellants and their business. Such a personal condition would not be unreasonable bearing in mind that the mobile home which Mr Newbury and Ms Pattison occupy is owned by their landlord and comes as part of the overall rental package for the business (that is the 6.5 hectares of land, the use of a storage barn and the caravan).
13. But that said the main thrust of these appeals concern Annex A and Policy HS6 which set out what is needed to justify residential development in the countryside. Both the relevant policies have a similar restrictive purpose. There are 2 outstanding and crucial tests which must be satisfied; a functional one and a financial one.

Functional Test

14. To justify a dwelling in the countryside, remote from existing settlements, it is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such requirements might arise, for example, if workers are needed to be on hand day and night.
15. The appellants live in a caravan in the estate farmyard to run their organic vegetable and fruit production business. The caravan is about 200m from their land. The appellants have obtained planning permission for their 4 polytunnels. They produce up to 68 varieties of vegetables and fruit for local commercial outlets and in addition presently deliver some 170 boxes of vegetables per week to individual customers. About half the 6.5 hectares of land they rent is given over to vegetable production, in an open area of field and the polytunnels, the rest is being developed as an orchard (presently some 170 trees are planted but this is intended to be expanded to about 3,500 trees in the next few years and is being developed with help from an ANOB grant). Fruit production from the orchard is not expected to come on-stream until the autumn of 2009 with trees taking about 9 years to produce a full crop so at present vegetable production and sales are the business's main income generator.
16. The life of an organic vegetable and fruit grower is a hard one. This business produces its own plants, including some plant material for the expanding

orchard. There is an active growing season with an almost constant production of seedlings from January through to October. Twelve hour days can be normal and 18 hour days by no means rare.

17. The essential operations that require night-time and /or very early morning presence on the site include the following:

- (i) the polytunnels are needed for the protected cropping and require a specific management system. They are difficult to convert to automatic temperature control systems by the nature of their crude simplistic construction. Opening and closing vents in the ends of the tunnels being the most practical option. Because of the extremes of hot and cold which can be produced under plastic adequate ventilation at all times is essential for the good the health of the plants. Manual controls are simplest and most reliable but are only truly effective if someone lives on the site in order to respond to changes quickly. I am not convinced that sophisticated automated ventilation controls suitable for intensive animal housing would be appropriate for such low-tech structures;
- (ii) the plants are reared in the polytunnels. On site rearing is practiced mainly because this represents a substantial element in any potential profits for the enterprise. Young plants need protection and are very susceptible to rapid changes in temperature and humidity. Regular checks, including night-time ones, need to be made to prevent drying out /scorching of the plants and to control pests;
- (iii) polytunnels are not effective barriers to frost. It is difficult to forecast frosts (the nearest Met Office station is in Dorchester some 9 miles away and does not accurately represent the conditions at Sydling Brook). The site could well be in a frost pocket being relatively low lying and surrounded by hills (cold air sinks and gets trapped in such locations). Gas and diesel heating is expensive and produces moisture which can encourage slugs and mould. Fleecing is the best method of protection from frost damage but needs to be used sparingly because it reduces airflows and encourages dampness. It should only be used for the minimum period being applied late at night and taken off as soon as possible in the morning. Early season field crops are also susceptible to frost damage and can need protection by fleece at short notice. Automatic sensors could remotely warn of actual low temperatures but would still require action on site late at night or early in the morning;
- (iv) irrigation in polytunnels is best done at night or first thing in the mornings when there is less potential for water loss through evaporation and less chance of damage to plants though leaf scorch. Automated systems are prone to failure and can result in either too much or too little water being delivered with the potential for causing serious damage to young plants. Manual controls are more appropriate because they offer better and more selective monitoring but require a human presence on the site late at night and /or early in the day during most of the long growing season;

- (v) watering the open field area is also required. There is a system of plug-in irrigation points for the holding. But it is not just a question of turning on a tap. Equipment has to be put in place and soil moisture levels, wind speed and direction, all need assessing. Manual systems are more appropriate for the same reasons as those noted above and should also be done either very late or early in the day;
- (vi) slugs are one of the most destructive pests in polytunnels. The conditions needed for the young plants are also ideal for the breeding and feeding of slugs. One slug bite can destroy a newly germinated seed and one slug can kill many young plants in a single night. Damage can be caused to larger plants like lettuce, tomatoes and cucumbers. Clearly an organic grower cannot use normal pesticides for control. There is a raft of other measures against slugs, including biological controls, but one of the most effective is waiting until it is dark and picking the slugs off the plants by hand, using a head light, and destroying them. This is a time consuming manual job which has to be done regularly during hours of darkness;
- (vii) there is the potential for damage from high winds which can quickly destroy large sections of polytunnels resulting in the substantial loss of irreplaceable young plant stock as well as damage to the tunnels themselves. The incident reported in January of this year is a case when living on site allowed the problem to be perceived (the noise of the high winds) and a potentially disastrous loss of tunnel and plants was prevented by prompt action. That such incidents are not always predicted is illustrated by the 1987 hurricane and Michael Fish's now infamous remarks broadcast just before a violent storm struck Southern England;
- (viii) large pests can also be a serious problem. One such large pest on the loose undetected can devastate the crops overnight. Deer might be controllable by mechanical scarers but such noises are disruptive to other residents (there are 4 houses nearby) and are not always effective. Rooks and pheasants become scarer resistant, and badgers can get through rabbit and other types of fences. The best method of control is the appellants walking their dog around the property late at night and /or early in the morning. The presence of the dog frightens-off any larger pests encountered and its residual scent provides additional longer-term deterrence;
- (ix) neighbouring livestock have the potential for causing huge damage. Borrowing pigs from the estate is necessary for land clearance and fertilizing. But the presence of such stock on the holding increases the risks of crop damage. Pigs can break through electric fences. The stock owner might be responsible for the damage at law but this would not assist the business if a large part of its production plants for the year was lost. Living near the site would not guarantee prevention but would allow the best opportunity to monitor activities 24 hours a day;
- (x) Summer crops such as lettuce have to be harvested at cool times (early in the morning or late in the evening) to prevent wilting. Also

some crops such as French, and runner, beans need to be picked daily to keep the plants producing beans over a protracted season. Box packing for deliveries to customers is usually done in the evenings when it is cool, and;

- (xi) living in the farmyard improves security for this part of the estate, which includes the Organic Produce Shop, in that the presence of people and a dog 24 /7 is a deterrent against theft. It is no coincidence that since the appellants have lived on site there have been no thefts from the surrounding estate property. Prior to the appellants' occupation there had been incidents of theft from the farmyard. The other nearby houses are slightly removed physically and are screened from direct farmyard views so they are not an effective alternative.

18. Although none of these matters individually would mean that workers are needed to be on hand day and night, taken together they make a compelling case for someone being required to live on or very near the premises. This to my mind represents a clear need of the enterprise rather than being just a measure to gratify the personal preferences of the individuals concerned. The functional test is satisfied.

Financial Test

19. The latest figures produced by the appellants have meant that the Council has changed its opinion on this matter. Originally they were satisfied that the business was planned on a sound financial basis but now they are not.
20. Their main concerns centre on the flat income estimates and low profit forecasts shown in the revised figures. 2006 retains its estimated £7,800 profit but 2007 reduced this down from £14,944 to £10,000 and 2008 was even worse down from £27,030 to just £14,600. Throughout the 3 years income remained at around £50,000 instead of showing growth from £49,500 to £62,430 as previously anticipated.
21. Mr Newbury explained that the figures he originally presented for the Reading Agricultural Consultant's survey were based on unrealistically high yields. The soft fruit has not performed as well as expected and the orchard is yet to come on-stream productively. He produced final accounts for 2006-7 which showed an actual net profit of £10,929 claimed to be substantially better than the forecast of £7,800 for the same year. Debts were being serviced and the fact that 2007 was a very bad year for growers but the business still survived, it was one of the worst summers on record, was another indication that finances were soundly based.
22. However, the 2006-7 final accounts do not include any labour costs although these were included (to the tune of £7,800 for year one) in the estimates. If these notional labour costs are deducted then the profit would be reduced to just £3,129. This is a potentially serious problem because the business needs 2 workers. Ms Pattison is currently pregnant and a paid worker will be required to replace her for 2008.
23. But the appellants' estimates seem to me to be unnecessarily pessimistic and appear to have been over-influenced by the poor returns anticipated for 2007

which was an unusually bad growing season. The analysis carried out for the holding by The Organic Advisory Service (The Elm Farm Research Centre), done at the beginning of 2007, showed a much better potential (and Mr Williams agreed that this theoretical exercise was a realistic one). Just taking account of the present 170 vegetable box deliveries (ignoring the returns from the produce supplied to larger commercial customers and not counting the potential of the orchard for cash generation as it comes on-stream) the estimated turnover was £62,560 (at an average of £8 per box over 46 weeks). Because the interest in this scheme has been growing steadily a target of 250 boxes was set for 2007 (although this increase did not happen because of the terrible summer weather). Using the same average multipliers this increase in box deliveries, if it takes place, has the potential to generate an income of some £92,000 (250x8x46). Both these Elm Farm Research Centre figures are substantially higher than the appellants' estimates of just some £50,000 and gives a significant potential for profitability and growth which could provide returns sufficient to pay for 2 people at the minimum agricultural wage (£13,500x2 = £27,000). Obviously the appellants would have to perform better than they expect but there is clearly the potential for this happen.

24. I have no explanation of what paragraph 12(iii) of Annex A actually means when it says that there should be *...clear evidence that the proposed enterprise has been planned on a sound financial basis...* But whatever its definition it cannot reasonably signify that any financial estimates must be overly sophisticated, or rigidly cast in stone, because if it did there would be no point in having a 3 year business test period using temporary dwellings. In this case there has clearly been substantial investment in the business by the appellants and the Elm Farm study conclusions indicate that there is the potential for a substantial annual income of more than £90,000. So that 3 years from now, when the orchard will be starting to produce apples and the box scheme might be extended up to the higher number of 250, the business could well be profitable to the extent that it could generate a reasonable return for the resources deployed. On that basis the financial test is fulfilled and would give the business ample chance to prove itself.

Conclusion on Ground (a)

25. Because the functional and financial tests are satisfied the project would be in accordance with the essential requirements of Annex A and Policy HS6. Temporary planning permission should therefore be granted.
26. In reaching this conclusion I have considered the other matters raised but have not been unduly swayed by the environmental and educational advantages the business clearly provides. Neither have I given much weight to the sustainability arguments in its favour nor the possible shortage of low cost housing in this part of rural Dorset. The tests needed to satisfy the planning policy requirements for a temporary dwelling in the countryside do not give weight to such matters. There are obvious lifestyle choices being made by the appellants but their business is essentially a commercial one which should provide an adequate return if it is to survive in the longer term. The 3 year temporary planning permission should enable this to be checked and adequately protects the appellants' human rights.

27. I have considered the other appeal decisions drawn to my attention but the circumstances of these cases are not the same as the ones before me. I do not believe that the grant of planning permission in this instance would open the flood gates to a host of similar applications which would be difficult for the Council to refuse and which taken together might damage the countryside. There are only a limited number of people who would be prepared to suffer the hardships surrounding the practicalities of working in the organic vegetable and fruit production business. In any event such activities would seem to me to represent an appropriate farming diversification parallel to, but different from, mainstream agriculture. If an application for permanent planning permission is made at a later date then the decision maker will determine that application in the light of the facts and policies relevant at that time. These would include the terms of any licence /lease for the land. I have determined these appeals on the facts presented to me, in the light of today's relevant planning policies, as I am required to do.
28. But any approval should be conditional. As already noted it should be a 3 year temporary permission, to test future viability, and it should be personal to the appellants and their organic vegetable and fruit growing business. The latter restrictions are needed not just because of concerns about tenure but also because it is elements of this particular business which results in the functional test being satisfied. Such matters might not apply to non-organic horticulture or more traditional vegetable and fruit farming practices. The cessation of any residential use of the caravan after the period of temporary planning permission has expired is sufficient, rather than any need to clear it from the appeals site, for the reasons already given.

Appeals under Grounds (f) and (g)

29. The grant of planning permission means that the appeals under these grounds do not fall to be considered.

Colin A Thompson

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Anderson of Counsel	Instructed by the Environmental Law Foundation
He called	
Mr D Newbury	One of the joint appellants
Mr A Cooper	Landlord
Mr H Chapman	Organic Vegetable producer

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Harding, Solicitor employed by the Council	
He called	
Mr D J Rogers DipTP MRTPI	Planning witness
Mr P J Williams BScAgric(Hons) OND MBIAC	Agricultural assessment witness

INTERESTED PERSONS:

Mr J Wills	Eweleaze Farm, Osmington, Weymouth DT3 6ED
Ms P Chapman	Longmeadow, Godmanstone, Dorchester, Dorset DT2 7AE
Ms J Fernandes	Fivepenny Farm, Wootton Fitzpaine, Dorset DT6 6GF
Mr N Holland	23 Mountain Ash Road, Dorchester DT1 2PB

DOCUMENTS

- 1A List of persons at the inquiry
- 1B Letters of notification of the inquiry
- 2A Net profits for 2006-7
- 2B List of plant varieties grown by the appellants
- 3 Slug control in organic systems
- 4 Low Impact Policies for Sustainable Development in Dorset

Appeal Decision

Hearing held on 26 April 2016

Site visit made on 26 April 2016

by **D M Young BSc (Hons) MA MIHE**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 May 2016

Appeal Ref: APP/D0840/W/15/3132813

Slight Hill, Heamoor, Penzance, Cornwall TR20 8UJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Daniel Newbery against the decision of Cornwall Council.
 - The application Ref PA14/10912, dated 13 November 2014, was refused by notice dated 19 February 2015.
 - The development proposed is a temporary permission for the retention of a static caravan for use as an agricultural workers dwelling.
-

Decision

1. The appeal is allowed and temporary planning permission is granted for the retention of a static caravan for use as an agricultural workers dwelling at Slight Hill, Heamoor, Penzance, Cornwall TR20 8UJ in accordance with the terms of the application, Ref PA14/10912, dated 13 November 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The caravan shall be removed from the site on or before the expiration of 3 years from the date of this permission and the land shall be restored to its former condition in accordance with a timescale and scheme of work that has first been submitted to and approved in writing by the Local Planning Authority.
 - 2) The occupation of the caravan hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, or a widow or widower of such a person, and to any resident dependants.
 - 3) The dwelling hereby permitted shall be occupied only by Mr Daniel Newbery and his immediate family.
 - 4) Within 3 months of the date of this decision, the caravan shall be clad in accordance with details that have first been submitted to and approved in writing by the local planning authority. Once completed the cladding shall be retained thereafter.

Main Issue

2. The main issue is whether there are special circumstances to justify an exception to national and local policies of restraint on isolated residential development in the countryside.
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Background

3. Mr Newbery (the appellant) purchased the appeal site in early 2012 at which time the caravan was placed on the land. Prior to this, the appellant lived in Dorset where he ran a similar horticultural business and successfully appealed the local planning authority's decision to refuse permission for an agricultural workers caravan on the site (Appeal ref: APP/F1230/C/07/2055628).
4. The appeal site is some 2.6 hectares in size and consists primarily of two fields. On the top field a barn and two polytunnels were erected under permitted development rights in 2013. The horticultural business began trading in April 2013, however, productivity was initially suppressed due to wireworm in the soil. The enterprise is now certified organic with the Soil Association and employs Mr Newbery on a full-time basis, Natalie Pattison (the appellant's partner)¹ and a seasonal part-time worker. The appellant, his partner and their 8 year old son live in the caravan.
5. The business is primarily a horticultural enterprise providing a wide variety of vegetables which are sold for wholesale locally. In addition, the business supplies approximately 35 weekly vegetable boxes to the local community. It is clear from the evidence provided that the business is run at a subsistence level on a low environmental impact basis.
6. In 2013 the appellant applied for permanent planning permission for the caravan. The application was refused and the subsequent appeal dismissed in November 2014 (Appeal ref: APP/D0840/A/14/2218235). The Inspector in that case clearly implied that collectively the arguments put forward by the appellant did justify the functional need for a full-time residential presence at or near to the site. However, owing to concerns about the enterprise's financial position, it was concluded that there was insufficient evidence to grant a permanent permission. It is pertinent that the scheme before me does not seek a permanent permission for the caravan but rather a three year temporary permission.

Reasons

7. There was broad agreement at the Hearing that the policy framework relating to new homes in the countryside remains largely unchanged from that set out by the previous Inspector. Paragraph 55 of the *National Planning Policy Framework* (the Framework) is germane to the appeal as it states that new isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work. Policies H-8 and E-7 of the *Penwith Local Plan 2004* (the LP) broadly reflect these objectives by seeking to restrict new development in the countryside unless for agriculture.
8. In order to determine whether the need is essential, it is necessary to establish whether there is a physical need for someone to be on-site at most times. In addition, it is also necessary that there is some evidence that the enterprise has a reasonable prospect of success and will endure the lifespan of the permission sought. Although both parties have referenced the 'financial test' in Annex A of *Planning Policy Statement 7*, its replacement by the Framework means that it can no longer be relevant to the appeal outcome. However, I

¹ It was confirmed at the Hearing that Ms Pattison undertakes a small amount of paid employment off-site but is primarily employed in the appellant's horticultural business.

- take the view that despite its lack of status, Annex A is still a potentially useful tool in assessing whether an on-site dwelling would be justified.
9. The Council do not dispute that the labour requirements of the business equates to at least one full-time worker. At the Hearing, the appellant set out in some detail why he believes a constant on-site presence is necessary. The reasons are wide ranging and include, inter alia, the need to pick slugs from the land late at night and in the early hours. The propagating and rearing of plants in the polytunnels requires constant supervision to ensure adequate ventilation to avoid a build up of condensation and heat which left unchecked could result in the loss of an entire crop. The polytunnels themselves are prone to damage in adverse weather conditions particularly high winds and therefore an on-site presence is needed to respond to such situations. The irrigation of the polytunnels and fields is best done in the late evening or early morning. Damage from other pests such as rabbits, deer and livestock wandering onto the site from adjacent fields were also cited.
 10. I accept that in themselves none of the reasons cited amount to special circumstances. However, the modus operandi of the business is to produce many different crops in relatively small quantities. It is labour intensive and relies in no small measure upon the appellant's knowledge of the land and the horticultural business. Due to the small profit margins, the enterprise is less resilient to loss than larger commercial ventures meaning it is imperative that crops are protected. In my opinion when taken together the reasons provided by the appellant provide sufficient justification for him to reside on-site.
 11. The Council argue that it would be possible for a worker to reside in the local area where property is readily available to buy and rent. However, given that there are no available properties in the immediate vicinity of the appeal site, I am not persuaded this would enable the appellant to respond adequately to emergencies when they were to occur. Additionally, the business is in its infancy and is being operated on a subsistence basis with most spare capital being ploughed back. It is therefore inconceivable that the business could afford to pay out an additional £600-700 per month in rent or mortgage payments and continue to trade. The appellant and his family would therefore be without an income and the business that has been built up over the last two years would cease. This would be contrary to the Framework's aim of promoting the development of agricultural businesses and supporting a prosperous rural economy. I do not therefore consider that the functional need could be satisfied through other accommodation.
 12. In terms of future prospects, the appellant confirmed at the Hearing that the business returned a £14,064 profit for the year ending March 2016. This was up from £10,697 in the previous financial year. The 2015/16 figures are in line with the financial forecasts provided in the appellant's Business Plan which covers the period 2013 to 2019. The appellant's financial forecast was discussed in detail at the Hearing and despite a few misgivings about making allowances for unforeseen expenses, the Council accepted that the appellant's figures were not unreasonable.
 13. The Council's Agricultural Witness accepted that an income in the region of £15,000 was not unusual for a full-time smallholder in the area. However, given that the appellant's partner is also primarily employed in the business, current income levels are not sufficient to support two full-time workers. The

upward trend in profits established in the first two years will therefore need to continue if the business is to be financially viable in the longer term. At the Hearing I sought clarification from the appellant regarding the day-to-day operation of the business as well as the plans for its future growth. Throughout, I was struck by the appellant's determination to make a success of the business and nothing I have heard or read leads me to doubt that the business is not planned on a sound financial basis.

14. It is apparent that the measures introduced to address the wireworm problem, which hitherto have prevented a significant part of the site from being cultivated, have been successful. Thus the entire top field and polytunnels are now yielding fully. The same treatment programme is being applied to the bottom field with the reasonable expectation that it too can be fully cultivated in the next 2 years. I see no reason to doubt such claims.
15. To my mind, the enterprise has shown it can return a profit albeit limited, despite the wireworm problems that have plagued the first two years of trading. The enterprise is therefore already showing signs it is viable. It is evident to me that the appellant is committed to making a success of the business and is willing to make significant sacrifices to this end. Under these circumstances, I see no reason not to grant a temporary planning permission for three years. This then gives the Council the opportunity to review the state of the enterprise at the end of that temporary period and assess whether the enterprise has continued to grow in a manner which proves its longer term viability.
16. I thereby conclude that given the particular circumstances of the appellant and the business, special circumstances do exist to justify a temporary permission for the caravan. The development would thereby satisfy national and local policies of restraint on isolated residential development in the countryside. Accordingly there would be no conflict with Policies H-8 and E-7 of the LP as well as advice in paragraph 55 of the Framework.

Conditions

17. The Council has suggested two planning conditions which I have considered against the advice in the Planning Practice Guidance (PPG). Because the development is in place, the usual conditions requiring commencement within a certain time and compliance with submitted plans do not apply.
18. A three year time limit is appropriate to allow the local planning authority to review the case for keeping the caravan after the temporary period. I do not consider the 18 months suggested by the Council would give the appellant sufficient time to acquire the necessary financial justification required for the continuation of the residential use.
19. A condition relating to the occupancy of the dwelling by an agricultural worker, and personal to the appellant are needed to ensure that the special circumstances under which the application is being granted remain in place for the duration of the permission.
20. As discussed with the parties at the Hearing, I have imposed a condition requiring details of cladding to the caravan. Such a condition was considered necessary by the previous Inspector to ensure the visual impact of the caravan would be satisfactorily mitigated and I see no reason to take a contrary view.

Conclusion

21. For the reasons given above and having regard to all other matters raised, I consider the appeal should succeed.

D. M. Young

Inspector

APPEARANCES

FOR THE APPELLANT

Dr S Rushton MRTPI	Planning Consultant
Mr D Newbery	Appellant
Mrs R Laughton	Agricultural Witness
Mr S Murphy	Green Living Project
Ms N Pattison	Appellant's partner

FOR THE LOCAL PLANNING AUTHORITY

Ms D Boardman	Cornwall Council
Mr P Blackshaw	Cornwall Council
Mr R Wheeler	Cornwall Council

INTERESTED PERSONS

Mr C Mewburn	Supporter of the development
Mr P Hammond	Local businessman

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Revised Policy 7 of the Cornwall Local Plan: Strategic Policies 2010-2030



Appeal Decision

Hearing (Virtual) Held on 7 September 2021

Site Visit made on 8 September 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 13 October 2021

Appeal Ref: APP/J9497/W/21/3272334

Cuddyford Meadows, Rew Road, Ashburton TQ13 7EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Rachel Sykes against the decision of Dartmoor National Park Authority.
 - The application Ref 0376/20, dated 27 July 2020, was refused by notice dated 2 October 2020.
 - The development proposed is described as the permanent retention of a rural workers dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for a rural workers dwelling at Cuddyford Meadows, Rew Road, Ashburton TQ13 7EJ in accordance with the terms of the application, Ref 0376/20, dated 27 July 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development used in the heading above has been taken from the planning application. However, in allowing the appeal I have altered the description to remove reference to the term 'permanent retention' as this is not an act of development.

Background and Main Issue

3. Planning permission was granted on appeal¹ (the Previous Appeal) for the temporary siting and residential use of a mobile home for a rural worker for a period of three years. The appeal proposal seeks to retain the structure, referred to in the submissions of the main parties as a timber cabin, as an agricultural dwelling in association with the enterprise at the appeal site.
4. The main issue is whether the dwelling unit is justified by the needs of the enterprise at the site, having regard to policies which seek to restrict development in the Dartmoor National Park (the National Park).

Reasons

5. The appeal site comprises land and buildings located in a rural location within the National Park, close to Cuddyford Cross and outside of the nearest settlement at Ashburton. The appeal site forms part of a larger area of land

¹ Appeal Reference: APP/J9497/W/17/3168468

which is in use for keeping of livestock, vegetable and horticultural production and the siting of 'glamping' tents.

Essential Need

6. Policy COR2 of the Dartmoor National Park Authority (the DNPA) Core Strategy Development Plan Document (2008) (the Core Strategy) sets out the spatial development strategy for the National Park. As noted above, the appeal site is located outside of Ashburton and Policy COR2 of the Core Strategy provides that in such locations development will be acceptable in principle if, amongst other matters, it is necessary to meet the proven needs of farming, including farm diversification, forestry and other enterprises with an essential requirement to locate in the open countryside. Policy COR15 of the Core Strategy confirms that outside Local Centres such as Ashburton, housing development will be restricted to that serving the proven needs of agriculture, forestry and other essential rural businesses.
7. Policy DMD23 of the DNPA Development Management and Delivery Development Plan Document (the DMD) concerns residential development outside of settlements. This policy reiterates that outside of Local Centres such as Ashburton, amongst other things, planning permission for housing will only be granted if it is required for rural based enterprise and subject to certain criteria.
8. In respect of the criteria provided under Policy DMD23 of the DMD, it is common ground between the main parties that there is no existing satisfactory building at the appeal site which would be suitable for conversion to residential accommodation. However, the DNPA have put it to me that the proposal would fail to accord with other criteria as provided under this policy. I shall consider each in turn below.
9. Criterion (ii) of Policy DMD23 requires that there is an established existing functional need for the rural worker to be readily available at most times. The Appellant maintains that there are various reasons why an on-site presence at most times is necessary. These reasons include propagation, monitoring and care for a variety of crops which include control of pests, ventilation and irrigation as well as in relation to protection of crops from extremes of weather, in addition to the care of livestock at the site. Security is also cited as a concern. In these regards, the Appellant has put it to me that the essential need to be on site at most times arises from the combination of tasks and risks to be managed at the site.
10. As noted above, permission for the temporary siting of a mobile home was granted at appeal in 2017 (the Previous Appeal). The evidence before me indicates that the Previous Appeal considered whether there would be an essential need to be at the site, with the conclusion that both the Appellant and the DNPA agreed "that if the enterprise were to develop as proposed then there would be an essential need for a worker to live on site", a finding that was agreed by the Inspector in that appeal.
11. Based on the evidence provided in both written and verbal submissions, it does appear that the enterprise has developed as proposed in terms of vegetable and horticultural production and in respect of increase in levels of livestock, albeit with some delay being caused by the time taken in relation to the planning appeal process with regards to the Previous Appeal and in respect of

sourcing suitable temporary accommodation. Whilst it is acknowledged that there have also been delays in respect of development of the glamping element of the business, it is noted that the Inspector in the Previous Appeal found that he could not agree that the "loss of this element [of the enterprise] would so tip the balance as to make the enterprise unviable and unlikely to endure, or indeed reduce the required manpower to such an extent so as to remove the essential need".

12. Notwithstanding the conclusions of the DNPA and their agricultural consultant at the time of the Previous Appeal, the DNPA have commissioned a further agricultural appraisal on the present appeal proposal, from an alternative agricultural consultant. It appears from the submissions that that further agricultural appraisal concluded that, whilst acknowledging the findings of the previous agricultural consultant, currently the enterprise would not support an essential need for a worker to be readily available at most times and that the enterprise did not provide sufficient financial return that would allow for a permanent dwelling at the site.
13. In essence, the DNPA's agricultural consultant for this appeal has put it to me that the needs of the enterprise are limited to the keeping and care of a small number of pigs and poultry, and the monitoring and care of the variety of crops at the site. Furthermore, it is maintained that whilst a majority of the labour requirements to carry out these tasks could typically be done during the day, and on some occasion during long working days, other activities could be carried out by automation.
14. Having regard to the written and verbal submissions in this appeal, I would concur that, when taken in isolation, matters such as the propagation, monitoring and care of crops, the care and management of the numbers of livestock at the site, and the security of the site, would not result in an essential need for worker to be on site at most times.
15. However, by reason of the combination of tasks and activities that would need to be attended to at the site, and given that the enterprise would be susceptible to loss from, amongst other matters, damage to crops from pests, wildlife or livestock and which could have a significant impact on production, it could reasonably be concluded that there is an essential need for a worker to be on site most of the time. Whilst automation may assist with some tasks such as the operation of ventilation systems, such methods would not appear to be sufficient with regards to other essential tasks such as the control of pests or to ensure that damage to crops from wildlife and livestock does not occur.
16. The evidence before me indicates that the enterprise has developed as proposed in terms of production and levels of livestock, and this finding that the combination of tasks and requirements would equate to an essential need for a worker to be on site at most times would be consistent with the conclusions of the Inspector when considering the Previous Appeal where it was found that the essential need to be on site would remain even in the event of the loss of the glamping element of the business. Based on the evidence provided and the conclusions of the Inspector in the Previous Appeal, and given that the enterprise does appear to have developed as proposed, I am satisfied that the appeal proposal would accord with the requirements of criterion (ii) of Policy DMD23 of the DMD.

17. Nonetheless, the DNPA has also put it to me that the need for permanent accommodation for a worker at the enterprise could be met by other dwellings within the locality, with the information supplied by the DNPA including details of dwellings available for purchase within Ashburton. However, as noted above, based on the evidence in this appeal and on the conclusions reached by the DNPA and the Inspector in relation to the Previous Appeal, there would be a need for a worker to be on site most of the time.
18. Whilst I concur that some tasks and activities could reasonably be managed whilst residing in nearby Ashburton, this would not be suitable in relation to the welfare of the livestock and in terms of preventing and effectively managing damage caused to delicate crops from livestock escapes and other wildlife. It was noted at the hearing that there has been an occasion when a pig had escaped from its pen for a short time whilst the Appellant occupied the structure at the site. However, living off site would not allow for the Appellant to efficiently and quickly deal with, and manage, any such issues. I therefore find that the appeal proposal would satisfy the requirements of criterion (v) of Policy DMD23.
19. Notwithstanding the above, criterion (iv) of Policy DMD23 of the DMD provides that a new building will only be permitted where the enterprise has been established for at least three years, profitable for at least one, is currently financially sound and has a clear prospect of remaining so. In essence, this clause seeks to ensure that there is a realistic prospect of the functional need for the dwelling enduring.
20. Details of accounts from self-assessment tax returns were provided to the DNPA in support of the planning application and which show that the business made profits during 2017/18 and 2018/19, with additional financial details for 2019/20 which also showed the rural enterprise making a profit. Additionally, the Appellant submitted a business plan and appraisal to the DNPA which provided projected figures for the periods 2020/21 to 2022/23 inclusive and which indicated that profits would rise to a level which showed that the enterprise could be viable and sustainable. Given that the accounting period for 2020/21 had passed, further information in the form of an income and expenditure account for this period was provided by the Appellant at the hearing.
21. It is apparent from the evidence that the enterprise has been established for at least three years and has made a profit in at least one of the abovementioned years, in compliance with the initial requirements of criterion (iv) of Policy DMD23.
22. However, the DNPA raised concerns about the business which, it is maintained, would be of a subsistence level and below the level of the National Living Wage rate when using the time requirements to run and manage the enterprise, and that the profits generated do not provide a return on investment which would demonstrate that the business has the ability to grow. Whilst I accept that minimum wage requirements do not apply to those in self-employment, consistent with the appeal decision² referred to by the DNPA at the hearing, I would concur that comparisons with minimum wage requirements can provide some indication of the financial viability of the business, albeit such

² Appeal Reference: APP/J9497/W/20/3257310

- comparisons should not be the only factor used in assessing the viability of a rural enterprise.
23. The submitted details indicate that the levels of profit made during the accounting periods up to 2019/20, were not substantial and, whilst it is acknowledged that many self-employed people in agriculture are often effectively working for less than the National Living Wage as applied to those in employment, based on the figures provided for these periods, and even when accounting for personal consumption which was classed as income, in my view the levels of profit indicated that the enterprise had not quite reached a sustainable level.
 24. However, as noted above there have been some delays in the development of the business due to the time taken in relation to the planning appeal process with regards to the Previous Appeal and in respect of sourcing suitable temporary accommodation. Despite these delays which would have affected production and profitability, it is clear from the records produced and submissions in this appeal that the enterprise has shown it can return a profit and that profits had steadily increased year on year.
 25. Furthermore, as described above, the submissions provided by the Appellant included projected figures for 2020/21, and beyond, which appeared to have been considered on the basis of the expected growth of the enterprise and on reasonable expectations of expenditure and which showed that levels of profits would rise to a level which demonstrated that the enterprise could be viable and sustainable going forward.
 26. The details provided at the hearing showed that the actual profits for 2020/21 exceeded those as provided in the financial projections and, even when accounting for any personal consumption, the level of profit from the enterprise would be comparable to the National Living Wage as applied to those in employment. To my mind the evidence demonstrates that the enterprise is currently financially sound. Whilst I acknowledge the concerns raised by the DNPA with regards to the figures provided for the period 2020/21 not having been independently verified, it appears that those accounts provide sufficient detail with regards to reasonable expenditure and, in the absence of evidence to the contrary, I have no reason to doubt the accuracy of those income and expenditure details.
 27. In terms of whether the business has a clear prospect of remaining financially sound, whilst I acknowledge the DNPA's concerns regarding the relatively low level of profits up to the accounting period 2019/20, it does appear that profits were rising year on year despite the delays identified above. Current levels of profit from the business exceed those as included within earlier projections and this is despite additional extreme difficulties faced by the enterprise in relation to the sale and supply of produce to local restaurants and loss of glamping income due to the Covid-19 pandemic.
 28. The business makes efficient use of the land and has an established customer base with produce sold directly to local restaurants and shops as well as to residents from within the wider surrounding area, thereby maximising profits. To my mind, the above identified factors indicate that not only is there clear prospect of the enterprise remaining financially viable going forward, but also show that the business has the resilience to continue in the face of challenges such as the Covid-19 pandemic. Consequently, I have no reason to doubt that

the enterprise has a clear prospect of remaining financially sound going forward.

29. The Appellant acknowledged the capital investments made in the business. However, there does not appear to be any requirement within local or national planning policy to require that an agriculture trade or business must generate sufficient revenue to recoup any initial investment, or for a certain level of profitability to be achieved. Nonetheless, the submitted financial information indicates that once additional income from the glamping accommodation is included following delays encountered by the Covid-19 pandemic, it is likely that the business would start to provide a return on capital.
30. In light of the verbal and written evidence provided, in this particular instance and based on the specific circumstances of this rural business, for the above reasons I conclude that the appeal proposal would not conflict with Policies COR2 or COR15 of the Core Strategy and would accord with the provisions of Policy DMD23 of the DMD which, together and amongst other things, require that such development is necessary to meet the proven needs of a rural enterprise.

Character and Appearance

31. The existing cabin building at the appeal site is positioned within a small group of structures that support the operations of the enterprise. The materials of construction appear to be timber and dark metal sheeting for the roof. The DNPA have put it to me that the design and building materials used for the appeal building would fail to conserve or enhance the character and appearance of the National Park. Paragraph 176 of the National Planning Policy Framework (the Framework) provides that great weight should be given to conserving and enhancing landscape and scenic beauty within National Parks.
32. The cabin building is a modestly sized, single storey structure, positioned within the site such that it is largely screened in views from the adjacent narrow highway. Views of the site are dominated by the large polytunnel which draws the eye. As noted above, the building is set amongst other structures which retain an agricultural scale and appearance and given that the appeal building is of a similar modest scale and appearance, in my view the appeal building is not of a design that would be incongruous to the character of the site which clearly has the appearance of a working rural enterprise, nor would be harmful to landscape and scenic beauty of the National Park.
33. In terms of materials, I find that the use of timber and metal sheeting for the roof would not be dissimilar to the materials used in the construction of other structures throughout the site or that are used in the construction of agricultural buildings within the surrounding area. Furthermore, it was noted on my site visit that, whilst not appearing as a common feature within the immediate locality, there is an extension to a nearby residential dwelling west of the site which appeared to have been externally clad in timber.
34. For the above reasons, I find that the design and use of materials would be appropriate, being complimentary to the activity of the site as a rural working enterprise. The appeal building is modest in scale and is screened from views from near to the site. In wider views the appeal building would be seen as forming part of the group of structures which exhibit an agricultural appearance.