



# Appeal Decisions

Inquiry opened on 17 July 2007

Site visit made on 20 July 2007

by **Alan Woolnough BA(Hons) DMS MRTPI**

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

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Decision date:  
23<sup>rd</sup>. August 2007

## Appeal A: APP/K1128/C/06/2032148

### Land at Allaleigh Lane, Allaleigh, Cornworthy, Totnes, Devon TQ9 7DL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Landmatters Co-Operative Ltd against an enforcement notice issued by South Hams District Council.
- The Council's reference is EN\_NOT/0037/06.
- The notice was issued on 8 November 2006.
- The breach of planning control as alleged in the notice is a material change of use of the land without planning permission from agriculture to a "permaculture" holding comprising a mixed use integrating agriculture, forestry, education and ancillary rural enterprises and residential use.
- The requirements of the notice are:
  - (1) Cease the use of the land for residential purposes;
  - (2) Cease the use of the land for the parking overnight of motor vehicles; and
  - (3) Remove from the land all unauthorised residential structures and structures erected for a use ancillary to a residential use.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is corrected and quashed and planning permission is granted in the terms set out below in the Formal Decisions.**

## Appeal B: APP/K1128/C/07/2039820

### Land at Allaleigh Lane, Allaleigh, Cornworthy, Totnes, Devon TQ9 7DL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Landmatters Co-Operative Ltd against an enforcement notice issued by South Hams District Council.
- The Council's reference is EN\_NOT/0037/06.
- The notice was issued on 23 February 2007.
- The breach of planning control as alleged in the notice is a material change of use of the land without planning permission from agriculture to a "permaculture" holding comprising a mixed use integrating agriculture, forestry, education and ancillary rural enterprises and residential use.
- The requirements of the notice are:
  - (1) Cease the use of the land for residential purposes;
  - (2) Cease the use of the land for the parking overnight of motor vehicles; and
  - (3) Remove from the land all unauthorised residential structures and structures erected for a use ancillary to a residential use.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is corrected and quashed and planning permission is granted in the terms set out below in the Formal Decisions.**

## **Appeal C: APP/K1128/A/06/2018778**

### **Land at Allaleigh Lane, Allaleigh, Cornworthy, Totnes, Devon TQ9 7DL**

- 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 Landmatters Co-Operative Ltd against the decision of South Hams District Council.
- The application ref no 13/0217/06/CU, dated 31 January 2006, was refused by notice dated 28 April 2006.
- The development is described on the planning application form as 'agriculture, forestry, plus a change of use area to include residential & educational element'.

**Summary of Decision: The appeal is allowed and planning permission granted subject to conditions as set out below in the Formal Decisions.**

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#### **Preliminary matters**

1. At the Inquiry an application for costs was made by Landmatters Co-Operative Ltd against South Hams District Council. This application is the subject of a separate decision.
2. The Inquiry sat for four days, closing on 20 July 2007.
3. At the Inquiry the main parties agreed that the site address utilised in the above headings, rather than that used in the enforcement notices or on the planning application form, was the most appropriate and accurate. I shall therefore correct both notices accordingly. It was also agreed that, notwithstanding the description of development given on the planning application form, the wording of the alleged breach of planning control as set out in the two enforcement notices should be utilised for all three appeals. I shall make my decisions on this basis and am satisfied that there is no injustice to any party in doing so.
4. At the Inquiry the Appellants withdrew their appeal on ground (e) in respect of the enforcement notice the subject of Appeal A. Accordingly, I shall not consider any written submissions relating to that matter.
5. Although the two enforcement notices are almost identical in content, the Appeal B notice relates to a far larger area of land than the Appeal A notice. The Council advises that it served the second notice upon realising that the first did not relate to all of the land used by the Appellants for residential purposes or in their ownership. The first notice is therefore surplus to requirements and I am surprised that, in such circumstances, the Council did not simply withdraw it. However, neither its redundancy nor the fact that it did not address everything that the Council subsequently decided should be covered means that it is invalid or otherwise defective. Therefore, notwithstanding the Appellants' contention to the contrary, these matters do not in themselves justify quashing the notice.
6. The number of dwelling units is not specified in the enforcement notices or on the planning application form, which refer solely to residential use of the land. However, the Appellants explained at the Inquiry that they seek consent for 15 dwellings but would settle for a minimum of ten. They also confirmed that they seek temporary planning permission for a period of five years. I shall consider the appeals on this basis.
7. At the Inquiry the Appellants submitted a completed unilateral planning obligation pursuant to section 106 of the Town and Country Planning Act 1990.

This provides that, in the event that planning permission is granted for this development, the landowner shall ensure compliance with a specific Transport Policy and submit annually to the Council a written report detailing activities undertaken, compliance with the Transport Policy and the residential occupiers of the land. I shall have regard to this document in determining the appeals.

### **The appeals on ground (a) and the section 78 appeal**

#### ***The main issues***

8. I consider the main issues in determining the ground (a) and section 78 appeals to be: -
- the effect of the development on the character and appearance of the area, with particular reference to countryside restraint policies and impact on the rural landscape;
  - the implications of the development for policy objectives promoting sustainable travel patterns and modes of transport;
  - the effect of the development on highway safety; and
  - whether or not there is a justification for the development that outweighs any harm arising from the above issues, with particular reference to the promotion and advancement of permaculture and sustainable ways of living.

#### ***Planning policy***

9. The Development Plan for the area includes RPG10: *Regional Planning Guidance for the South West*, the Devon County Structure Plan 2001 to 2016 (SP), adopted in October 2004, the South Hams Local Plan 1989 to 2001 (LP), adopted in April 1996, and the South Hams Local Development Framework Core Strategy (LDF), adopted in December 2006.
10. Policy SS2 of RPG10 seeks to restrict development primarily to urban areas. Policy SS19 of the same document records that outside market towns in rural areas, development should take place primarily within or adjacent to existing settlements. The general thrust of SP Policies CO6 and ST5, LP Policy SHDC3 and LDF Policy CS1, insofar as they are relevant to these appeals, is the strict control of development in the countryside, with limited exceptions where there is a clear agricultural need, in general accordance with national advice in Planning Policy Statement (PPS) 7: *Sustainable Development in Rural Areas*.
11. LDF Policy CS9 and SP Policies CO1 and CO4 seek to protect landscape quality, the latter with specific reference to Areas of Great Landscape Value (AGLVs). SP Policy ST1 sets out means by which sustainable development objectives should be achieved, in general accordance with PPS1: *Delivering Sustainable Development*, whilst LDF Policy CS11 emphasises the need to plan for climate change. SP Policy TR5 indicates that all development should promote safe use of the most sustainable and environmentally acceptable modes of travel.

#### ***The Inspector's reasoning***

##### *The site and the appeal development*

12. The Appellants' holding amounts to some 16.8 hectares, comprising pasture, woodland and naturally regenerating scrub. Although close to the small hamlet of Allaleigh, it lies in open countryside well outside the boundaries of any settlement defined in the Development Plan, and within an AGLV. Sole vehicular access is via a gateway in Allaleigh Lane, to the east of Allaleigh, served by a network of narrow, high-banked country lanes. The entire holding

is subject to the Appeal B notice. However, the Appeal A notice concerns only a single field within which most, but not all, of the on-site residential accommodation is located. Appeal C relates to the latter together with additional areas taking in the remainder of the residential accommodation, the Appellants' timber-framed barn and the access track.

13. The land is worked and occupied by the Appellants as a permaculture project. For the purposes of these appeals, I accept the definition of 'permaculture' adopted by both main parties, namely: *'the conscious design and maintenance of agriculturally productive eco-systems which have the diversity, stability and resilience of natural eco-systems...the harmonious integration of landscape and people, providing their food, energy, shelter and other material and non-material needs in a sustainable way'*.
14. At the time of my visit, eight dwelling units were stationed on the holding, providing homes for ten adults and three children in the form of temporary accommodation known as 'benders', Mongolian-style yurts and one low-impact dwelling constructed primarily from timber. There were also various ancillary facilities used for communal and educational purposes and as workshops and stores.
15. Both main parties are of the view that none of these amounts in itself to operational development, and I have been given no reason to conclude otherwise. The only substantial building on the appeal site is the barn. I understand that this already benefits from planning permission pursuant to the provisions of the Town and Country Planning (General Permitted Development) Order 1995, having been the subject of appropriate notification to the Council, on condition that it is restricted to agricultural or forestry use.

*The fallback position*

16. The enforcement notices are framed such that, should they be upheld, only the residential component of the existing use of the land would be required to cease. Accordingly, pursuant to s173(11) of the Town and Country Planning Act 1990, the educational and ancillary rural enterprise elements of the permaculture holding would gain planning permission across the whole of the Appellants' land should Appeal B be dismissed and the requirements of the second enforcement notice adhered to. Additionally, the agricultural and forestry components of the project do not constitute development, so do not require planning permission in order to continue.
17. This creates a very significant fallback position for the Appellants as, even in the event that the appeals are dismissed, they could continue to run their existing enterprise across the entire holding with the exception of the residential element. They could also erect and utilise yurts, benders and similar temporary accommodation anywhere within the holding, provided that these were not operational development and were put to non-residential use associated with the agricultural, forestry, educational or ancillary rural enterprise components of the permaculture project.
18. The Appellants have indicated that, if unable to reside on site, they would not be able to realise properly the aims and objectives of their project, residential occupation being fundamental to permaculture and additional expenses for off-site accommodation proving a hindrance. Nevertheless, given that Landmatters own the site and have already established significant

infrastructure and permacultural activity on the holding, I think it highly likely that, in the event of dismissal, either they or successors would 'soldier on' and reap some return from the s173(11) planning permission, albeit perhaps in a manner more akin to other, less ambitious non-residential projects elsewhere that have been cited by the Council.

19. On-site activity associated with agriculture, forestry, education and ancillary rural enterprises would therefore, in my opinion, be likely to continue in any event, to a significant degree, should the appeals be dismissed, as would the vehicle and pedestrian movements so generated. This situation must necessarily inform my determination of the ground (a) appeals and section 78 appeal and, accordingly, I shall focus primarily on the residential element of the project in reaching my decisions.

*Character and appearance*

20. The rural landscape of which the appeal site forms part is typical of the *Ria Coastline* landscape character zone identified by Devon County Council. Comprising steeply undulating farmland and woodland and a dense network of hedgebanks and green lanes, it justifies its AGLV status and is undoubtedly worthy of protection. However, within public views, only a small car park at the appeal site entrance and a long distance sighting of the barn from the village of Ashprington, to the north, signify the Appellants' presence. All yurts, benders and other temporary accommodation and facilities are sited in a secluded part of the Landmatters holding, and could be restricted to that location by condition. The additional means of enclosure erected by the Appellants and the hedgelaying undertaken (which has been praised by reputable experts) are similarly unobtrusive. The visual impact of the appeal development on the countryside and the landscape character of the AGLV is therefore very limited, such that I find no serious conflict with the objectives of SP Policies CO1 or CO4 or LDF Policy CS9.
21. Nevertheless, the site occupies an isolated location in open countryside where there is a clear national and local policy presumption against new residential development unless exceptional circumstances apply. The fact that the Appellants' dwelling units are not prominently located is not in itself a good argument for departing from this, as it could be repeated too often. Activity associated with a use can also affect the character of a locality and I find it inevitable that, in such a quiet, isolated area, pedestrian or vehicular movements generated by the permaculture holding over and above levels that might generally be associated with conventional agriculture and forestry on the land will be noticed by residents of the nearby hamlet of Allaleigh, regardless of any safeguards the Appellants might put in place.
22. However, bearing in mind the fallback position described above, additional activity that might take place as a direct consequence of allowing these appeals could, in my assessment, be very limited. It would be a direct consequence of the residential component of the development and, whilst, I do not disregard the point made by some that a project on the scale favoured by the Appellants would effectively 'double the size' of Allaleigh, numbers of dwellings could be curtailed by condition to something less significant. Moreover, I find that any repercussions that this might have for the countryside would be greatly mitigated by the low impact design of the accommodation and the Appellants'

commitment to traditional farming methods and sustainable travel arrangements.

23. In conclusion, there is no doubt that the appeal development conflicts with established policies designed to constrain residential development in the countryside. Moreover, I find that, considered in its totality, the scheme would have a discernible impact on the character of the area by reason of additional activity. Accordingly, it fails to comply with Policies and SS19 of RPG10, SP Policies CO6 and ST5, LP Policy SHDC3 and LDF Policy CS1, and national policy in PPS7. However, having said this, I find that the degree of harm to the countryside directly attributable to activity that would not continue to take place in the event of the appeals being dismissed would, in all likelihood, be very limited.

*Sustainable transport and travel patterns*

24. The appeal site lies some 10 to 15 minutes walk from the nearest bus stop, and visitors travelling to and from the Landmatters holding for whatever purpose are therefore likely, for the most part, to be dependent on private motor vehicles for transportation. Additionally, the residents of the permaculture holding, whilst espousing energy efficient modes of travel such as cycling and walking and seeking to maximise vehicle sharing, readily acknowledge that they need to make use of motorised transport from time to time. Indeed, the Co-Operative's Transport Policy provides for Landmatters residents to own a maximum of five vehicles.
25. In view of the Appellants' fallback position, I consider that many of these vehicle movements would be likely to continue whether or not the appeals are allowed. However, it is pertinent that the appeal site is remote from facilities generally regarded as essential to day-to-day residency, such as shops, schools and healthcare, and that some residents of the appeal site currently work elsewhere. Moreover, the unilateral obligation, by reason of vagaries implicit in the wording of the Transport Policy to which it relates, is more a statement of intent than an enforceable limitation on the use of motorised transport, with the exception of its restrictions on vehicle ownership.
26. I acknowledge the Co-Operative's best intentions to rely upon sustainable means of travel which, I accept, should reduce markedly the number of vehicle trips made for domestic purposes. Nevertheless, I surmise that, regardless of this, there must be times when private motorised transport is likely to be used for purposes that arise solely from residential occupation of the appeal site. Examples could include where bulky domestic items require transportation, where small children are involved, in bad weather and outside daylight hours, particularly as steep topography and narrow lanes without footways must in any event be disincentives to walk or cycle.
27. On the other side of the equation, a residential presence at the permaculture holding reduces the likelihood of motorised transport being used for commuting by on-site workers, who would not be formally bound by the Co-Operative's Transport Policy should the appeals be dismissed. I conclude that, on balance, the remote location means that a residential presence on the appeal site requires greater dependence on non-sustainable modes of travel than would be the case on the edge of a substantial settlement and thus runs contrary to the objectives of SP Policies ST1 and TR5 and national policy in PPS1. However, I also find that, in the context of the Appellants' activities as a whole, which I

find likely to continue to a significant degree if the appeals are unsuccessful, the harm so caused to policy objectives concerned with the promotion of sustainable travel patterns and modes of transport is limited.

*Highway safety*

28. The Council promotes SP Policies TR5 and TR10 as the appropriate policy framework against which to assess this issue. However, I find Policy TR5 to be concerned primarily with sustainability rather than safety. Moreover, I share the Appellants' view that the scope of Policy TR10 is clearly limited, by reason of its main heading, to the County's strategic road network, regardless of the manner in which the County and District Councils may generally seek to apply it in practice.
29. Nevertheless, supporting text at paragraph 5.80 of the Structure Plan advises that priorities for the non strategic network include the improvement of safety, and I find this, logically interpreted, to be a clear indicator of a general intention to guard against hazards on local roads. In any event, the objective of safety is firmly embodied in national guidance in Planning Policy Guidance Note 13: *Transport* (PPG13) and, ultimately, is a matter of basic common sense that should underpin all planning decisions.
30. My approach to this issue must necessarily adhere to the parameters rehearsed above in discussing sustainable transport and travel patterns. The degree to which the appeal development impacts on highway safety is a direct consequence of the amount of pedestrian and vehicular traffic generated by on-site activity, much of which could continue in any event if the appeals are dismissed. Dismissal could also give rise to additional commuter traffic, as already referred to.
31. The weight I give to the Appellants' traffic survey is tempered by the fact that, although overseen by an independent highways consultant, it was carried out in the main by members of the Landmatters Co-Operative. Having said this, the Council has provided no traffic information other than standard residential data drawn from the TRICS database which, although applied leniently to this case by the highway authority, is of limited relevance given the unconventional nature of the Appellants' community. I shall therefore draw primarily on my own judgement, experience and car-borne journeys around the local road network in assessing this issue, whilst having regard to the specific traffic-related incidents reported in written submissions and during the course of the Inquiry.
32. It is a matter of fact that the narrow high-banked lanes which link the appeal site to the strategic road network are ill-suited to modern-day vehicular traffic and fall short of the technical standards prescribed in the government publication *Manual for Streets*. However, whilst many of the key principles of the latter may be applicable to lightly-trafficked lanes in rural areas, its main focus is on conventional residential streets, and this inevitably limits its relevance to the network of very narrow country roads in the vicinity of the appeal site.
33. In any event I found, when driving around narrow lanes in the wider area similar to but somewhat busier than those serving Allaleigh, that in practice drivers generally respond to this somewhat inhibiting highways environment by travelling at relatively slow and appropriate speeds, making use of frequent

informal passing places and reversing carefully if confronted by another vehicle. Such practice operates effectively as a safety mechanism throughout the area and I am satisfied that, when seen in this context, perceived problems of reduced visibility, narrow carriageway widths and steep gradients of the kind cited by the Council cease to be matters of serious concern.

34. Moreover, having trialled the road network in the immediate vicinity of the appeal site at different times of day throughout the course of the Inquiry, I invariably found the level of traffic using it to be extremely low. I share the Appellants' view that, despite their substandard nature, these lanes have considerable capacity to carry additional traffic with an acceptable level of safety.
35. Landmatters' Transport Policy, whilst designed to minimise vehicle movements, is not, for the most part, properly enforceable. Nonetheless, I have no reason to doubt the Appellants' genuine intention to adhere to it and am prepared to accept it as a reasonably dependable manifesto. Past instances of parking on the highway by the site entrance were adequately explained by the Appellants at the Inquiry and I accept that these are unlikely to reoccur. I also take note of the Appellants' willingness, as indicated in their Transport Policy, to use the less populated route linking the site to the A3122, turning left from the appeal site entrance, and to encourage visitors to do the same. Indeed, a sign to this effect is clearly visible as one leaves the site.
36. Inevitably, the occasional need to reverse vehicles along the public highway for short distances will arise, as it has in the past. However, I conclude that the likely incidence of significant vehicular conflict arising directly from Landmatters' residential activities, over and above that which would be associated with the fallback position in any event, is so small as to be inconsequential. Accordingly, I find no valid highway safety objection to the appeal development and no serious conflict with the Development Plan or relevant national guidance in PPG13.

#### *Permaculture*

37. Notwithstanding the Appellants' contention to the contrary, I find specific support in the current Development Plan and national guidance for the residential element of their project to be limited, the general thrust of established policy being to safeguard the countryside outside towns and villages from most forms of residential use. I also accept that, if considered individually, the various activities envisaged by the Appellants would not in themselves justify an on-site residential presence. Moreover, I consider that the scheme fails to comply with the terms of the functional and financial tests set out in Annex A to PPS7 insofar as they are generally interpreted in relation to proposals for conventional temporary agricultural dwellings.
38. However, Annex A makes it clear that whether residential accommodation is essential in any particular case will depend on the needs of the enterprise and, in any event, this project goes well beyond the conventional. Inherent in the concept of permaculture is the implementation of wide-ranging and inter-related sustainable initiatives on a single agricultural site in a communal way. I am thus persuaded that various activities set out in the Appellants' land management and enterprise plans should be considered cumulatively rather than individually, so that a holistic view of the overall project can be taken.

39. I am also satisfied that the evidence before me demonstrates clearly that, in order to practice permaculture properly and successfully on the scale envisaged in this case, a substantial and continuous residential presence is essential. I do not doubt that the Appellants or their successors would be able to carry out some of the activities planned without living on the land. However, such an arrangement would not amount to permaculture in its true sense and the scope and purpose of the experiment would, in such circumstances, be significantly altered and diluted.
40. However, having said this, I find nothing in the Appellants' evidence to justify a minimum threshold of ten dwellings at this stage in the permaculture holding's development, let alone their ultimate goal of 15. There are eight residential units on site at the moment, which have successfully facilitated the project's progress to date, and proposed activities have not been quantified in terms of the number of hands required to implement them. It is also clear that some of the workforce do not, and need not, live on the site. The need for a residential presence over and above that which exists at present has not therefore been demonstrated, and I shall bear this in mind in determining the appeals.
41. I turn now to consider whether the potential benefits of this particular permaculture undertaking are sufficient to outweigh the harm previously identified in relation to the character of the area and objectives of sustainable transport and travel patterns. I take the view that, if value is to be attributed to the project to such a degree, then it must be justified in terms of its experimental role in developing, practising, understanding and teaching sustainable methods of agriculture and ways of living. It is therefore necessary to consider whether the advancement of permaculture should be seen as an important planning objective and, if it should be, whether there is a reasonable prospect that the Appellants' specific proposals could facilitate such advancement to a meaningful extent.
42. I do not accept that the absence of specific reference to permaculture in current planning guidance signifies its unimportance. This is not in itself surprising, given that it remains an uncommon and specialised practice and proposals are few and far between. For the same reason, I do not share the view that such projects should only be considered as part and parcel of the emergence of Local Development Frameworks, despite the fact that some local authorities have taken steps along that path, rather than by means of individual planning applications.
43. Permaculture is now an internationally recognised means of sustainable agriculture and the subject of much academic study in recent years. Moreover, the direction of travel of emerging national policy towards ever more sustainable approaches to development and the need to address the problem of climate change is readily apparent, most recently in the consultation document *Planning and Climate Change*, envisaged as an eventual supplement to PPS1. Whilst little weight can be attached to the specific policies contained in this document, its publication nevertheless signals a clear step change in the governmental approach to these issues and emphasises their increasing significance, already reflected at local level to some degree in SP Policy ST1 and LDF Policy CS11.
44. In such a context, I find there to be considerable ecological, educational and cultural benefits in further exploring permaculture. In my view, these do not

derive from the underpinning ethos of communal living, which is unlikely to be embraced enthusiastically by all but a small minority, but rather from the development of and experimentation with sustainable technologies and agricultural practices which that way of life facilitates. I do not find the fact that similar projects are already established, such as that at Tinker's Bubble in Somerset, to diminish the potential importance of an additional permaculture scheme. Experiments can build on the findings of previous trials rather than merely replicate what has gone before, and it is clear from the academic support for these appeals that permaculture is still an evolving concept.

45. The Landmatters land management and enterprise plans set out an ambitious range of proposals which in my opinion, if fully realised, could contribute substantially to the advancement of this important strand of environmental science, with the notable bi-product of refining sustainable practices applicable well outside the confines of agriculture. Of particular significance is the educational role that this undertaking aims to fulfil, with its scope to not only host school trips but also to assist more advanced research.
46. I have no reason to question the Appellants' good faith and genuine intention to carry forward the project in the manner indicated, or to doubt their knowledge and expertise in matters of permaculture, although I accept that the communal lifestyle is as important to many of the Co-Operative's members as the agricultural experiment. Landmatters have already achieved low levels of energy consumption, implemented wide-ranging recycling initiatives and established an ecological footprint per household far smaller than the regional average, as established by the analysis undertaken by 4<sup>th</sup> World Ecological Design, the findings of which were not seriously questioned at the Inquiry.
47. Notwithstanding the doubts and criticisms levelled by some, I am impressed by the amount of permaculture-related work undertaken at the appeal site to date, albeit that this has yet to blossom into a profit-making enterprise, and the quality of infrastructure already in place. Progress must be considered in the light of the facts that there has only been a substantial residential presence on site for little more than a year and a long period of observation before initiatives are put into practice is integral to permaculture design. In any event, I find the prospect of what might develop in the future to be far more significant to my decision than what has taken place so far.
48. In this regard, the Council and others have criticised the enterprise plan in several respects, suggesting that the project is over-reaching in terms of its financial forecasts and citing a lack of market research and independent substantiation. It is also the case that the plans have been revised significantly from last year, initial targets for 2006 having apparently been abandoned, and that some Landmatters residents currently work off-site for part of the time. I agree that such considerations highlight uncertainties which reduce to an extent the confidence with which the likely success of the project can be predicted. Further uncertainty derives from the shortcomings of the Appellants' section 106 obligation and Transport Policy which, as previously explained, does not provide a reliable basis for effective planning enforcement.
49. However, this is not to say that the Appellants' stated goals cannot be achieved, as it is difficult to assess with accuracy, given a paucity of precedent and experience on which to draw, the likely profit that might be derived from an enterprise of this kind and determine whether this would be sufficient to

fund the ongoing project. Whilst the Council's agricultural witness has attempted such an assessment, he has done so by applying the tests in Annex A of PPS7 in a conventional way which I consider, in the context of such an unconventional scheme, to be questionable. He also acknowledges a lack of experience of and training in permaculture. Additionally, it must be borne in mind that, in contrast to a conventional agricultural undertaking, profitability and self-sufficiency, whilst important, are not the only measures of success of a project of this kind.

50. In my view, the necessary and sufficient safeguard against these unknown factors is that, if the appeals were allowed, planning permission would only be granted for a temporary period, supplemented by the obligation and conditions to limit the scale and nature of the activity. The project could thus be trialled and monitored, with a view to carrying out a further detailed assessment of the continuing worth of the Appellants' experiment, and drawn to a close upon expiry of the permission if ultimately found, in the light of experience, to lack sufficient credibility or value. Moreover, all accommodation could be removed from the site without trace, should this be necessary.
51. This being so, and bearing in mind the substantial fallback position available to the Appellants, I conclude that the advancement of permaculture and sustainable ways of living facilitated by this project has sufficient potential value to outweigh the limited harm to other interests of acknowledged importance identified earlier in my reasoning. Accordingly, I find justification in this case for a departure from relevant local and national policy sufficient to grant planning permission.
52. Although the Appellants seek a five year consent with a minimum of ten dwellings I consider that, in the light of the above uncertainties, only a three year trial of residential occupancy with a maximum of eight dwellings is justified. However, in view of the fallback position, only the residential element of the use should be time limited.

### ***Other matters***

53. I have considered all the other matters raised, including the perceived lack of success of the permaculture project at Steward Wood. However, this contrasts markedly with the advancements made by the Tinker's Bubble project and there is no reason to believe that the Landmatters scheme would follow the path of the former rather than the latter. The lack of a structured approach to choosing a location for the undertaking and the fact that there may be sites closer to a large settlement where it could be conducted with a greater level of sustainability do not necessarily mean that the land at Allaleigh is inherently unsuitable for the purpose or preclude the granting of planning permission. In any event, I have not been made aware that other, more suitable land is available.
54. I have also taken into account previous refusals of planning permission for residential proposals in the area referred to be local residents and the Secretary of State's dismissal in 1995 of the first Tinker's Bubble appeal (ref no APP/R2235/A/94/244042). However, each scheme must be dealt with primarily on its own merits, as I have done in this instance. In any event, there was no substantial fallback position in the case of that other appeal decision of the kind that applies to the current scheme, and considerations of sustainability and climate change had yet to attain the high profile they now

command. Fears of precedent fall to be considered in the same way and, although there are other such projects in the region, the difficulties associated with this kind of lifestyle militate against the likelihood a host of similar proposals coming forward in the wake of these appeals.

55. I accept that a number of successful projects elsewhere concerned with the sustainable agricultural working of land are not dependent upon residential occupation of the land, as evidenced by the various concerns run as part of the South Devon Community Supported Farming group drawn to my attention by the Council. However, whilst some of these seem to share a number of the farming principles favoured by Landmatters, I have seen nothing to suggest that they duplicate the Appellants' permaculture initiatives significantly, operate at the scale or level of ambition or occupy similarly extensive holdings. Indeed, Ms Belsey of the locally-situated Green Lanes Centre gave compelling evidence to the contrary at the Inquiry.
56. I am satisfied that the appeal scheme has no adverse implications for local infrastructure of any significance, but attach very limited weight to those other benefits, aside from the advancement of permaculture and sustainable ways of living, that the Appellants clearly perceive as arising from their communal existence. These amount to little more than individual preferences and the fulfilment of personal philosophies unlikely to be adopted to a material degree by the general populace. Nor do I give credence to the argument that the appeal development provides affordable housing in a way that might help to ease the local housing crisis or relieve pressure on conventional affordable housing resources to any meaningful extent.
57. However, neither these nor any of the other matters raised are of such importance as to outweigh the considerations that have led to my conclusions on the main issues. Accordingly, I find that the appeals on ground (a) and the section 78 appeal should succeed.

### **Conditions**

58. I have considered the conditions suggested by the Council and discussed at the Inquiry, having regard to the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. In some cases I have combined conditions and edited the suggested wording to reflect that advice. The following paragraphs relate to all three appeals unless otherwise indicated.
59. The permission for residential use should be limited to a period of three years and a maximum of eight dwelling units for the reasons I have already explained. In view of the Appellants' fallback position, it would not be appropriate to apply a time limitation to the other elements of the appeal development. To enable the Council to monitor the achievements of the permaculture project, a condition is required to supplement and clarify the somewhat ambiguous undertaking in the section 106 obligation to submit an annual written report detailing 'activities undertaken'. Such a condition should include a requirement to update the Co-Operative's land management and enterprise plans on a regular basis.
60. In the case of Appeal B, the units should be restricted to a secluded area little larger than that they currently occupy, in the interests of visual amenity. Permissions pursuant to Appeals A and C need not be subject to such a restriction as they would not apply beyond this area in any event. I find the

fact that the units cannot themselves amount to operational development to effectively limit their form and structure, such that a maximum footprint of 50 square metres should prove sufficient to ensure their continued unobtrusiveness without the need for a height restriction.

61. Given that planning permission is granted specifically to facilitate the advancement of experimentation in permaculture and sustainable living, occupation of the residential units should be limited to members of the Landmatters Co-Operative, their partners and children. Conditions governing drainage, sewage and waste storage and disposal and the storage of hazardous substances are necessary in order to protect the water environment.
62. The number of visits to the land for the purpose of education or ancillary rural enterprises would be unfettered if the appeals were dismissed. However, as a residential presence on site facilitates a greater number of such visits, I consider that some limitation on the number of such visits is justified. To this end, I find the Appellants' suggestion that visits comprising groups of more than 12 people should take place on no more than 56 days per calendar year to be a reasonable compromise although, to ensure that compliance with such a condition remains within the Appellants' control, it should only govern pre-arranged visits.
63. Local traffic conditions are such that a requirement to improve visibility at the site entrance, which I consider would impact adversely on the appearance of the rural lane, cannot be justified on grounds of highway safety. Nor do I find any planning justification for exerting control by condition over water supply arrangements at the site.

### **Conclusions**

64. For the reasons given above and having regard to all other matters raised I conclude that, subject to correcting the site address stated in the two enforcement notices, Appeals A and B should succeed on ground (a) and planning permission should be granted pursuant to the deemed planning application in each case subject to conditions, including a condition limiting residential use of the land to a period of three years. The appeals on grounds (f) and (g) do not therefore need to be considered. I further conclude that Appeal C should succeed and that planning permission should be granted pursuant to it on the same basis.

### **Formal Decisions**

#### **Appeal A: APP/K1128/C/06/2032148**

65. I direct that the enforcement notice issued on 8 November 2006 be corrected by the replacement in section 2 of the words 'Allaleigh, Blackawton' with the words 'Allaleigh Lane, Allaleigh, Cornworthy'.
66. Subject to this correction, I allow the appeal 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 material change of use of land at Allaleigh Lane, Allaleigh, Cornworthy, Totnes, Devon TQ9 7DL, as shown on the plan attached to the notice, from agriculture to a "permaculture" holding comprising a mixed use integrating agriculture, forestry, education and

ancillary rural enterprises and residential use, subject to the conditions set out in Appendix A to these decisions with the exception of condition 2)(B).

**Appeal B: APP/K1128/C/07/2039820**

67. I direct that the enforcement notice issued on 23 February 2007 be corrected by the replacement in section 2 of the words 'Allaleigh, Blackawton' with the words 'Allaleigh Lane, Allaleigh, Cornworthy'.
68. Subject to this correction, I allow the appeal 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 material change of use of land at Allaleigh Lane, Allaleigh, Cornworthy, Totnes, Devon TQ9 7DL, as shown on the plan attached to the notice, from agriculture to a "permaculture" holding comprising a mixed use integrating agriculture, forestry, education and ancillary rural enterprises and residential use, subject to conditions set out in Appendix A to these decisions with the exception of condition 2)(A).

**Appeal C: APP/K1128/A/06/2018778**

69. I allow the appeal and grant planning permission for the material change of use of land at Allaleigh Lane, Allaleigh, Cornworthy, Totnes, Devon TQ9 7DL from agriculture to a "permaculture" holding comprising a mixed use integrating agriculture, forestry, education and ancillary rural enterprises and residential use, in accordance with the terms of the application, ref no 13/0217/06/CU dated 31 January 2006, and the plans submitted with it, subject to conditions set out in Appendix A to these decisions with the exception of condition 2)(B).

*Alan Woolnough*

INSPECTOR

## APPENDIX A

### SCHEDULE OF CONDITIONS

- 1) The residential use hereby permitted shall be discontinued, all residential accommodation and facilities ancillary thereto removed and the land restored to its former condition on or before the expiry of a period of three years commencing with the date of this decision.
- 2) (A) No more than eight residential units shall be stationed on the land at any one time. No residential unit shall exceed 50 square metres in footprint as measured externally or be of such form or structure that it constitutes operational development for the purposes of the Town and Country Planning Act 1990.
- 2) (B) No more than eight residential units shall be stationed on the land at any one time. No residential unit shall be positioned outside the area hatched in black on the plan attached to this decision, exceed 50 square metres in footprint as measured externally or be of such form or structure that it constitutes operational development for the purposes of the Town and Country Planning Act 1990.
- 3) Occupation of the residential units on the land shall be limited to members of the Landmatters Co-Operative, their partners and dependent children.
- 4) Residential use of the land shall cease and all residential units and facilities ancillary thereto shall be removed from the land within three months of the date of failure to meet any one of the requirements set out in (i) to (iii) below:-
  - (i) Within three months of the date of this decision, details of arrangements for the storage of any hazardous substances (including diesel) and for the storage and disposal of sewage and other waste, to include timetables for their implementation, shall have been submitted for the written approval of the local planning authority.
  - (ii) Within 12 months of the date of this decision, the details submitted in pursuance of (i) above shall have been approved by the local planning authority or, if the local planning authority refuses to approve the details or fails to give a decision within eight weeks of their submission, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.
- 5) Arrangements for storage of any hazardous substances and for the storage and disposal of sewage and other waste approved pursuant to condition 4) shall be implemented in the approved manner in accordance with the approved timetables.
- 6) The site shall at all times be drained on a system that keeps all clean roof and surface water separate from foul drainage. All foul drainage, including foul surface water run-off, shall be disposed of in such a way as

to prevent any discharge to any well, spring or watercourse, including dry ditches with connection to a watercourse.

- 7) Pre-arranged visits to the site by groups of more than 12 people for purposes associated with education or ancillary rural enterprises shall take place on no more than 56 days per calendar year.
- 8) In each of the first three years of this permission, a written report detailing the permaculture holding's achievements to date, to include details of compliance with the most recent versions of the Landmatters Co-Operative land management plan and enterprise plan, together with updates of those plans addressing the next three year period, shall be submitted to the local planning authority on or before 1 April.

## **APPENDIX B**

### **APPEARANCES, DOCUMENTS AND PLANS**

#### **APPEARANCES**

##### FOR THE APPELLANTS:

|                                 |  |
|---------------------------------|--|
| David Stephens                  | Solicitor, Battens Solicitors, Mansion House,<br>Princes Street, Yeovil, Somerset BA20 1EP                 |
| He called                       |  |
| Mr S Fairlie                    | Director, Chapter 7, The Potato Store,<br>Flaxdrayton Farm, Drayton, South Petherton,<br>Somerset TA13 5LR |
| Mr C D Jones<br>C.Eng MICE FIHT | Chartered Engineer, 5 Lodge Close, Yatton,<br>Bristol BS49 4DX   |
| Mr A Goldring                   | Coordinator, Permaculture Association (Britain),<br>29 Sholebroke Mount, Leeds LS7 3NG                     |
| Ms R Star BA(Hons)              | Landmatters Co-Operative Ltd, Allaleigh Lane,<br>Allaleigh, Totnes, Devon TQ9 7DL                          |

##### FOR THE LOCAL PLANNING AUTHORITY:

|                                       |  |
|---------------------------------------|--|
| Peter Wadsley                         | Of Counsel, instructed by the Solicitor to South<br>Hams District Council              |
| He called                             |  |
| Mr R Crombie                          | Planning Enforcement Officer, South Hams<br>District Council                           |
| Mr G Bryant                           | Area Highways Engineer, Devon County Council   |
| Mr D G Roberts<br>BSc MRICS           | Chartered Surveyor, Moor Farm, Willey Lane,<br>Sticklepath, Okehampton, Devon EX20 2NG |
| Mr M J Muston<br>BA(Hons) MPhil MRTPI | Director, Muston Planning, 75 Dovers Park,<br>Bathford, Bath BA1 7UD                   |
| Mr A Whish<br>BA(Hons) DipLA          | Landscape Officer, South Hams District Council   |

**FOR RESIDENTS OF ALLALEIGH:**

|              |   |
|--------------|---|
| Mr A Goddard | Solicitor, The Dog Watches, Bantham,<br>Kingsbridge, Devon TQ7 3AN  |
| He called    |   |
| Mrs S Jaine  | Allaleigh House, Allaleigh, Totnes, Devon<br>TQ9 7DL, appearing on behalf of 17 named<br>residents of Allaleigh |

**OTHER INTERESTED PERSONS:**

|                  |  |
|------------------|--|
| Mr R Hopkins     | 12 Droridge, Dartington, Totnes, Devon TQ9 6JQ   |
| Mr C Cadle       | Glebe Orchard, Cornworthy, Totnes, Devon<br>TQ9 7ES, appearing on behalf of the Parish<br>Councils of Cornworthy, Ashprington,<br>Blackawton, Halwell & Morleigh and Dittisham |
| Mr T S McCartney | Embercombe, Higher Ashton, Exeter, Devon<br>EX6 7QT, also appearing on behalf of Dr S<br>Harding, Mr J Liddle, Ms P Sykes, Mr J Sherrill<br>and Ms V Harvey                    |
| Mr M Elsmere     | Westerly, Washbourne, Totnes, Devon TQ9 7UF  |
| Ms V Belsey      | 10 North Street, Totnes, Devon TQ9 5NZ   |
| Ms K Benson      | 5 Meadow Brook, Totnes, Devon TQ9 5SJ  |

**DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Signed Statement of Common Ground
- 2 Supplementary proof of evidence by Derek Roberts, submitted by the Council
- 3 Supplementary proof of evidence by Colin Jones, submitted by the Appellants
- 4 Revised Appendix 1 to Mrs Jaine's proof, submitted by Mrs Jaine
- 5 Joint Statement by Cornworthy, Ashprington, Blackawton, Halwell & Morleigh and Dittisham Parish Councils, submitted by Mr Cadle
- 6 Letters from UpStart, University of Plymouth, Neale Consulting Engineers Ltd, Pathways – Spirit In Business Ltd and Jeremy Thres, submitted by the Appellants
- 7 Letter dated 17 May 2006 from the Devon Wildlife Trust, submitted by the Appellants
- 8 Planning applications forms, site plans and decision notices for decisions refs 9/13/1096/78/1 and 9/13/0630/79/1, submitted by the Council
- 9 Decision notice ref 04/01235/COU, dated 23 June 2005 and relating to Tinker's Bubble, Little Norton, submitted by the Appellants
- 10 Letter dated 13 July 2007 from Anthony Steen MP, submitted by Mrs Jaine

- 11 Letters and statements from Valerie Belsey, Mrs Cadle, Fiona Carpenter, Sapphire de la Terre, Timothy Hall, Sylvia Harrop, Vera Harvey, Robin Horsley, Caroline Hunt, Pat Sykes, Dr Christian Taylor, Dr C J Trier, Elizabeth Turner and John Watson, submitted by interested persons
- 12 Paragraphs 5.71 to 5.80 of the Devon Structure Plan 2001 to 2016, submitted by the Council
- 13 Extract from Consultation on Planning Policy Statement: *Planning and Climate Change* - Supplementary to Planning Policy Statement 1 (DCLG), submitted by the Appellants
- 14 Extract from Transport In The Urban Environment (IHT), submitted by the Appellants
- 15 Extract from Guidance on Transport Assessment (DCLG/DfT), submitted by the Appellants
- 16 Signed planning obligation pursuant to s106 of the Town and Country Planning Act 1990, dated 19 July 2007, submitted by the Appellants
- 17 Suggested visibility splay condition, submitted by the Appellants
- 18 Notes of application for an award of costs, submitted by the Appellants

## **PLANS**

- A Plan attached to the Appeal A enforcement notice
- B Plan attached to the Appeal B enforcement notice
- C Planning application site location plan
- D Map 13 of the Devon Structure Plan 2001 to 2016, submitted by the Appellants
- E Location plan for Crowthers Hill, Dartmouth, submitted by the Appellants



# Plan

This is the plan referred to in my decision on Appeal B dated 23<sup>rd</sup>. August 2007

*Alan Woolnough*

**Alan Woolnough BA(Hons) DMS MRTPI**

**Land at Allaleigh Lane, Allaleigh,  
Cornworthy, Totnes, Devon  
TQ9 7DL**

**Ref: APP/K1128/C/07/2039820**

The Planning Inspectorate  
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Temple Quay House  
2 The Square  
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Scale not stated

