SEEING THE WOOD AND THE TREES
Woodland Social Enterprises and the Planning System in the UK
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Front cover photo: volunteer-built roundhouse at Young Wood, Somerset, home of Neroche Woodlanders www.youngwood.org.uk. Credit: Norman Dandy

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Summary and table of contents

This report explores the impact of the planning system on UK woodland social enterprises (WSEs). It starts by introducing WSEs, and explaining why we think this research is important. It introduces the key legislation and policy that relate to WSE. It also covers some of the key issues and developments WSEs are likely to encounter, and discusses the variety of ways in which these can play out. Finally it summarises some key learning for WSEs who are going to be engaging with planning.

Read down, or click on any of the links below for more information about these issues. We have also published a separate short guidance document, which highlights the most important learning for WSEs. The key resources used to develop this report are compiled in an online spreadsheet, to which we encourage further contributions.

Table of contents

Glossary 5

1 Introduction 6

2 WSEs and the planning system 8
   2.1 Planning Legislation 8
   2.2 The UK planning system(s) 9

3 Issues faced by WSEs who engage with planning 13
   3.1 Lack of understanding of their models 13
   3.2 Interpretation of Permitted development (PD) rights for forestry 14
   3.3 Diversity in application of planning policy 14
   3.4 Time, resources and expertise needed to engage with planning 15

4 Common developments pursued by WSEs 16
   4.1 Land uses unambiguously necessary to forestry 16
   4.2 Land uses ancillary to forestry 17
   4.3 Where the primary purpose may require change of use 18
   4.4 Residential uses 19
   4.5 Retrospective planning permission 22

5 Key learning for WSEs 22

A1 Appendix 1 - Further reading and resources 25
Glossary

**Ancillary** - An ‘ancillary’ use is one which is secondary to, but closely associated with the main use. This becomes crucial where permitted development rights may apply if uses or operations are considered ancillary to forestry rather than a change of use. See 4.2 & 4.3.

**Areas of Outstanding Natural Beauty (AONBs) (except Scotland)** - AONBs have statutory protection due to their natural beauty. They are one of the main areas where additional planning restrictions are likely to apply. More info here. In Scotland the broad equivalent is the Natural Scenic Area.

**Development** - The planning system was set up to control the ‘development’ of land. The Town and Country Planning Act (1990) defines development as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

**Dwellings/Dwellinghouses** - these are structures designed to provide living accommodation

**Enforcement** - LPAs may take enforcement action to rectify a breach of planning control - i.e. where development has been carried out without appropriate permission, or where a planning condition has been imposed and not fulfilled. More info here.

**Financially Sound** - A financially sound business is one that is able to pay all debts and meet all obligations. There can be debate as to how this is interpreted.

**Forest/Woodland Crofts (Scotland)**: Crofting is a particular type of land tenure based on subsistence landwork, found mostly in the North and West of Scotland. Forest crofts are explicitly supported in planning policy, and come with a set of rights (see 4.4.3)

**Local Planning Authority (LPA)** - LPAs are the parts of councils tasked with controlling planning at a local level. More info in the report here.

**Local Development Plan** - This is the plan for the development of an area that the LPA has drawn up, in consultation with the local community. It may include planning policies from previous plans. Drawing up a LDP is a long and complex process and not all LPAs have a current LDP. More info here.

**Permitted Development (PD)** - PD is development that can be pursued without the need for a full planning application. More info in the report, sections 2.1, 2.1.2 and 3.2.

**Planning Conditions** - LPAs may grant planning permission subject to certain conditions being fulfilled. This can be a way of making development acceptable that would otherwise be unacceptable. More info here.
**Material Consideration** - Only certain evidence and arguments are taken into account in planning decisions. The ones that are considered are known as as ‘material considerations’. More info [here](#).

**Natural Scenic Areas** - (Scotland only). This is a statutory designation of “outstanding scenic value in a national context”. Like AONBs in England, Wales and Northern Ireland, these areas are subject to additional planning restrictions. More information [here](#).

**Section 4** - This refers to Section 4 of the [General Permitted Development Order](#). Section 4 allows for the exclusion of some ‘conservation areas’ from PD. If a Section 4 order applies to a particular area, development may be more difficult.

**Viable/ viability** - A business is viable where its model allows it to continue to operate without a high likelihood of being forced to cease operating. The practical testing of viability is contentious, as discussed in 4.4.1.

**Woodland Social Enterprise (WSE)** - WSEs are the focus of this report. They are woodland based businesses who pursue social missions, and generate at least some of their income from trading and services. More info in 1.1.
1 Introduction

This report explains how the planning system impacts Woodland Social Enterprises (WSEs) in the UK. It introduces some of the key legislation and policy on which planning decisions are made. It considers the main ways in which WSEs are likely to interact with planning, the barriers they face and some key lessons. The rest of the introduction explains what we mean by WSEs, and why and how we have done this research.

1.1 Woodland Social Enterprises (WSEs)

WSEs are businesses based in woodlands, who are focused on social and environmental objectives rather than just profit, and aim to earn at least some of their income through trade. Whilst this is a growing sector, there are relatively few resources about WSEs per se, and the term encompasses a wide spectrum of organisations. Thus for the purposes of this research we have generally understood anything relating to small, innovative woodland enterprise as within scope.

We have generally excluded materials that do not cover enterprise-based woodland management (e.g. exclusive conservation focus or embedding trees in urban environments and new developments). This is not to say conservation is not a crucial goal of woodland management. Rather it is because the planning system often focuses on this aspect at the expense of facilitating sustainable enterprise.

1.2 Making Local Woods Work

Making Local Woods Work (MLWW) is a pilot project working to help support and grow WSEs across the UK. The project is funded by the National Lottery through the Big Lottery Fund and led by Plunkett Foundation and involves a range of partners.

MLWW is a three year programme which started in September 2015. It is working with more than 50 woodland social enterprises across the UK. It provides a range of support tailored to their individual needs and can include support with business planning, establishing appropriate governance structures, woodland management or resource assessment. MLWW is also organising training events, workshops and webinars that are open to those beyond the programme.

The planning system - and WSEs’ dealings with it - has been a recurring theme, and this research was commissioned to understand more about how the planning system interacts with woodland social enterprise. It should be useful to WSEs and those who support them.
1.3 The Planning System

The planning system controls development. WSEs often need new developments to grow their business or make them sustainable, which makes gaining planning permission crucial to the success of many. In particular this is likely to include permission to develop the infrastructure needed to build or support the business. Negative planning decisions can challenge the viability of WSEs, however the planning system also plays an important role in preventing damaging developments. To support WSEs and sustainable woodland management we need to understand key issues and best practice.

Each UK country has a different planning system, though they are structured in a very similar way for the most part. This report generally uses the English system as a basis, and highlights difference in other UK countries where relevant. For more information on the planning system, and recommendations on how it might improve, you can also see our report on Planning for the Common Good.

1.4 Methodology for this research

This report was developed through desk research and telephone interviews between April and June 2017. We set out explore the following questions, informed by discussions that arose during the support offered as part of Making Local Woods Work:

- What are the most common interactions between WSEs and the planning system?
- What are the biggest issues WSEs are likely to face in planning?
- How are WSEs affected by definitions / understandings of ‘forestry’ within the planning system?
- What diversity is there by planning authority and between devolved administrations?
- Key things should WSEs be aware of when starting a project or engaging with the planning system

We identified key resources through speaking to experts on WSE and experts on planning, searching key terms on Google, looking through pertinent legislation and policy, and following citations. Sources included academic journals, government legislation, relevant guidance and reports, and websites and blogs. We summarised key reading into an online spreadsheet organised according to themes relating to our research questions.

This report summarises our findings. We are not professional planners, and this should not be taken as professional advice. Whilst we have covered a wide range of resources, and spoken to many groups, this research is intended to reflect the diversity of WSE experiences rather than estimate their prevalence. If you have any comments, corrections, or additions, please get in touch with us by emailing hello@sharedassets.org.uk.
1.5 Report outline and other resources

- Chapter 2 introduces the key legislation, policy and processes of planning in each UK country
- Chapter 3 highlights the key barriers WSEs commonly face
- Chapter 4 introduces the main reasons WSEs need to engage with planning
- Chapter 5 covers the most important things WSEs can do to make planning easier
- All the resources used to compile this report are shared in this google sheet, and we invite the submission of additional resources
- We have also produced a short guidance document that focuses on key learning for WSEs

2 WSEs and the planning system

This chapter introduces some of the key features of planning in the UK. Planning is devolved to each country in the UK, although there is also some overlap. In each section we consider the key legislation and policy for each country and how they relate to WSEs. This information is important to know as any WSE seeking permission for development will need to engage with this system and cite these policies. Chapters 3 and 4 will go on to look at some key issues for WSEs engaging in planning, and the key areas in which this legislation, policy, and guidance applies to WSE.

2.1 Planning Legislation

Planning is ultimately rooted in legislation that sets the parameters for policy and guidance. This is different for each country in the UK, although the ultimate setup is quite similar. In each country legislation allocates different kinds of land into various use classes. For each class there are ‘permitted developments’ which can be undertaken without the need for full planning permission. Any other developments, or any change of use will require planning permission (more on this in Chapter 3).

2.1.1 Core Legislation

Each of the countries in the UK have very similar wording in the core legislation relating to forestry. In each country legislation sets out the following:

1. Land uses considered within development are grouped into ‘use classes’. For example in England, residential developments fit in Class C and education and leisure developments in Class D.
2. Forestry is considered outside of these development classes, meaning activities considered core or ancillary to forestry are not subject to planning control.
3. These activities are ‘permitted developments’. They include erecting or altering buildings, developing and maintaining private access ways, and other operations considered ‘reasonably necessary’ to forestry (with limits and excluding dwellings).

This information is incorporated in very similar language into separate legislation for each country (key sections in brackets):

- **England & Wales**: Share (1) the *Town and Country Planning (Use Classes) Order 1987*, and (2) The *Town and Country Planning Act 1990* (section 55). They have separate (but very similar) legislation for permitted development:
  - Wales: (3) The *Town and Country Planning (General Permitted Development) Order 1995* (as amended) (Schedule, Part 7, Class A).

- **Northern Ireland**: (1) The *Planning (Use Classes) Order (Northern Ireland) 2015*, (2) the *Planning Act (Northern Ireland) 2011*, (Part 3, 23), and (3) the *Planning (General Permitted Development) Order (Northern Ireland) 2015* (Part 8, Class A).

- **Scotland**: (1) The *Town and Country Planning (Use Classes) (Scotland) Order 1997*, (2) the *Town and Country Planning (Scotland) Act 1997* (Part 3, 26), and (3) the *Town and Country Planning (General Permitted Development) (Scotland) Order 1992* (Part 7, Class 22).

### 2.1.2 Permitted Development (PD)

The General Permitted Development Orders (GPDOs) listed above give forestry enterprises PD rights for developments considered “reasonably necessary” to forestry. The named exceptions to this are where plans relate to a dwelling, a building over 3m in height within 3km of an aerodrome, if within 25m of trunk or classified road, or storage for fuel or waste not collected on site. This means that many of the developments pursued by WSEs should be fairly straightforward. This will certainly include any activities related to traditional woodland management such as planting, pruning or tree felling (the latter requires a felling license from the Forestry Commission and does not apply where a Tree Preservation Order or Section 4 conservation area applies.)

Where a development fits within PD, the only step required should be to submit ‘prior notification’ to the LPA so it can decide if they need any changes or require full permission. This involves filling in a form and submitting a map and drawing, then waiting up to 28 days for the LPA to raise any objections. Crucially, there can be great variation in what is and isn’t considered ‘reasonably necessary’ to forestry (see discussion in 3.2).

### 2.2 The UK planning system(s)

All decisions made regarding planning applications must be in accordance with the local development plan, unless material considerations such as national planning policy indicate otherwise. Analysis of the main developments applied for by WSEs can be found in Chapter 4.
This section introduces the key policy documents in England, highlights some of the key differences in the other UK countries\(^1\), and discusses why this policy is important to WSEs. It also touches on the application and appeals procedures.

### 2.2.1 The planning system in England

#### Local plans and guidance in England

National planning policy puts local plans at the heart of the planning system. Local planning policy, guidance, and decision making is managed by Local Planning Authorities (LPAs). These are generally metropolitan borough councils, non-metropolitan district councils, national park authorities, or unitary authority councils. Planning Portal has a search feature to identify a local LPA. Each LPA should produce a Local Plan - these cover the strategic priorities for the area. They become official policy once signed off by independent planning inspectors. However, “emerging” or incomplete plans can be given some weight in the decision making process, depending on their stage of development. Local Plans in England are not statutory requirements for LPAs and some areas do not yet have a plan or have not kept their plans up to date.

LPAs may also produce additional Supplementary Planning Documents (SPDs) to assist officers and applicants with working with planning policy. For example the New Forest National Park Authority issued a SPD giving design guidelines for developments within the national park.

The Localism Act 2011 introduced one further layer of planning, the Neighbourhood Planning Forum (NPF). The NPF should be made up of the local community, and will develop its own neighbourhood development plan, in alignment with the rules set out in the NPPF and Local Plan for that area. Once this plan is checked by the planning inspectorate, and approved by the neighbourhood in a referendum, it becomes adopted as part of the statutory planning framework for that area.

#### National policy and guidance in England

The main policy document for England is the National Planning Policy Framework (NPPF), which sets out the primacy of the local plan, and consolidates most previous policy. Key paragraphs for WSEs include:

- 14: Presumption in favour of sustainable development
- 28: Supporting rural economies. Explicitly includes diversification of land-based businesses, tourism, leisure and visitor facilities.
- 55: Supporting housing for sustainable development and rules for forestry dwellings
- 70: Supporting shared spaces and community facilities
- 92: Supporting ‘Community Forests’ (a particular type of forest around urban areas, managed in partnerships of several public sector organisations)

\(^1\) See also: Graham Winter (2016), Comparison of the planning systems in the four UK countries, National Assembly for Wales.
- 93: Supporting delivery of renewable and low carbon energy
- 118: Prohibiting development in ancient woodlands
- 203 & 206: Using planning conditions to enable otherwise unacceptable development

Further national guidance on planning can be found in a series of National Planning Practice Guidance (NPPG) documents. Of particular potential relevance to WSEs are documents on the natural environment, viability, Tree Preservation Orders, renewable and low-carbon energy, planning conditions, and health and wellbeing.

Some earlier policy and guidance superseded by the NPPF may also be ‘material considerations’ for decisions (e.g. the guidance on forestry dwellings in PPS7).

Certain statutorily designated areas are subject to special planning policies, which guide what developments are allowed within them. These include National Parks, Areas of Outstanding Natural Beauty and Natural Scenic Areas, Sites of Special Scientific Interest, and Green Belts. If a woodland is within one of these areas it is likely to make development more difficult.

Planning applications in England

As mentioned earlier, most “core” forestry activities are considered to be permitted development and thus do not require planning permission. Assuming no other local restrictions apply, these “permitted developments” should be approved unless the LPA considers that the activity is not “reasonably necessary” to forestry. This is discussed further in Chapter 3.2.

For other developments, the first step is to submit an application to the LPA whose area the site falls within. In some cases there may be opportunities for pre-application consultations to get advice with planning officers. After this has been checked for completeness, relevant stakeholders and experts are consulted to get their views. For WSE applications this might include Natural England, the Forestry Commission, Highways England, Environment Agency, Historic England, National Park authorities, or AONB units. If the LPA is a district or borough council in a non-unitary area, the county council will also be consulted. This may also involve publicising the development on-site or in local newspapers.

Next the planning case officer visits the site to gather key information needed to make a decision. They may also advise the applicant to make necessary amendments to their application. When a final version has been agreed, the planning case officer will make a recommendation to the LPA.

If the decision is not considered at all contentious it can be approved by the planning officer. If it is contentious, or if it is of strategic importance, it will go to the relevant planning committee. The people making the decision at this stage will be elected officials - local councillors - rather than planning professionals. Decisions will be made at public committee meetings.

If the applicant is unhappy with the decision, they can appeal within 6 months of the decision, unless an enforcement notice has already been served, when the appeal must be made
within 28 days. Appeals go to the Planning Inspectorate, a national body made up of professional planners.

**Enforcement in England**

If a development is carried out without planning permission the LPA may issue an “enforcement notice” which explains the breach and issues instructions for remedying it. This might include the complete removal of structures. Failure to comply will result in a fine unless the notice is quashed. In general, development becomes “immune” from enforcement action four years after being completed, although further action can still be taken. For some developments (mainly changes of use), this period rises to 10 years. LPAs can pursue enforcement for other breaches of planning control, for example where a planning condition has been breached. Enforcement in the other UK countries is broadly similar.

2.2.2 The planning system in Wales

**Local policy and guidance in Wales**

The equivalent of Local Plans in England are Local Development Plans in Wales. Each LPA has a statutory responsibility to produce these and review them every 4 years. There is no equivalent of Neighbourhood Plans in Wales.

**National policy and guidance in Wales**

The main national planning policy document is Planning Policy Wales. Other key policy can be found in Minerals Planning Policy Wales, a series of Technical Advice Notes, and the coming National Development Framework for Wales.

One key difference in Welsh planning policy for WSEs is the recent introduction of One Planet Development (OPD) policy, which introduces the opportunity for Low Impact Dwellings (LIDs) to be built in woodlands (see 4.4.3). There are also a few other bits of Welsh legislation which may support WSEs. The Well-being of Future Generations Act 2015 sets wellbeing goals for the country which public bodies, including LPAs, are obliged to support. Several of these goals are in line with what many WSEs are aiming to achieve. The coming National Natural Resources Policy will also establish key principles which could be called upon by WSEs in planning applications.²

**Planning applications in Wales**

Wales and England share a Planning Inspectorate for appeals. Consultees for applications in Wales may include Natural Resources Wales, Environment Agency, Local Highway Authority, Forestry Commission Wales, Community Councils, County Councils, Countryside Council for Wales, or other relevant public bodies.

**Enforcement in Wales** is broadly similar to in England.

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2.2.3 The planning system in Northern Ireland

Local policy and guidance in Northern Ireland

The equivalent of the Local Plan in England is the Local Development Plan in Northern Ireland. There is no direct equivalent of Neighbourhood Plans in Northern Ireland, however councils must produce Community Plans by working with the community, on a council-wide level.

National policy and guidance in Northern Ireland

The Department of Regional Development provides a framework for regional planning called the Regional Development Strategy 2035. Meanwhile the Strategic Planning Policy Statement for Northern Ireland (SPPS) consolidates previous planning policy and provides core principles that underly the rest of the planning system.

Planning applications and appeals in Northern Ireland

Appeals in Northern Ireland go to the Planning Appeals Commission, and independent body. Consultees for applications include Transport NI, Northern Ireland Water, and Northern Ireland Environment Agency.

Enforcement in Northern Ireland is broadly similar to that in England.

2.2.4 The planning system in Scotland

Local policy and guidance in Scotland

LPAs (in Scotland these are councils and National Park Authorities) are required to have Local Development Plans, and to update them at least every five years. Forestry Commission Scotland has issued specific guidance on developing SPDs for forestry and woodlands, which explicitly supports community organisations, sustainable dwellings, and initiatives supporting public health. There is no equivalent of Neighbourhood Plans in Scotland.

National policy and guidance in Scotland

The key national policy document in Scotland is Scottish Planning Policy, which sets out the core principles and specific policies. This is joined by the National Planning Framework, which sets out a long term vision for development.

One key difference in Scotland is the more active political climate around land use, evidenced by the Land Use Strategy 2016-2021, and the Land Reform (Scotland) Act 2016. This has led to strong support for mixed use development and public access to land, as well as specific policy around things like recreational woodland accommodation (‘hutting’) and a particular type of tenure called ‘woodland crofts’ (see Chapter 4 for discussion of these).

Planning applications in Scotland

If the original decision was made by a planning officer, appeals go to the Local Review Body made up of elected members who weren’t involved in the previous decision. If it was made by councillors, appeals go to Scottish Ministers. Relevant consultees for applications in Scotland
include Community Councils, Scottish Natural Heritage, Historic Environment Scotland and other public bodies.

Enforcement in Scotland is broadly the same as in England.
3 Issues faced by WSEs who engage with planning

The issues in this chapter emerged from speaking to a range of WSEs and reading blogs and other resources written by many more. They are important to note, both to help WSEs understand what they might expect, and to help planners and other stakeholders support WSE. This chapter discusses general issues faced by WSEs in planning. Chapter 4 goes on to discuss particular types of development, and Chapter 5 summarises key learning for WSEs.

3.1 Lack of understanding of their models

A ubiquitous theme in the literature and interviews was the difficulty the planning system has dealing with innovative, non-standard developments. WSEs often fit into this category:

- They are more likely to pursue amenity woodland use rather than traditional forestry e.g. they may be focusing on recreation, education, or health and well-being.
- They are much more likely to be doing something new and different that doesn’t fit into any standard planning categories, and more likely to be pursuing multiple uses of land on the same site.
- They focus on social and/or environmental missions that aren’t always represented in planning policy.

Because WSE models are different, LPAs can be skeptical of them, and WSEs often report feeling that they are not taken seriously by planning officers. It is also entirely possible that a LPA will not have any officers with significant expertise in woodland management, let alone innovative new models.

The lack of support from the planning system for these models can be a real problem as it challenges WSEs ability to run sustainable enterprises, thus potentially preventing the ongoing management of certain woodlands. Especially where income streams rely on developments, or the enterprises rely on workers being able to live on site.

3.2 Interpretation of Permitted development (PD) rights for forestry

As discussed in 2.1.2, there is no clear definition of ‘reasonably necessary’ for forestry, and thus no definitive statement on what should be considered PD. When WSEs attempt to use PD rights to develop their infrastructure, they can come up against the following issues:

- Developments not considered reasonably necessary to forestry
- Developments considered as supporting separate land uses rather than uses ancillary to forestry
- Planning officers who lack knowledge about the policy and incorrectly refuse PD

Due to the diversity of possible interpretations it is impossible to say what will be included within PD. Some authorities may consider activities aimed at education and health and well-being as being core to modern woodland management. Others may see even more
traditional activities such as charcoal burning as outside forestry. See also, 4.2 & 4.3 for discussion of activities ancillary to forestry.

Example: Progressive attitude to forestry from North Kesteven District Council

North Kesteven is a LPA in Lincolnshire, which has take a progressive attitude towards applications from a local WSE, Hill Holt Wood. It has allowed offices and workshops to be built through permitted development. It has also given permission for forest dwellings on the basis that they will help Hill Holt Wood contribute to rural diversification policies.

3.3 Diversity in application of planning policy

We have already discussed diversity between the policy of each UK country, and between possible interpretations of PD by each LPA. When it comes to considering applications there is yet more diversity. Two applications could get very different results depending on the LPA they are submitted to, or even the individual officers within each LPA. Then when decisions go to appeal there is also diversity within the Planning Inspectorate. This makes it very difficult for WSEs to plan for the future.

Planners in conservation areas such as AONBs and national parks may be likely to err on the side of refusing more unusual planning applications. We are not aware of any systematic analysis of differences between LPAs in the way they treat applications relating to forestry or WSE. However there are individual examples of extremely different approaches. In some cases a wide range of activities can fall under PD, and applications for further developments can sail through with little opposition. In other cases almost any application will be rejected, and WSEs will have to rely on appealing to the planning inspectorate, or stop their developments.

Practice can also vary greatly on the level of individual officers. This may be due to their own interpretations of policy. It can also be related to their expertise in woodland management, or simply their own individual preferences. Planners are often under extreme time constraints due to chronic staffing shortages in many LPAs. It is possible that whole LPAs will not have anyone who really understands woodland management, let alone the new models pursued by WSEs.

Some LPAs attempt to minimise ambiguity by publishing Supplementary Planning Documents (SPDs) that remove some of the ambiguity from the application process. Ideally these would take a sympathetic view of the kinds of mixed-use developments WSEs are likely to pursue, and provide clear guidance on what is allowed. However, most SPDs relating to woodlands focus on the conservation of existing woodlands and the integration of trees into urban areas and new developments. Few currently recognise the value that innovative models and WSEs can bring to woodlands and the communities around them.
Example: Progressive SPD from The Highland Council

One interesting example of a SPD is ‘Trees, Woodland and Development’, from the Highland Council. It is designed to help planners to make quicker and more consistent decisions. It recognises the need to restrict development in woodlands and take a long term view. However it also recognises the potential value of quality developments to rural communities. It explicitly supports new woodland crofts, community woodland businesses, affordable housing, and recreational opportunities in woodlands.

3.4 Time, resources and expertise needed to engage with planning

Planning processes can be lengthy and complex. This can be exacerbated where individual officers or consultees make further demands for changes to developments, that result in more wasted time and money. Especially where there is an appeal, planning can cost thousands of pounds.

WSEs are not likely to be experts in planning. Familiarising oneself with all the relevant policy and processes, and writing applications may add up to hundreds of hours. LPAs may also themselves take a long time to reply to requests, causing further problems for the business. Not everyone has the time to do this, and not everyone will be willing, meaning a lot of nascent WSEs may not overcome this barrier.

Example: Bulworthy Project spent hundreds of hours on planning

Bulworthy Project is a woodland enterprise and experiment in low-impact living and working. They published an interesting account of their experience seeking planning permission. In total they estimate spending hundreds of hours looking through law and past cases, along with a lot more time spent on communicating back and forth with the council (and of course running their enterprise). This was a success story and they share lots of good lessons. But they acknowledge it’s not for everyone - and indeed there are many counter examples that have ended less happily.
4 Common developments pursued by WSEs

This chapter introduces some of the most common areas where WSEs are likely to interact with the planning system. It should give WSEs an idea of what to expect and hopefully help them plan their applications. It uses the English system as a basis, but much of it will also be relevant to the rest of the UK, and differences are discussed where pertinent. As discussed in section 2.1.2 developments that are considered to be reasonably necessary to forestry should be easily signed off by LPAs. Other developments, in particular relating to change of use or dwellings, will normally require full planning permission.

4.1 Land uses unambiguously necessary to forestry

These developments are likely to be approved as PD, even by the least progressive LPAs (aside from the exceptions mentioned in 2.1.2).

Building sheds, workshops and offices: WSEs should be able to build small sheds or workshops without planning permission. There is no clear legal obligation to provide evidence that they will be used for forest management, however the ability to do so will make things easier. There is no maximum size of building - but the size must be justified. Woodlands.co.uk suggests 15-20 square metres as adequate in most cases for storage. Larger structures including space for offices and washroom facilities have been approved in previous cases. As with all developments, these will not be allowed as PD if their primary purpose is considered outside forestry - for example if the LPA believes they are for sleeping in or simply for leisure.

Building private access tracks, gates and fences: These should be PD if they are justified for forestry purposes. If the WSE wants to change public rights of way this may need full planning permission, or an order from the LPA under section 257 of the Town & Country Planning Act 1990.

Using non-residential caravans: No permission or even prior notification is needed for caravans unless they are for sleeping in more than 28 nights per year (Schedule 2, Part 4, Class B of the GPDO). The legal definition of ‘Caravans’ includes other moveable structures that are composed of less than two sections, are less than 60ft in length, 20ft in width, and 10ft in height. This may include other semi-moveable structures like yurts, however this is not clear cut. A 2012 case, Woolley Chickens [2012] EWHC 216], has also indicated that this exemption may be less secure than previously thought, and that caravans may be required to be more actively mobile to stay outside development. The 1998 case Wealden District Council vs Secretary of State for the Environment and Colin Day, established that caravans can be used for storage in an agricultural setting, leading to the concept of a “Wealden Caravan”.
4.2 Land uses ancillary to forestry

Since there is no clear definition of forestry adopted in planning legislation and guidance, there is a lot of leeway around what might be considered ancillary to it. For some LPAs something like building classrooms or toilets might be considered reasonably necessary. However others may insist on full planning permission even for basic processing of wood products.

**Processing and finishing products:** This includes things like charcoal burning, mushroom cultivation, wood fuel, or crafting of wood products, that have a clear link to woodlands but are not considered part of traditional forestry. Small scale activities may be considered ‘de minimis’ - legally insignificant, at the discretion of the LPA. Some activities, such as the processing and sale of timber are almost always seen as ancillary if the timber is grown on site. Others may be not be - for example several developments associated with wood fuel have been classed as industrial. Ultimately each LPA will be different and the only approach is to contact them to discuss it.

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**Example: The Hillyfield**

The Hillyfield is a WSE in Devon. They sought permission for a wood-drying barn and a machinery store under permitted development, arguing that both are necessary for woodland management. They have received support from the Forestry Commission and many others, however they have not yet been able to convince Dartmoor National Park LPA. The case is a great example of the tension over the definition of forestry, and the need of WSEs and innovative woodland enterprises for an interpretation that supports modern woodland management.

One useful precedent is the Millington case [1999] EWCA Civ1682, that found making wine to be ancillary to viniculture, suggesting that creating a finished product can be considered ancillary to producing the raw material.

4.3 Where the primary purpose may require change of use

Despite repeated discussion in policy of the need to use land to deliver multiple values, there is often little leeway in PD rights to support other activities in woodlands. Some sets of PD rights provide space for easy changes of use, for example in converting offices or agricultural buildings to dwellinghouses. However the PD rights for woodlands do not facilitate change of use or mixed-use for woodlands. PD for change of use to core WSE activities like forest-based education, recreation, and health and wellbeing activities would be very beneficial. However in the absence of this, WSEs will likely need to secure full planning permission.
This will likely include permission for buildings like classrooms and toilet facilities, car parking, and sometimes accommodation for visitors. Again, the likely success of applications for these is hard to predict.

- **Forest-based education**: Many WSEs want to incorporate education activities into their businesses. This might be running forest school, courses on woodland management, or using the woodland as a venue to run other training courses.
- **Public paths and other infrastructure for recreation**: This might include things like developing mountain bike tracks or walking and jogging trails.
- **Facilities for health and wellbeing activities**: Several WSEs incorporate activities aimed at promoting health and wellbeing into their woodland management and need to develop facilities to support this.
- **Woodland burial sites**: Natural burials are becoming more popular and could be a good source of income for WSEs, if managed correctly.

It appears there is significant diversity between UK countries on this issue. A [2010 paper by Forestry Commission Scotland](http://www.forestry.gov.uk) advised planners to support developments associated with new approaches to land management. It explicitly talks about the importance of diverse approaches and using woodland for recreation, education, tourism, renewable energy, community development and health activities. It advises that this be incorporated into SPDs by LPAs.

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**Example: Brookhouse Woods in Herefordshire**

Brookhouse Woods recently secured permission to develop new buildings to teach in and accommodate the course members. They anticipated a struggle to secure permission for this, but in the end it was quite smooth. They started off well by organising a pre-application visit and impressing the planning officer with their passion. They also benefitted from a local drive to increase tourism. Herefordshire council were supportive and everything was much quicker than expected.³

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**Example: Natural Burials at Hill Holt Wood**

Hill Holt Wood in Lincolnshire has a natural woodland burial site. This was initially considered contentious in planning terms after local environmental charities were consulted and raised concerns about over nutrification of the soil. This concerned officers, who recommended refusal. Councillors at the planning committee, however, granted permission based on their knowledge of Hill Holt Wood’s expertise and high management standards.

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³ This example was adapted from [an article in the Spring 2017 Living Woods Magazine](http://www.livingwoods.org.uk) by Will St Clair
4.4 Residential uses

Residential developments in woodlands are explicitly excluded from PD rights. This means that they must always go through full planning permission. Much of the advice we have seen and heard, particularly in England, suggests that permission for dwellings is so unlikely as to be not worth pursuing. However this permission is extremely valuable for WSEs so many are still interested in pursuing it. Living on site can remove the need to commute, cut living costs, and improve their ability to manage the woodland. The following are the main ways in which residential permissions can be sought.

4.4.1 Forestry dwellings:

Planning policy provides scope for landworkers to live on the land where this is necessary for the business. Most of the guidance for how to evaluate applications for land worker dwellings is found in paragraph 55 of the NPPF (and an older policy document called PPS7⁴), but this does not give much information, and it is left to local plans to articulate the policy. The policy is that isolated rural homes should be avoided unless there are “special circumstances” such as it being essential for the worker to live at their place of work and/ or the design in question is of exceptional quality or innovation. There are some cases where arguments have successfully been made that “special circumstances” can be wider than those listed in the NPPF.

Decisions are generally based on:

- **Viability tests**: The LPA must be convinced the business in question is viable. A common complaint here is that these tests were designed for conventional forestry and are not appropriate for assessing the viability of alternative models. The latter may be premised on things like subsistence benefits rather than simple profit. The planning campaign Chapter 7 has suggested a number of ideas for improving this. The National Planning Policy Guidance on viability does not say anything about worker dwellings. The guidance leaves a lot of leeway as to how to interpret ‘viability’ and makes it clear there is no one way to assess viability. Ultimately a lot will come down to interpretations of what constitutes ‘financially sound’.

- **Functional needs assessments**: These determine whether the efficient running of the enterprise requires the worker to live on site. Common reasons claimed for forestry include that certain activities (e.g. charcoal burning) require round the clock monitoring, that truly understanding the wood requires living there, that the work is not 9-5 and commuting is impractical, or that local housing costs will make the enterprise unviable. It is imperative to convince the LPA that the need is essential rather than just desirable or convenient.

⁴ PPS7 was superseded by the NPPF, however inspectors have indicated that the tests it describes can still be material considerations
● **Alternatives:** There must clearly be no other alternative - e.g. converting another building on site or living locally.

● **The design:** The dwelling must be no larger than needed and affordable to the builder to construct and maintain. Its effect on the landscape and environment is also key. The NPPF also makes allowance for developments of exceptional quality or innovation.

● **Planning conditions:** Planning conditions are a way to make otherwise unacceptable developments possible, and can be used to help approve dwellings where there is exceptional need (e.g. for forestry workers). The [NPPG on planning conditions](#) provides 6 tests amongst other recommendations. Conditions must be necessary, relevant to planning and the development, enforceable, precise, and reasonable. Conditions requiring demolition on breach are unlikely to be considered reasonable. The guidance also suggests using temporary permissions to ‘trial run’ the effectiveness of conditions, and to issue instructions on where conditions are appropriate in Local Plans. Finally, it suggests the development of national or local ‘model conditions’ that provide a template. Again, Chapter 7 has suggested what such conditions might look like.

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**Example: Ben Law gets permission for dwelling with condition**

*Ben Law* got planning permission for an eco-dwelling in an ancient woodland that he works within. This was granted with a condition called a “silvicultural tie”, obliging him to run a woodland management and charcoal burning business while inhabiting the site. The permission is also personal to him, meaning that he could not sell the land & business on.

4.4.2 **Caravans for seasonal workers:**

Forestry workers may reside in caravans for more than 28 days for ‘seasonal work’. ([GPDO/ Caravan Sites and Control of Development Act 1960](#)). This is not strictly defined so could be up to a year. However a High Court decision *Hall Hunter Partnership v First Secretary of State [2006](#)* ([EWHC 3482](#)) may add several restrictions to this. It found that people will not be accepted as a ‘seasonal workers’ if they are working around the year. That the caravan must be moved be removed at the end of each season. And that 9-10 months is unreasonably long by any reasonable understanding of a ‘particular season’.

4.4.3 **Forestry dwellings in other UK countries**

Whilst permission to live in the woods is hard to secure anywhere in the UK, it may be easier in Scotland and Wales due to a couple of additional sections of policy.

● **Forest Crofts (Scotland):** Crofting in Scotland refers to a particular type of land tenure based on subsistence landwork, found mostly in the North and West. Forest crofts are explicitly supported in planning policy, and normally come with a set of rights. This will often include the right to build a house where one doesn’t already exist. Planning
permission will still be required but it is more likely to succeed than elsewhere. Some local and national policy also supports setting up new forest crofts. LPAs may require a Section 75 agreement limiting use of the house to a land worker. Forestry Commission Scotland has produced [guidance on permission for woodland crofts](#).

- **One Planet Development (OPD) (Wales):** OPD was introduced in 2011 to guide low impact developments in rural areas. It provides permission to build sustainable, off grid homes that enhance the environment. Occupants must meet their minimum requirements through land-based work. Applicants must also demonstrate that they can provide basic living standards such as [hygiene and adequate living space](#). It is not an easy path to securing a dwelling, and it may be more about lifestyle than WSE. However it will help some applicants who might struggle under previous forestry dwelling rules. [23 had been approved](#) by the end of 2016.

**Example: Using OPD to build a dwelling in Tir Sisial woodland**

*Tir Sisial* is a low impact settlement in Ceredigion, hosting an enterprise called Ashling that makes wooden crafts, processes timber and grows and sells herbs. They received an initial 5 year permission for a woodland-based dwellinghouse to support the enterprise.

### 4.4.4 Other residential developments:

Whilst permission for non-landworker dwellings is rare, there have been some cases of permission for residential developments for leisure, and to meet local housing needs.

- **Tourist or visitor accommodation:** Some projects have been able to get planning permission to build accommodation and infrastructure for tourists (e.g. glamping) or people visiting to do courses.

- **Affordable housing:** Planning policy almost always counsels against developments outside the boundaries of existing settlements in the open countryside. Woodlands are therefore not regularly used to meet housing needs. However there are exceptions, particularly in Scotland where Forestry Commission Scotland has actually [given communities opportunities to buy land](#) to build affordable housing on.

- **Hutting (Scotland):** Hutting is supported in [Scottish Planning Policy 2014](#), which defines it as recreational accommodation for intermittent use, which can be removable with little trace left behind. They must be off grid, less than 30 square metres, and made of low impact materials.

**Example: Affordable housing developed by Kilfinan Community Forest**

Kilfinan’s goal is to help meet the needs of the community it represents. Since one of the main needs of that community is housing, securing permission to build affordable
housing in the forest was a priority. They developed a housing master plan which was approved by the Argyle and Bute Council Planning Committee and also got permission for new residential woodland crofts.

4.5 Lawful Development Certificates

Where a structure has been on the site for four years it is possible to apply a ‘Lawful Development Certificate’. While this can be relatively straightforward, if the structure comes to the attention of the authorities before then, it can be subject to enforcement action. In cases that involve a change of use, the period extends to 10 years.
5 Key learning for WSEs

This whole report contains information that can inform WSEs' during their journeys through various parts of the planning system. This chapter highlights some of the general actions almost any WSE should need to take when thinking about development.

5.1 Think seriously about goals and effort required to achieve them

Before setting out on a planning process that could take years, it’s important to be very clear on what you want to achieve. It’s also important to get to know both the land and surrounding neighbours before doing anything too major. Some goals, particularly securing permission for dwellings, are so challenging that they should only be taken on if they are absolutely core to the project.

5.2 Develop a strong woodland management plan

A strong management plan is a prerequisite for many development applications. They show you have a serious plan for what you are proposing. The Forestry Commission may be able to provide free support or management plans or at least signpost towards resources. It may also be a good idea to get the Forestry Commission to visit, as they bring expertise and also have influence over LPAs.

5.3 Engaging with LPAs as early as possible

Before you even buy or acquire the site or a lease on the site you can ask about things like Section 4 restrictions or any other issues with the site. As the project develops you can ask them about the management plan, and any potential developments. Before formal applications you can ask for a pre-application consultation to identify their likely reaction and any adjustments that might be necessary. These may be charged for.

Some WSEs experience skepticism or even hostility from planners, who fail to take them seriously or even think they are trying to scam the system. This is an inevitable reaction to novel and different approaches to land management, and can normally be overcome by demonstrating these concerns are ill founded. Sometimes it may be beneficial to show a willingness to be flexible and accommodate any suggestions. However it’s also worth remembering that they are very busy, and may not have a great deal of expertise in the area. Thus even if officers suggest an application is likely to be unsuccessful that may be incorrect, or an initial negative decision may get overturned at appeal.

5.4 Do everything possible to get local people on side

Successful applicants often emphasise the importance of engaging the community and making friends with neighbours. You should encourage people to visit the site and share your passion with them. You should also do your best not to antagonise them, for example by
keeping the site clean. This will both make planning, as well as business and life much easier. This also means consulting with neighbours and local groups like parish councils. At Hill Holt Wood, one of the most successful WSEs, the council and community members sit on the board.

5.5 Study policy and guidance

Chapter 2 and other parts of this report have highlighted key policy and guidance. We have also created an open spreadsheet linking to more of it. However each case is different and each area has its own local policy. It's crucial to find and understand all the policy that applies to a particular case and place. Every aspect of the development must be explained clearly in relation to the policy. As discussed before it is unlikely the planning officers will be experts in woodland management. You need to tell them exactly why certain things are needed.

The crucial point is to realise that planning applications must be based on planning policy. No matter how great a WSE is, the planning system can only focus on material considerations specified in policy.

5.6 Look for similar projects to learn from

We have highlighted a few in this report, but moving forward it might be useful for the sector to develop a shared resource for these cases and precedents. For example it would be useful for nascent forest schools to be able to view previous applications for similar developments. The shared resource spreadsheet we created as part of this project could provide an opportunity for this.
A1 Appendix 1 - Further reading and resources

Support for WSEs engaging with the planning system

In England, free support is offered by Planning Aid England. Official guidance is available here. DCLG have published a plain English guide to the planning system here. The Planning Portal and the Planning Advisory Service are also useful sources for advice. In Wales free support is offered by Planning Aid Wales. In Scotland free support is available from Planning Aid Scotland. In Northern Ireland there is no Planning Aid service, however Community Places provide advice on planning issues.

Other useful resources

This report drew on a wide range of existing research and reports about similar issues. Many of these are linked to in the report above, but there is also a significant amount of information we were not able to fit into this report. We collected all of the resources we found, along with our notes on those we read, in an online spreadsheet, which we have made available here.

We linked extensively to key policy and legislation in Chapter 2. Below we have listed a few of the other key resources we used to compile this report. Each of them may also be particularly useful to WSEs or other groups interested in this area of planning.

- **Chapter 7, DIY Planning Handbook.** This guide to engaging with the planning system covers many of the key issues for WSEs. It has not yet been updated post-NPPF.
- **Lucy Nichol, Planning Legislation and Small Woodlands, Small Woods Association.** This is a short but fairly comprehensive guide to planning issues for small woods, with lots of overlap with issues for WSEs.
- **National Assembly for Wales (2016), Comparison of the planning systems in the four UK Countries.** This provides a clear explanation of the differences between the planning systems in England, Northern Ireland, Wales and Scotland.
- **Shared Assets (2013), Woodland Social Enterprise in England.** This report provides an overview of the WSE sector, including the diversity of enterprises and some of the key issues they face. There are also companion reports for Wales and Scotland.
- **Woodlands.co.uk** sell small woodlands in England, Scotland and Wales. Their website is an excellent resource for woodland groups, with lots of guidance, discussion and resources such as a leaflet on sheds.