



Overview

Negotiating with a Landowner

Negotiating with a landowner for the use of some land, may seem daunting at first. But essentially negotiating is simply an extension of the bargaining and compromise we all use in our daily lives.

The scale of a discussion will reflect the scale of the project you are pursuing – a short lease for a small piece of ground on a low rent or involving a short-term project may need only half-a-dozen things agreed whereas longer leases for larger areas of land may need more terms agreed.

Start with your optimum position. What would be your dream scenario? Write down these points. Then think about the points you may concede. What is not absolutely essential? What do you not need to begin with? Sometimes you do not need water as early on as you may think. Even if you have a greenhouse or polytunnel you can use water butts to rainwater harvest. Be innovative and think outside the box. If you are putting in a lot of time, resources and applying for lots of funding the most important thing will be to have a long lease of at least 10 years.

Too often we see projects invest huge amounts of time and effort to be told that they need to leave their site within 6 months. If you have a good relationship with the landowner remember this can change rapidly. What if they become ill or pass away, what if their priorities change and they need to sell the land? Remember, however small your project is, being able to access the land is critical to its life. This is a business arrangement and your group should always try to get as secure an arrangement as possible.

Establishing Ground Rules

- **Establish what you want** – if you are part of a group, this may be the first element of your negotiation. Agree amongst yourselves what you need from the deal to meet the aims of your group. Not every member of the group will get everything they want on the list of essentials.
- **Establish what you are prepared to concede** – consider here the things which are less important to you. There may be a conditional shopping list split between things you would like and things you must have. Don't reveal your list of potential concessions to the other side except as part of the discussion – offer followed by counter-offer.
- **Establish what 'they' want** – this may be clear from the outset but may also be revealed as you discuss details or as draft papers are produced.



- **Establish what 'they' will concede** – listen carefully to their counter-offers and see what they are unwilling to trade and what may be open for discussion.
- **Find middle ground where both sides win something** – aim from the outset to establish a “win-win” agreement where each party is happy with what has been achieved.

Preparation – As outlined above, establish what you want and what you are prepared to concede. Then do your research. It's also important to research who you will be negotiating with – find out what they do, why and how. Have they taken part in a similar deal before and, if so, how was that structured? Finally, if you are acting on behalf of a group, agree beforehand who has the authority to make final decisions and whether a wider group needs to be consulted at any stage.

Do I need a business or management plan?

Any landowner is likely to want to know as much as possible about you and your project. They need to know they can trust you and your ideas. Even though you may be non profit making you need to be able to show that you can sustain the operation financially. How will you raise funds? Will anyone take a salary? Is the project reliant solely on volunteers. Many community led projects have great ideas but find it difficult to put them down on paper. That is why we have created the 'Introduction to Landowner' form. Please speak to us about this form and how best to complete it. It is important to get your ideas down in some form of proposed management plan or business plan which shows how you will be using the land and what the intentions are for the land and your project over the next 5 to 10 years. This will help the group gain consensus and communicate effectively to the landowner.

Site Resilience Plans

Try to figure out which aims or policies of the landowner can be fulfilled by your project and illustrate that with evidence. Showing the merits of your project or project idea will enhance your position. Speak to Social Farms & Gardens about support to complete a site resilience plan. This will show the sustainability credentials of your project, how compliant it is with the wellbeing of existing users and future generations, and will be helpful when discussing your project with landowners and other decision makers e.g funders.

Communicate Effectively – Remember to be concise both orally and in writing. Listen more than you talk and take notes. When you are talking about your important terms are they taking notes? Think carefully about the information that they need to hear. Try not to say less important things that may detract from your position. Show you have listened by repeating a summary of what was offered or agreed and ask for them to confirm you have understood. Don't make assumptions; confirm it by asking.

What first?

Tackle the critical points first and foremost. Time with landowners (especially public ones) can be precious as they are often very busy people. If your main funder needs a 10 yr lease to release funds and the landowner will only offer a 5 year lease it may be time to walk away and look elsewhere. Sometimes all that is needed though, is

something in writing from the funder about this stipulation. Ask the landowner to take on board this information and come back to you with a considered response.

Heads of Terms

Use our [Heads of Terms](#) document to populate what terms your group would like to see. Share them with the landowner and see if they can agree. It may take a bit of back and forth communication but this will save a lot of time further down the line. If the headline terms can't be agreed between the parties, at least you have not wasted time and finances on getting a solicitor to draw up a full lease.

Timetable –Remember that land negotiations can take several months. We are familiar with cases that have taken 5 to 6 years to get a lease signed. Whilst that is extreme, most land negotiations with local authorities take about 18 months. It is important to be patient but also keep group members and the community as a whole informed of how things are progressing to keep momentum going. Also try to think of things people can be doing in the meantime so that enthusiasm does not fade. Reply to the landowner promptly and always be polite but firm that things need to keep moving.

Take a look at this excellent example of a community led green space project. It took six years to plan and gain all the necessary permissions for the [Green Squirrel 'Railway Gardens' project](#), they did a fantastic job keeping the community informed and involved so that enthusiasm and interest was kept high.

What if we don't get on?

If things have become heated during the negotiation, smooth out any problems with assurances that you are interested in working together in the future. Apologise for any misunderstandings or difficulties – remember that the aim is to find a compromise and build a future working relationship. Always be polite and patient. Always be professional and treat things like a business deal. Not getting on with your landowner is not always a bad thing (although we would not encourage it) it just highlights to you how important the lease terms are and that getting support from Social Farms & Gardens will be a sensible option, whilst advice from a conveyancing solicitor before signing an agreement is probably essential.

Closing a Deal – It is important not to enter into an agreement if the terms do not allow your project to thrive as effectively as the group need it too. Remember that no-one will be willing to sign up if they feel upset or disadvantaged by what and how things have been agreed. So, first make sure you have a win-win deal so each party is content. Its ok if the agreement on the table is not your optimum scenario but it does need to match the ambitions of the project. If you can't get any funder to fund you because you have an early break clause or the length of the lease is not long enough; do not enter into the agreement. At the same time, you need to be willing to take the plunge and concede less important matters. Speak to our Community Land Advisory Service if you need advice or support with this.

Heads up on gaining planning permission

Gaining the permission of the landowner to erect certain structures is completely separate to gaining the permission of the local planning authority. Always seek advice from the Community Land Advisory Service in house town planner or the local planning authority as to whether planning permission for essential structures would be needed and whether that planning permission is likely to be gained. Do this before signing your land agreement. This [advice note](#) applies to Wales only but much of the advice contained therein, can be applied to elsewhere in the UK. Please contact us for more information.