
Application Number: 1/W/2004/000381 Temporary Consent

MINOR

Registration Date: 23 February, 2004

Application Site: FIVE PENNY FARM, SPENCE LANE, WOOTTON
FITZPAINE

Proposal: Make temporary change of use of agricultural land (for 5 years) to use for the stationing of 2No timber cabins for two agricultural workers dwellings. (Amended Description)

Applicant: J Fernandes, O Goolden, K Haywood & D Saltmarsh

Ward Members: Cllr Newson

Case Officer: Darren Rogers

This application has been "called-in" to Committee for determination by Councillor Ray

1. Summary Recommendation

1.1 Refuse

2. Description of Development

2.1 The application site is located in open countryside, outside of any Defined Development Boundary. The site itself is about 1km northwest of the village and is located on the east side of the narrow rural lane leading to Spence Farm.

2.2 Vehicular access is off a private trackway off the rural lane.

2.3 This application is for the use of land for the stationing of 2 timber cabins for residential use i.e. for two agricultural workers dwellings, within an area as shown on the submitted plans as 'residential zone'. However this 'residential zone' also incorporates land used for the applicants' agricultural enterprise and therefore this application is being considered simply for the retention of the two dwellings and not for the residential use of this area.

2.4 The two "dwellings" are occupied by two couples who have applied for a temporary permission for 5 years.

- 2.4** Timber dwelling (No1) measures roughly 7.3m x 6.7m x 3.7m high and includes a small conservatory. This dwelling is located in a central position within the land and is constructed from timber with a pitched roof which incorporates an external turf finish. This dwelling is occupied by Jyoti Fernandes and David Saltmarsh and their children.
- 2.5** Timber dwelling (No 2) is located in the northeast corner of the site and has similar measurements to dwelling No 1 but has no external conservatory. It is occupied by Oliver Goolden and Kerry Hayward.
- 2.6** The application is accompanied by various lengthy documents which outline the project and the reason behind the seeking of a temporary 5-year permission for the dwellings. The application includes:-
- i) an agricultural appraisal submitted by an organisation called 'Chapter 7' who have experience in producing agricultural appraisals for developments such as that applied for related to sustainable agriculture;
 - ii) the applicants' explanatory statement outlining the background to their enterprise, including their business plan and management plan;
 - iii) a document titled "Defining Rural Sustainability" outlining 15 criteria for sustainable developments in the countryside together with model practices for local plans (a report produced by the Rural Planning Group of the Land is Ours).
 - iv) a document entitled "Sustainable Homes and Livelihoods in the Countryside" which outlines suggestions for the forthcoming revision or replacement of Planning Policy Guidance Note 7, produced by Chapter 7 and the PPG7 Reform Group (January 2003).
- 2.7** All of the above documents are reproduced in the Correspondence Appendix.

2.8 Background Information

The applicants began to establish their agricultural enterprise in June 2003. The smallholding (43 acres) is primarily aimed at providing a sustainable livelihood for the 2 families who occupy the 2 units of residential accommodation. The applicants claim that their enterprise benefits the wider environment and local economy. They operate organic free range eggs, vegetables, dairy, fruit, herbs, honey, and processed product enterprises which are all at varying stages of development but are intended to be the focus of the agricultural enterprise.

- 2.9** In addition to the agricultural activities they are also developing forestry enterprises. Woodland is being replanted for its commercial and amenity value, including the development of small craft enterprises using products from the land. David Saltmarsh is a "green woodworker" who hopes to set up

the business of producing furniture from the woodland planting associated with its management.

2.10 The applicants also intend to use the site as a campaigning centre for the promotion of other small scale, organic farm enterprises, involving educational projects for the local community. For over 4 years this enterprise has been in existence at a farm in Somerset called Timbers Bubble where residents lived in self-built low impact dwellings promoting the wider sustainable lifestyles, all integrated with a land-based way of life.

2.11 Much of the applicants' supporting statement on the reason for applying for the dwellings is based upon the sustainable nature of the enterprise (see page 3 of their statement) and then goes on to outline Planning Policy issues (West Dorset Local Plan and PPG7), and outlines other similar developments, which went to Appeal and were dealt with by Government appointed Planning Inspectors (pages 4-12).

2.12 Application No 1/W/03/1072

In addition to the above background information, Jyoti Fernandes in June 2003 submitted an application for prior approval under the Agricultural Notification procedure for a development on the land comprising the erection of a vegetable packing storage / toolshop, pottery shed /greenhouse and 4 polytunnels including the construction of a new vehicular access. This application was accepted as being 'Permitted Development' under the Town and Country Planning (General Permitted Development) Order 1995 but was subject to the prior approval procedure whereby before carrying out the development, the Council as local planning authority had to determine whether to give or refuse to give approval to the submitted details, and in the case of giving approval whether it was considered necessary to attach conditions to the approval.

2.13 In this case, the development was given approval in July 2003 subject to conditions. These conditions were that details of landscaping together with a long-term management plan for a period of 5 years should be submitted for approval, the timber buildings authorised should be of an untreated nature or dark woodstain, and that the access track should be surfaced in natural stone or flint.

2.14 The access track and use of material have been carried out in compliance with the conditions as has the landscaping details, which it is hoped in time will eventually fully screen the polytunnels and any other structures.

3. Main planning issues

- Agricultural need for 2 dwellings on the site given the financial and functional tests as set out in PPG7 Annex I;
- Compliance with the Adopted Structure and Local Plan Policy and the Emerging Guidance in the Revised Deposit Version (March 2004) of the Local Plan, and Draft Planning Policy Statement 7 issued by the Government

for consultation purposes in November 2003;

- Impact of the development on the character and appearance of the landscape designated an Area of Outstanding Natural Beauty (AONB);
- Impact of the development on Highway Safety given the access.

4. Statutory Consultations

Parish Council

- 4.1
- The Parish Council's response can be summarised as follows:- sympathy with the aims of the applicants to live a sustainable lifestyle and grow organic produce, but that it is not necessary to build a new settlement in the AONB and that the buildings on this site are visually intrusive in the landscape;
 - A copy of the full response from the Parish Council is attached in the Correspondence Appendix.

Highway Authority

- 4.2 No objections.

5. Other consultations – None

6. Other representations

- 6.1 There have been a substantial number of representations received (see correspondence appendix). They fall into 2 camps – those objecting and those in support of the enterprise.

Those in support of the scheme, applaud the wider sustainable development initiatives that the enterprise gives, whilst those objecting consider that the development runs counter to established Planning Policies on need for dwellings in the open countryside and that the development is visually intrusive in the landscape designated as AONB.

7. Human Rights

- 7.1 Article 6 - Right to a fair trial.
7.2 Article 8 - Right to respect for private and family life and home.
7.3 The first protocol of Article 1 Protection of property

8. Relevant Planning History

App. Ref.	Applicant	Proposal	Decision & Date
1/W/2003/1072	Jyoti Fernandes, O Goolden, K Hayward & D Saltmarsh	Erect Vegetable Packing Storage / Toolshop, Potting Shed / Greenhouse and 4 Polytunnels. Construct new	Prior approval granted 15/07/03 subject to conditions

		vehicular access.	
--	--	-------------------	--

9. The Development Plan

The Bournemouth, Dorset and Poole Structure Plan (adopted 13 July 2000)

- Settlement Policy I (Development in the countryside permitted where such a location is essential);
- Environment Policy F (Quality and Diversity of Dorset Landscape maintained and enhanced via amongst other things respect for the particular characteristics of the local landscape);
- Environment Policy G (Priority given to the conservation of the natural beauty of the landscape)

The West Dorset District Local Plan (adopted 6 November 1998)

- Policy SP3 (Development outside Defined Development Boundaries);
- Policy H5 (Agricultural Workers / Forestry Workers Dwellings);
- Policy L1 (Area of Outstanding Natural Beauty);
- Policy CD1 (Design Standards);
- Policy TR19 (Parking Provision);
- Policy CD2 (Retention and Planting of Trees);
- Policy CD3 (Landscaping Schemes).

The Revised Deposit West Dorset District Local Plan (Published 8 March 2004)

- Policy SA1 (Area of Outstanding Natural Beauty);
- Policy AH 14 (Road Safety);
- Policy SS3 (Development outside Defined Development Boundaries);
- Policy HS6 (Essential Rural Workers' Dwellings);
- Policy TRAN 5 (Parking Provision);
- Policy DA1 (Retention of Trees, Hedgerows and other Important Landscaping Features);
- Policy DA2 (Landscape Schemes);
- Policy DA7 (Detailed Design and Materials);
- Policy SU1 (Energy Efficiency).

9. Supplementary planning guidance

9.1 West Dorset 2000 - Survey of the Built and Natural Environment of West Dorset

The application site lies within an area identified in the above document as "West Dorset Farmland". This document describes the landscape, and with regards to built development outlines the issues to take into consideration on the determination of planning applications. These include:-

- The visual impact of the agricultural buildings;
- Maintaining the undeveloped character of the landscape;

- The impact of settlements on the landscape, particularly recent development;
- The impact of caravan parks.

The aims and objectives of the West Dorset 2000 Policy with regards to “West Dorset Farmland” are:-

- Protect the small scale undeveloped character of the landscape;
- Encourage the re-introduction of coppice management of woodlands where appropriate to the species of value at present;
- Replace conifers with broadland native trees;
- Encourage creation of links between fragmented habitats;
- Encourage and support hedgerow planting and management to protect the character of the landscape, especially roadside hedgebanks;
- Encourage and support planting adjacent to agricultural buildings;
- Encourage and support archaeological research;
- Maintain the distinctive form of villages.

9.2 Other Policy Guidance

- Planning Policy Guidance Note 7 (Countryside), Annex I outlines advice on the establishment of agricultural dwellings;
- Draft Planning Policy Statement 7, consultation document issued by the Government intended to update PPG7 (issued November 2003);
- Dorset AONB – Management Plan 2004 – 2009.

10. Planning issues

10.1 The main determining issue for Members in this case is whether there is an **ESSENTIAL** agricultural need for the provision of 2 dwellings, at this site given the enterprise being carried out by the applicants and the existing extant Policy advice as contained in PPG7 Annex I, and the Adopted Structure and Local Plan Policies and the Emerging Policy in the Revised Deposit Local Plan March 2004.

10.2 A further determining issue (notwithstanding the issue of need) is whether the proposed development impacts unacceptably on the landscape given the SPG advice as outlined in West Dorset 2000, and the recently produced document, Dorset AONB – Management Plan 2004 – 2009.

10.3 Reading Agricultural Consultancy: Appraisal on Need

The applicants have submitted an agricultural appraisal which has been produced by an organisation called “Chapter 7” who are a leading organisation on sustainable living enterprise associated with agriculture, such as the applicants’ enterprise.

10.4 The Council has sought the advice of Reading Agricultural Consultancy

(RAC) to assess the applicants' case. Their response is outlined in the Correspondence Appendix.

- 10.5** The report by RAC expressly does not consider the wider sustainability considerations of the application or lifestyle issues raised by the application, but concentrates mainly on the agricultural need for the dwellings. Sustainability considerations are outlined as a separate heading in this Committee report.
- 10.6** At para 1.5 of the RAC report it states that the development is retrospective and that a number of other structures have already been erected without planning permission or formal Prior Approval Notifications. However, this is incorrect as I have already outlined the fact that the Council has approved some of the structures on the land, including the polytunnels (see planning history).
- 10.7** The applicants contend that the application broadly meets the requirements of Government Planning Policy in particular PPG7 Annex 1.
- 10.8** Paras 2.1 – 2.5 of RAC's report deal with the applicants' background information and enterprise cost to date.
- 10.9** Para 2.7 states that while the site is jointly owned, the two couples operate independent businesses in separate areas of the farm and paras 2.8 – 2.9 outline details of those areas.
- 10.10** Paras 2.10 - 2.11 outline the fact that an area to the southwest of the land occupied primarily by Fernandes / Saltmarsh has been planted with a range of fruit trees, and bushes for the production of a variety of fruits. Remaining land is grassland let to local farmers where it is intended to graze sheep and cows (up to 40 sheep and 1 cow) for milk and dairy needs of the applicants .
- 10.11** The applicants also hope in the future to establish bee hives for the sale of honey, soap making (using herbs and vegetables produced on the land) and other herbal products (para 2.12)
- 10.12** Para 2.13 outlines one of the applicant's non-agricultural activities i.e. woodworking enterprise. While wood is currently sourced from timber yards it is hoped in the future, as part of the landscaping and management regime for the site, to produce furniture from the trees planted on the unit.
- 10.13** Para 2.14 details where products produced on the unit are sold.
- 10.14** Paras 3.0 - 3.13 outline the extant Planning Policy aspects of the application. These refer to the following:-

PPG7 Annex I outlines a financial and functional test with regards to the establishment of dwellings on site, and where a new activity or agricultural enterprise is being established (where long-term prospects have yet to be proven) then the siting of the accommodation for a temporary period (usually 3 years) is likely to be acceptable subject to criteria. However, the advice

states that with regards to an application for temporary dwellings, that permission should not be given in locations where a permanent dwelling would not be permitted.

- 10.15** Structure Plan Settlement Policy I outlines that development in the countryside should only be permitted where such a location is essential.
- 10.16** Adopted Local Plan Policy SP3 states that development outside of DDBs will not be permitted except for dwellings where there is a proven local need in accordance with Policy H5. Policy H5 refers to Agricultural / Forestry Workers' Dwellings.
- 10.17** The Revised Deposit Plan Version of the Local Plan (March 2004) outlines under Policy HS6, a criteria to be met if dwellings are to be permitted for agricultural workers. However, given that this Policy has yet to be tested at Public Local Inquiry less weight can be given to it in the determination of the application and more weight should therefore be given to the Adopted Structure and Local Plan Policies as well as the advice in PPG7 Annex I.
- 10.18** One final Policy consideration on the need issue is that of Draft Planning Policy Statement 7 but it must be remembered that this remains as Draft Advice and has yet to become extant advice. Nevertheless, the applicants refer to this document and that Draft PPS7 with regards to the financial test allows for developments / enterprises which aim to operate broadly on a subsistence basis. However, much more importantly this advice reaffirms PPG7 advice that isolated new houses in the countryside will require special justification for planning permission to be granted.
- 10.19** PPG7 Annex I sets out the detailed considerations regarding agricultural and forestry dwellings in the countryside, and the following paragraphs outline to Members, RAC's consideration of each aspect:
- a. Clear evidence of a firm intention and ability to develop the enterprise concerned – RAC considers that the applicants have demonstrated a clear intention to develop the unit given the costs outlaid in the unit so far (see para 4.2 of the appraisal).

However, with regards to the issue of the ability to develop the enterprise, this is more difficult without the benefit of hindsight. However, given that the applicants have clear and high motivation, and appear extremely knowledgeable on the subject of establishing the unit, and that they have experience of living on other community projects, then they are able to demonstrate intention and ability to develop the enterprise (see paras 4.3 – 4.4).
 - b. Functional test - this requires the establishment of an essential need for the proper functioning of an enterprise for one or more workers to be readily available at most times. PPG7 cites the case of the delivery of essential care to animals and protection of crops as examples. However, on a unit of this scale with only 70 free-range poultry at present rising to 250 in the future, and where there are no automatic

feeding, watering or ventilation systems to be monitored, there is no essential need for staff to live on site, as opposed to living relatively close by for example 10 – 15 minutes distance from the unit in order to respond to emergency situations. RAC considers that the only emergency situation that would necessitate a return to the site would be adverse weather conditions and these can usually be predicted. (See para 4.7)

While fox predation is cited by the applicants this can be dealt with by effective fencing and secure overnight accommodation for poultry and in any event such a risk is considered to be small (para 4.8)

With regards to plants, PPG7 Annex I 6 refers to the need to respond to emergencies that could otherwise cause serious loss of crops or products by frost or failure of automatic systems. On the applicants' unit the majority of crops are grown outside that would be at the vagaries of the weather irrespective of whether anyone lives on site (para 4.9).

The only aspect of the development that would require staff to be readily available are the susceptible crops grown in the polytunnels, the seedlings propagated in the conservatory and the incubated chicks. However, the latter two activities are extremely small scale and could be accommodated off-site (para 4.10).

Para 4.11 and 4.12 of RAC's report deals with the chick enterprise, and concludes that the proper functioning of the free-range egg enterprise would not be adversely compromised and does not warrant, of itself, with regards to seedling propagation, on-site accommodation.

RAC state at para 4.13 that the only enterprise that might potentially require on-site accommodation are the crops growing in the polytunnels (which do have the benefit of planning permission given the prior notification application submitted in June 2003 – see planning history). These tunnels have been created to:-

- i) enhance growing conditions with raised temperatures; and
- ii) to extend the growing season by reducing risk from frosts.

However, RAC state temperatures can still fall and the grower will need to ensure that heat is provided to maintain temperature. On this unit where sustainability is a key factor, the only methods available at present for providing heat to plants is with candles inside insulated boxes and applying fleeces. Charcoal braziers may be used in the future. RAC concludes, however, that forecasting and alarm based systems or remedial action can be employed to warn of adverse conditions and in either case there is no essential need to live on site.

RAC also point out an Inspector's conclusion on the vagaries of the English weather (see para 4.14) when it was concluded that such events were infrequent.

RAC concludes (para 4.15) that from an agricultural perspective, there is **NO DEMONSTRABLE ESSENTIAL NEED** to live on site to ensure the proper functioning of the enterprise and in common with all other agricultural and horticultural establishments living on site would clearly be advantageous, but cannot be considered essential.

However, at para 4.16, RAC outline the fact that the need for accommodation is not fundamentally driven by the needs of the individual enterprises but rather by the needs of the whole project and the social and domestic needs and aspirations of the applicants. Notwithstanding the operational need outlined by the applicants, they also cite children, economics of commuting to and from the site, the desire to live a sustainable land based lifestyle and the need to do domestic tasks throughout the day as well as agricultural activity.

While these needs could in some ways be considered plausible, PPG7 expressly states that the need to live on site will depend on the needs of the farm enterprise and not on the personal preferences or circumstances of any individuals concerned (RAC para 4.17).

The functional need for accommodation at the site is considered by RAC to be either small scale or can be managed with the use of appropriate technology from a nearby village. RAC do not comment on the wider sustainability issues raised by the application (para 4.18) but this is dealt with as a separate issue in this Committee report.

- c) Financial Test – the long-term intention of most applications for temporary accommodation is the establishment of a viable enterprise that will result in a permanent dwelling. This is not the case in this instance. The applicants expressly point out that the central ethos is to form a “low-impact” sustainable unit in the countryside and therefore the provision of a permanent structure is an anathema. This is why a 5-year planning permission personal to the applicants is being sought. However, this begs the question as to what the Council will be asked to determine at the end of the 5 year period if permission is granted, bearing in mind that successive temporary permissions are not generally encouraged by Central Government Guidance (Circular 11/95 – Use of Conditions).

The Policy framework against which this criteria has to be judged is that the enterprise need to have been planned on a sound financial basis with a view to being sustained. RAC having considered the financial information submitted conclude that the unit ought to be able to generate the anticipated income of £19,450 per annum of which £4,000 would be generated by the woodworking enterprise. Agricultural income would be less than £16,000 or only £8,000 per couple. (para 4.20).

Is, therefore, an income of around £8,000 per couple sufficient to allow the couples to maintain the two dwellings into the future ? Para

4.21 and 4.22 outlines the methodology used to consider the viability of an agricultural enterprise.

Based on the tests as outlined in para 4.21 - 4.22 Five Penny Farm would fail to meet the financial threshold for two families living on the site. However, this application is clearly not a conventional agricultural need planning application and does not seek a long-term permission for a dwelling. Para 4.24 outlines a Court of Appeal decision cited by the applicants in which a Judge allowed a personal permission on a unit until that provided a reasonable income, which was less than the minimum agricultural wage, as the appellant had a track record of sustaining the unit on a lesser income.

However, RAC do not consider the matters of fact to be similar in this case, as the appellants do not have a similar track record.

Finally, RAC refer to Draft PPS7 issued in November 2003, although it is NOT adopted Policy at present and in its final form could be subject to change. However, at para 11 of the document it states that "isolated new homes in the countryside will require special justification for planning permission to be granted". Annex A sets out a series of tests, which are similar to Annex I of PPG7. However, a new statement exists at para 8 which states that "in applying the financial test authorities should take a realistic approach to the level of profitability taking into account the nature of the enterprise concerned. Some enterprises which aim to operate broadly on a subsistence basis can be sustained on relatively low financial returns".

Para 4.28 of RAC's report states the anticipated financial returns of the applicants. RAC concludes at Para 4.29 that if Draft PPS 7 is adopted in its present form the application would be likely to meet the financial test therein, though there would still be **NO ESSENTIAL NEED** to live on site from a functional point of view.

d) Suitability and availability of other possible accommodation - RAC at para 4.30 considers that there are villages located close to Wootton Fitzpaine that theoretically could provide accommodation from which the applicants could manage the unit. However, in this case no information has been submitted to indicate the availability of such accommodation by the applicant (but this is not surprising given the applicants intention to live in a sustainable land based way as proposed). However, one point which should be borne in mind is that it has never been the intention of the agricultural dwellings planning concession to provide cheap housing in the countryside.

10.20 RAC's Conclusions – In the context of the tests as set out in PPG7, RAC concludes that:-

- the applicants have demonstrated an intention and ability to develop

the enterprise

- there is no essential agricultural need for a worker to live on the unit. The social and domestic needs of the applicants are acknowledged but PPG7 refers to the needs of the enterprise and not to the present circumstances or preferences of the applicants.
- as there is no essential need for one worker, then it follows that there is no essential need for 2 agricultural workers' dwellings.
- the unit will not generate sufficient funds to provide the minimum agricultural wage for two workers.
- in the context of the financial criteria in Draft PPS7, it is accepted that the unit would be likely to meet the test if Draft PPS 7 is adopted in full.
- while RAC has not researched the availability of other accommodation in the area, there are villages located near the site which perhaps this could be found.

10.21 Impact of the Development on the Character and Appearance of the Landscape

The site is located within the AONB where Policy L1 of the Adopted Local Plan states that the priority will be given to the conservation of the natural beauty of the area. Government Ministers have stated that AONB areas have equal planning status to National Parks in terms of landscape.

- 10.22** Local Plan Policy SA1 (Revised Deposit March 2004), has similar aspirations to Adopted Policy L1.
- 10.23** In addition to the above, West Dorset 2000 identifies the site as falling within the West Dorset Farmland designation. This SPG aims amongst other things to protect the small scale undeveloped nature of the landscape. The field pattern in this area is characterised by small pockets of agricultural land enclosed by hedgerows.
- 10.24** In this case the Council needs to consider the impact that the 2 dwellings has on the landscape character of the area. This however should not be misinterpreted as the impact that the polytunnels and other structures has on the landscape. There is an important distinction between the two that must be made in this regard. This is because the polytunnels (up to 4), vegetable packing store / tool shop and potting shed / greenhouse all have prior permission from the Council. In particular it could be argued that the polytunnels in themselves are the most prominent features in the landscape. They can be seen from a wider area and in particular from the eastern side of Wootton Fitzpaine and from Charmouth By-Pass (albeit that traffic flows are at 90 degrees to the view from the By-Pass).
- 10.25** Nevertheless the dwelling occupied by Jyoti Fernandes and David Saltmarsh

and their children occupies a central location within the site at the top of a south-facing slope of the land. It is located immediately next to and is physically attached to the double arched polytunnel which has permission. Notwithstanding the need for the dwelling there are certainly other locations within the site that could be far more suited to mitigate the impact of the dwelling on the landscape. Locations around the boundary of the site would be far more preferable in order to assimilate the development into the wider landscape.

- 10.26** Notwithstanding this concern however the applicants have undertaken a landscape implementation scheme as part of the prior approval development given for the polytunnels. This involved the implementation of planting along the southern and southwestern boundaries of the site in order to screen the polytunnels when seen from further afield. However, it will take some years for this planting to become established albeit this planting is intended to form part of the land management regime for the sustainable enterprise including the applicant's intended woodworking business.
- 10.27** The West Dorset 2000 SPG seeks to encourage and support hedgerow planting, planting adjacent to agricultural buildings, the creation of links between fragmented habitats, coppice management and to protect the small scale undeveloped character of the landscape. It is therefore important that any development in this area is sensitively located and designed.
- 10.28** While the applicants are making an effort to mitigate and integrate the whole of their "operations" by planting in the above mentioned areas, this will nevertheless take sometime to become established. Their Landscape Design and Management Plan having been considered by the Council's Landscape Officers needs to be more legible, detailed and specific since appropriate planting and its long-term management is key to the successful integration of the dwelling.
- 10.29** With regards to the dwelling occupied by Oliver Goolden and Kerry Hayward, this is located in a far more satisfactory location (notwithstanding the argument on need). It is located in the northeast corner of the site in a far less visually intrusive location than the Fernandes / Saltmarsh dwelling, it being "tucked up" to the boundary of the site which incorporates hedgerow and tree screening. It is not easily visible when viewed from afar, particularly when viewed from the south. However, West Dorset 2000 SPG aims to protect the small scale undeveloped character of the landscape and this dwelling and the Fernandes / Saltmarsh dwelling would certainly run counter to this Policy aspiration.
- 10.30** In addition to the above the Dorset AONB Management Plan 2004 – 2009 identifies the site as being within "The Blackdowns" whose landscape character amongst other things comprises of "high ground with rectangular field patterns and straight roads" and includes "slopes and vales with strong patterns of small irregular fields and sunken lanes". The AONB Management Plan identifies the fact that there has been a decline in woodland management and the need to replace many of the mature hedgerow trees. While the applicants propose to undertake and to a degree have already

implemented part of their landscape strategy, the dwellings are nevertheless considered to detract from the wider West Dorset 2000 and the AONB Management Plan aspirations.

10.31 The AONB Management Plan identifies that change in the AONB is inevitable but that this needs to be managed positively. Organic farming promotes the Dorset AONB as a healthy landscape with quality local foods produced. However, while this Policy aspiration is welcomed it must be remembered that this application seeks the retention of 2 dwellings where there is no essential need and which has serious conflict with SPG Policy. It is this Land Use Planning i.e. the control and use of land within the AONB which needs to be considered whilst assessing the impact of the development on the wider management regime of the AONB. The AONB Management Plan does aim to seek opportunities to meet local needs and support local enterprise from the agricultural policy framework and the Sustainable Food and Farming Strategy but it is not considered that this in itself would lead to a positive recommendation being given to support these 2 dwellings.

10.32 To conclude on this issue it is considered that despite the fact that the polytunnels create the most visual harm, they do have the benefit of permission. However, they have been approved subject to a landscaping scheme which has been partly implemented. However, while this landscaping is intended to be managed, its growth will take some years to screen the polytunnels. The dwelling occupied by Fernandes / Saltmarsh is considered to be visually intrusive and is considered to be contrary to Adopted and Emerging Local Plan Policy and the West Dorset 2000 SPG and the AONB Management Plan. The dwelling occupied by Goolden / Hayward is located in a more satisfactory location from a landscape impact point of view and its impact upon the landscape is considered acceptable. However, despite its location, this type of development could be repeated too often, the resultant effect would be to harm the AONB and as such this dwelling is also considered to be harmful to the AONB Management Plan aspirations, West Dorset 2000 SPG and the Adopted and Emerging Local Plan Policies

10.33 Impact on Access and Highway Matters

Vehicular access to the site is off a made-up private trackway on the east side of the rural lane that leads to Spence Farm.

10.34 The prior notification application approved by the Council in July 2003 was conditioned to the effect that its surface should be made up of natural stone or flint. This has been complied with in that the private access leads from the rural lane and is located in a position which follows the northern boundary hedgerow of the site. However, because of the rough surface of the road a separate informal vehicular access has been made directly across the field which leads to the main vehicular access into the site.

10.35 A small parking area has been provided in the western part of the site and is screened by fencing panels. There is satisfactory parking facilities for visitors and there are no highway objections to the proposal.

10.36 Substantial Development Issues

The applicants, particularly with regards to their submission / appraisal provided by the organisation "Chapter 7", stress the importance of their enterprise with regards to 'sustainable development' and the fact that they receive most of their basic needs from the land. They state that they will eventually be able to produce their own water, energy, firewood, dairy products, eggs, vegetables, fruit, medicines and preserved foods. An estimated 80% of food needs will be provided by living on the land, and this is one of the main reasons cited for living on the land. The applicants claim that if they lived away from the site, commuting would result in increased living costs, as they would have to pay for rent, water, electricity, increased car use, convenience foods (in that they would not be able to cook their own food at work). This would defeat the object of the enterprise.

- 10.37** "Chapter 7" outlines the fact that the applicants' enterprise has been clearly designed with environmental sustainability at its core. They state that environmental sustainability is impossible without social and economic sustainability and that the project integrates the three to make it possible for 2 families to live and earn their livelihoods from a relatively small area of land.
- 10.38** "Chapter 7" also state that the applicants' scheme will not only enable them to reduce their environmental impact, but also to bring about environmental benefits to the surrounding community. Local and global impacts will be reduced as a result of using renewable energy (wind turbine, solar panels and wood fuel), buildings are constructed from timber, they minimise car use and treat their grey water with a reed bed system and they minimise their need for long distance food imports. Their organic produce is sold locally at Bridport Market and will soon be selling to local shops as well as individuals. On occasions the farm will also be opened to visitors creating an Environmental Education resource.
- 10.39** In further support of the development "Chapter 7 " refer to a variety of Appeal decisions all of which granted planning permission for similar type developments. In some of these cases Planning Inspectors concluded that the advice outlined in PPG7 Annex I with regards to the financial and functional need relates primarily to applications for dwellings allied to more conventional farmers / forestry workers. In some cases Inspectors stated that the proposals such as the applicants are so novel that they meet the Government's commitment to the kind of sustainable development provided whereby current needs might be met without compromising the ability of future generations to meet theirs.
- 10.40** And this is the crux of the issue. Should the application be supported in terms of its particular, sustainable way of living or should the application be refused as being contrary to established Adopted Policy on restraint for dwellings in the countryside except where there is a proven need? This is why so many representations have been submitted in the course of the determination of the application. Many think that the scheme should be supported given its sustainable development principles, while others feel that the site creates visual harm in the AONB.

10.41 However, Committee should remember that the most visually intrusive elements already have a valid planning permission and this application relates solely to the 2 dwellings. The question that therefore needs to be answered is whether there is an **ESSENTIAL NEED** for them and whether they create harm to the landscape?

11. Conclusion/Summary

11.1 The application relates to the retention of 2 buildings each used as a single dwelling.

11.2 The building occupied by Fernandes / Saltmarsh is considered to be located in a central position within the land and in a visually intrusive location. The polytunnels created on the site are also considered visually intrusive but they have the benefit of planning permission which includes the provision of landscaping. However, while landscaping has been carried out, it is considered that this will take sometime to become established and there are concerns that there is no management strategy in place for it

11.3 The building occupied by Goolden and Hayward is located in a visually unobtrusive position given that it is well screened adjacent to trees / hedgerows so that it is barely visible when seen in the wider landscape.

11.4 However, the retention of the 2 dwellings is considered harmful to the landscape which is designated an AONB where the prime consideration is given to the conservation of the natural beauty of the area. In addition the retention of the 2 dwellings would be contrary to Policies outlined in West Dorset 2000 SPG and the recently published AONB Management Plan 2004 – 2009.

11.5 The retention of the dwellings is considered acceptable from a highway safety aspect.

11.6 Following an appraisal of the need for the dwellings, RAC concludes that while the applicants have demonstrated an intention and ability to develop the enterprise, there is **NO ESSENTIAL NEED** for a worker to live on the site although the social and domestic needs of the applicants are acknowledged.

11.7 Although the use of the land has much to commend it to the wider principles of sustainable development, and that the intention of the applicants to establish their own way of life by living and working the land is to be respected, the fact of the matter is that from a planning policy point of view there remains **NO ESSENTIAL NEED** for temporary dwellings on this site even for a 5 year period. Although Emerging Government Policy may give some credence to the applicants initiative / business i.e. Draft PPS7, the fact of the matter remains that PPS7 remains only as a Draft and has yet to become extant Policy. When considered against established and extant Policy the proposal is considered unacceptable.

11.8 Finally, Members should be aware that if they resolve to refuse permission in

line with officers recommendation, that this would result in enforcement action given that this application is for retrospective permission.

11.9 Human Rights

The following articles of the European Convention of Human Rights fall to be considered:

Art 6 - The right to a fair trial.

Art 8 - The right to respect for private and family life.

Art 14 - Prohibition of discrimination.

The First Protocol

Art 1 - Protection of Property

11.10 The recommendations outlined below are considered to be proportionate to the protection of the rights and freedom of others and with regards to the enforcement action indicated to ensure compliance with the breach of planning control identified.

11.11 As an aside Members should be aware that with regards to the Fernandes / Saltmarsh building, if enforcement action is authorised this would result in the dwelling occupied by the applicants, being removed permanently from the site. 2 of their 4 children are educated at a school in Hawkchurch but they also 'educate' them on site as part of their sustainable way of life. Nevertheless while Article 8 refers to the right to respect private and family life it is considered that the enforcement action proposed is considered proportionate with regards to the wider needs to protect the public interest. Likewise the Goolden / Hayward building would also result in the dwelling being removed. Miss Hayward is pregnant and is due to give birth in October but as with the Fernandes / Saltmarsh dwelling the removal from the land of this building is considered proportionate to the needs to protect the wider public interest and is not considered to infringe unacceptably upon their Human Rights.

12. Recommendation

12.1 Refuse

- i. Refusal is recommended on the grounds that having regard to the advice contained in Annex I of Planning Policy Guidance Note 7 Countryside, it is considered that there is no essential need for a temporary dwelling at the application site. As a result the proposal is considered to be contrary to:

Settlement Policy I of the Adopted Bournemouth, Dorset and Poole Structure Plan;

Policies SP3 (Development Outside Defined Development Boundaries)

and H5 (Agricultural / Forestry Workers Dwellings) of the Adopted West Dorset District Local Plan; and

Policies SS3 (Development outside Defined Development Boundaries) and HS6 (Essential Rural Workers' Dwellings) of the Revised Deposit West Dorset District Plan (March 2004);

- ii. The proposed retention of the dwellings, would be contrary to the aims and objectives of the West Dorset 2000 survey of the Built and Natural Environment of West Dorset which seeks to protect the small scale undeveloped character of the landscape and which identifies the site as West Dorset Farmland. As such, the retention of the dwellings would be visually harmful to the character and appearance of the area designated an Area of Outstanding Natural Beauty and would be contrary to:

Environment Policy G of the Bournemouth, Dorset and Poole Structure Plan;

Policy L1 (Area of Outstanding Natural Beauty) of the Adopted West Dorset District Local Plan and Policy SA1 (Area of Outstanding Natural Beauty) of the Revised Deposit West Dorset District Local Plan (March 2004); and

The aims and objectives of the AONB Management Plan 2004 – 2009 with regard to the impact on landscape character.

12.2 Further Recommendation

It is recommended that Enforcement Action be taken to ensure the removal of the 2 buildings used as dwellings on the land on the grounds that their retention would run counter to the above-mentioned National, Structure, Local Plan, and Supplementary Planning Guidance Policies. Time period for compliance is recommended as 6 months.