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## Report

**SUBJECT:** Planning application S/2007/0877 – Permanently retain existing residential accommodation at New Farm, Pitton Road, Pitton for Mrs. L. Stanley

**REPORT TO:** Planning and Regulatory Panel

**DATE:** 30 October 2007

**AUTHOR:** Stephen Llewellyn

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### Report Summary:

To consider a full application for the permanent retention of the existing residential accommodation on the site as an agricultural workers dwelling. The application has been brought before the Planning and Regulatory Committee because the Southern Area Committee's recommendation is considered to be a material departure from the policies in the Local Plan. The Southern Area Committee considered the previously circulated report of the Head of Development Services, together with the schedule of additional correspondence circulated at the meeting on 4<sup>th</sup> October 2007 and the Members resolved that had the Committee been able to determine the application (which it would have been able to do had the applicant not appealed the application on the grounds of non-determination) then it would have resolved to make the following recommendation:

#### Recommend to the Planning and Regulatory Committee –

- (1) That, the above application be **APPROVED** for the following reason:

It is acknowledged that the proposed development is contrary to policy but the applicant's human rights (Article 1, Protocol 1 and Article 8 of the Human Rights Act) and the fact that the property has been the occupier's permanent home and business for almost 20 years overrides the conflict of the proposed development with the Development Plan policies that seek to restrict new residential dwellings in the open countryside for which there is no overriding justification.

- (2) And subject to the imposition of a condition restricting the occupancy of the dwelling solely to the applicant and her resident dependents and upon cessation of the occupation of the dwelling by the applicant to a person solely or primarily employed, or last working, in agriculture, together with any other condition(s) that are considered to be necessary and relevant that are to be delegated to the Head of Development Services to formulate.



Awarded in:  
Housing Services  
Waste and Recycling Services



The following conditions are recommended:

1. The permission, hereby approved, shall enure solely for the benefit of Mrs. L. Stanley and Mr L. Stanley. Upon cessation of the occupation of the dwelling by Mrs. L. Stanley and Mr. L. Stanley, the residential use, hereby approved, shall cease and the dwelling and all ancillary structures and hardstanding shall be permanently demolished and all the resulting demolition materials removed from the site.

Reason -

In order to enable the Local Planning Authority to retain planning control over the occupation of the dwelling and to secure the cessation of a use/removal of a building which can only be justified on the basis of the applicant's personal circumstances and given that the site of the dwelling is within an area where planning permission would not normally be granted for development unrelated to the essential needs of agriculture or forestry.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 and the Town and Country Planning Act 1990 or any subsequent re-enactment thereof, no further development permitted by all classes of Part 1 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason –

To enable the Local Planning Authority to retain control over the development in the interests of the character and appearance of the open countryside of the Special Landscape Area.

The Southern Area Committee considered the following officer's report before making its recommendation. The report has been updated to take account of the schedule of additional correspondence that was circulated at the meeting that simply confirmed the opinion of Pitton and Farley Parish Council to the application.

#### **REASON FOR REPORT TO MEMBERS**

This application is brought before the Planning Committee as the applicant has appealed against the non-determination of this application.

#### **SITE AND ITS SURROUNDINGS**

The site lies in open countryside to the north east of the built up area of Pitton village and is adjacent to Dunstable Road, at the foot of rising land to the east. It currently comprises a large mobile home and extension thereto, with an established garden to the rear.

The access to the site also serves the farm to the rear. The complex consists of a variety of buildings and cattle yard areas, with the existing buildings comprising a total area of around 1,400m<sup>2</sup>.

The farm itself extends to 8.9 hectares of grazing land. The farming enterprise undertaken at the site mainly consists of the rearing of beef cattle and pigs for the production of beef and pork products for retail sale, as well as the rearing of dairy heifers for a farm in Dorset.

#### **THE PROPOSAL**

This application seeks planning permission to permanently retain the existing mobile home as an agricultural workers dwelling.

In support of the proposal, the applicant has submitted an agricultural appraisal.

#### **PLANNING HISTORY**

There is an extensive planning history relating to this site. In particular, permission for the retention of a mobile home for an agricultural workers dwelling has been renewed at intervals to allow the applicant the opportunity to develop an agricultural enterprise at the site. Of particular relevance to the current proposal are the following planning applications:

S/1988/1364      An application for a mobile home in connection with an agricultural holding was refused in September 1988.

S/1988/2404	An application for a mobile home in connection with an agricultural holding was refused in April 1989. An appeal against this decision was subsequently allowed in February 1990.
90/5ENF	An enforcement notice was served against the erection of an extension to a mobile home.
90/1738	An appeal against an enforcement notice to remove an extension from a mobile home was allowed in January 1992.
S/1993/0132	A renewal of planning permission for the siting of a mobile home was approved in March 1993.
S/1993/1362	A renewal of a temporary permission for the siting of a mobile home was refused in February 1994. An appeal against this decision was subsequently allowed in October 1994.
94/12ENF	An enforcement notice was served for the removal of a mobile home and associated hardstanding and the restoration of the land to its former condition.
94/0854	An appeal against an enforcement notice for the siting of a mobile home was allowed in October 1994.
S/1997/1651	Planning permission for the retention of a mobile home for an agricultural worker was approved in January 1998.
S/1999/1006	Outline planning permission for the erection of a permanent dwelling to replace the existing mobile home was refused in October 1999. This application was refused for the following reasons:  <ol style="list-style-type: none"> <li>“1. <i>The proposed development represents a new dwelling in the countryside, which is not justified in connection with a proven need, for the purposes of agriculture or forestry. The applicant’s current circumstances and the type of enterprises contemplated have been taken into account but are not considered to justify an exemption in this case, which would lead to works of a permanent nature not required by the operations taking place. The proposal is therefore contrary to Government advice and the Development Plan, particularly policy H7 of the South Wiltshire Structure Plan 1993; Policies H23, H28, C2 and C7 of the Salisbury District Local Plan 1996; and policies H22, H26, C2 and C6 of the draft Salisbury District Local Plan 1998 Review.</i></li> <li>2. <i>The proposed residential development is considered by the Local Planning Authority to be contrary to Policy R2 of the adopted Salisbury District Local Plan because appropriate provision towards recreational open space has not been made”.</i></li> </ol> <p>An appeal against this refusal was dismissed in June 2000.</p>
S/2000/1887	Planning permission was granted in January 2001 for the retention of a mobile home for an agricultural worker. This was a renewal of planning permission S/1997/1651. The retention of the mobile home was granted on a temporary basis until 1 <sup>st</sup> January 2004.
S/2000/1911	Planning permission was granted in April 2004 for the erection of a general purpose agricultural store for feed, machinery etc, including use for housing for livestock.
S/2003/1965	Outline planning permission for the erection of a permanent dwelling to replace an existing mobile home was refused in December 2003. This application was refused for the following reason:  <p><i>“The proposed development represents a new dwelling in the open countryside, which is not justified in connection with a proven need, for the purposes of agriculture. The applicant’s current circumstances and the type of enterprise contemplated in the future have been taken into account but are not considered to</i></p>

*justify an exception in this case, which would lead to works of permanent nature not required by the scale of farming operations taking place. The proposal is therefore contrary to policies H27, H22, C2 and C6 of the adopted Replacement Salisbury District Local Plan and policy DP15 of the Wiltshire Structure Plan”.*

S/2003/2650 Most recently, planning permission was granted in April 2004 for the retention of a mobile for an agricultural worker. This permission was granted on a temporary basis until 1<sup>st</sup> May 2007. In respect of the latest renewal of temporary permission for the mobile home, the Council added the following informative:

*“You are advised that the Local Planning Authority consider that this fifth permission for a temporary mobile home on the site, permitted only in light of the exceptional circumstances surrounding the agricultural sector in the last 10 years, represents a final chance for the applicant to establish a genuine functional need for an agricultural worker to be present at the site at most times and to justify that such a need can be sustained. The Local Planning Authority would expect a case for a planning application for a permanent dwelling, or clearance of the site, at the end of the temporary permission hereby granted”.*

## **CONSULTATIONS**

WCC Highways:	No objection.
Environment Agency:	No objection.
Environmental Health:	The area is prone to ground water flooding, although not aware that this site has ever been flooded.
Wessex Water:	<p>The proposal is not located within a Wessex Water sewered area. The developer has indicated that the disposal of foul drainage will be to a septic tank and to dispose of surface water to soakaways. It is advised that the Council should be satisfied with any arrangement for the disposal of foul and surface water flows generated by the development.</p> <p>Turning to water supply, there is a water main in the vicinity of the proposal. It will be necessary for the developer to agree a point of connection onto the system for the satisfactory supply of water for the proposal.</p>
Southern Water:	No adverse comment on this application.

## **REPRESENTATIONS**

Advertisement	No
Site Notice displayed	Yes – expired 07/06/2007
Departure	No
Neighbour notification	Yes – expired 25/05/2007
Third Party responses	None received.
Parish Council response	None received.

## **POLICY CONTEXT**

The following policies of the Adopted Replacement Salisbury District Local Plan (June 2003) are relevant to the current proposal:- G1, G2, H23, H27, H28, C2, C6, TR11 and R2.

Policies DP14, C1 and C9 of the Wiltshire and Swindon Structure Plan 2016 (Adopted April 2006) are also of relevance.

The Government’s advice contained in PPS7: ‘Sustainable Development in Rural Areas’ is also relevant to the current proposal. In particular, Annex A of PPS7 gives guidance on the planning considerations in relation to agricultural, forestry and other occupational dwellings.

## MAIN ISSUES

1. Principle of Development
2. Housing for Rural Workers
  - (i) Functional Test
  - (ii) Financial Test
3. Human Rights
4. Visual Impact
5. Residential Amenity
6. Policy R2 - Provision of Recreation Facilities

## PLANNING CONSIDERATIONS

### 1. Principle of Development

The site is located within the open countryside of the Special Landscape Area and therefore the proposed development falls to be considered against the relevant countryside policies that represent an appropriate starting point for the assessment of this application. Within the open countryside, Government guidance set out in PPS7 "Sustainable Development in Rural Areas" makes it clear that new development should be strictly controlled and that there is a presumption against new development for which there is no demonstrable need. In this respect, PPS7 states at Paragraph 1 (iv) that, *"New building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled; the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscape, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all"*. The guidance also identifies at paragraph 15 that *"Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced"*.

The countryside policies of the Adopted Salisbury District Local Plan uphold the guidance set out in PPS7 and in particular that new development should maintain or enhance the environment. Policy C2 seeks to protect and conserve the character and appearance of the countryside and identify that development in the countryside will be strictly limited in order to fulfil the objective of conserving the countryside and will not be permitted unless it would benefit the local economy and maintain or enhance the environment. Policy C6 that deals specifically with development proposals in the parts of the countryside designated as a Special Landscape Area is also of particular relevance. This policy requires that development within the Special Landscape Area must have particular regard to the high quality of the landscape and that the siting and scale of development must also be sympathetic with the landscape and of a high standard of design.

With regards to the provision of housing in rural areas, in line with the policies to protect the countryside, the construction of new dwellings in the countryside is not normally permitted unless it is to provide affordable housing or it is intended for occupation by an agricultural or forestry worker, and for which an essential need has been demonstrated. PPS7, for example, states at paragraph 10 that *"Isolated new houses in the countryside will require special justification for planning permission to be granted. Where the special justification for an isolated new house relates to the essential need for a worker to live permanently at or near their place of work in the countryside, planning authorities should follow the advice in Annex A to this PPS"*. The Local Planning Authority also acknowledges that agriculture and forestry require an adequate workforce in order to operate efficiently, and that it may be essential for workers engaged in agricultural and forestry enterprises to live at or near the holding. As such, the proposed development falls to be considered against the criteria of Policy H27 of the Adopted Salisbury District Local Plan that relates specifically to the erection of new permanent agricultural and forestry workers dwellings in the open countryside. This policy is only permissive of such development provided that, amongst other criteria, it is demonstrated that there is an essential need for the proper functioning of the enterprise for a worker to be readily available at most times and that the enterprise is economically viable and financially can sustain the dwelling.

With regard to other policies, Policy G1 seeks to ensure that development promotes a sustainable pattern of development that reduces the need to travel by car and encourages increased use of public transport, cycling and walking, makes the most efficient use of land, promotes the vitality and viability of local communities and conserves the natural environment and cultural heritage of the District. Policy G2 relates to general criteria against which development proposals will be assessed that include, amongst other factors, its impact on residential amenity, highway matters such as the effect of

development on the road network, off-street parking and the suitability of access and turning facilities and the need to protect landscape and historic features.

## **2. Housing for Rural Workers**

As mentioned above, this application must be considered against Policy H27 of the Adopted Salisbury District Local Plan that states:

*"In the open countryside, new permanent agricultural workers dwellings will only be permitted on established agricultural units providing the following criteria are met:*

- (i) there is a clearly established existing need for workers to be accommodated on or near the holding;*
- (ii) the need relates to a full-time worker, or one who is primarily employed in agriculture, and does not relate to a part-time requirement;*
- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so; and*
- (iv) the need cannot be fulfilled by another dwelling on the unit, or any other accommodation in the area which is suitable and available for the workers concerned.*

*Where new agricultural dwellings are permitted, they should be sited so that they have minimal impact on the landscape and where possible, they should relate to existing buildings. The dwelling should be of a size commensurate with the established functional requirement of the unit. Dwellings which are unusually large in relation to the agricultural needs of the unit or unusually expensive to construct in relation to the income it can sustain in the long-term are unlikely to be permitted. Consideration will be given as to whether an existing dwelling serving, or closely connected with, the unit has recently been sold separately, or has been alienated in some other way from it".*

The above policy is consistent with the government guidance on agricultural workers' dwellings contained in Annex A of PPS7 "Sustainable Development in Rural Areas". This guidance also draws attention to the need to apply functional and financial tests to the proposed new dwelling to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times and secondly, to demonstrate that the farming enterprise is economically viable and is financially capable of sustaining the proposed dwelling (i.e. the dwelling should be of a size commensurate with the established functional requirement. It is the requirements of the enterprise, rather than those of the owner or occupier, that are relevant in determining the size of the dwelling). It is against such advice and policy that the application falls to be determined.

### **(i) Functional Test**

As mentioned above, a functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times.

As outlined above, there is a long and complex history to this site which has resulted in the mobile home, which is the subject of this application, being present on the site and occupied by the applicant for almost 20 years in conjunction with agricultural activities.

Indeed, contrary to relevant guidance in Circular 11/95 and PPS7, the existing mobile home has been the subject of a succession of temporary permissions associated with various proposed enterprises that the applicant has sought to develop at this site. In permitting the latest temporary permission for the retention of the existing mobile home in 2004 associated with a proposed goat dairy enterprise, however, the Local Planning Authority also took account of the difficulties facing the farming sector in general and livestock enterprises in particular which had direct consequences to the applicant's previous, genuine attempts to develop an enterprise at this site (for example, the applicant was attempting to establish a bull beef enterprise at the time of the foot and mouth disease outbreak in 2001). This current application, however, seeks permission for the permanent retention of the existing mobile home. As such, any justification for the dwelling must be based on a clearly established existing functional need for a worker to be accommodated on or near the holding associated with an established enterprise, unlike the previous applications for the temporary retention of the mobile home where the functional need was associated with a proposed agricultural enterprise.

The applicant has farmed the site since 1988, previously specialising in beef cattle until it was significantly affected by the Foot and Mouth outbreak in 2001 at which time the business switched to the rearing of dairy heifers for others and traditionally raised beef cattle and pigs. The principal enterprise of the current farm business in question is to produce pork and beef for retail sale that has developed since 2005. In this respect, 9 sows are kept, producing about 200 pigs per annum that are

reared through to a finished weight, with 3 to 4 pigs sold per week. The pigs are slaughtered off site but butchered on site, and the finished product is sold as prepared meat, sausages and bacon through a number of Hampshire farmer's markets as well through a shop at the farm. In addition to the pork, a small number of beef animals are also reared from purchased calves and are also sold retail as prepared meat. The applicant also continues to rear dairy heifers for a dairy unit in Dorset (some 22 heifers are reared annually). In addition to the agricultural livestock activities, the applicant also operates diversified activities on the site comprising a composting business that involves the processing, bagging and sale of compost for garden use. In terms of business development, it is also planned to expand the pork and beef retail sales that will require the greater production of pork and beef to meet the increased demand and on the basis of current projections of demand it is likely to become necessary for the applicant to purchase weaned piglets from other producers in addition to expanding the farm's breeding herd.

In support of the application, the applicant's agricultural consultant has submitted an agricultural appraisal of the existing farm enterprise that concludes that the permanent retention of the existing mobile home is justified to provide accommodation for the applicant to meet the essential needs of the farm enterprise. Firstly, the applicant contends that there is an existing functional need for a dwelling on the site that arises from the need for a suitably qualified person to be available to attend at all times, particularly at times of emergency, to the welfare and husbandry needs of the livestock on the farm. Furthermore, it is also argued that an on-site residence would also provide the added benefit of security of the livestock, equipment and other property on the site.

Secondly, the submitted appraisal sets out the assessed labour requirement in terms of the number of standard man-days (smd's) for each of the activities of the farm business and separates these into three distinct groups, agricultural activities – crops and livestock, diversified activities – on farm, and diversified activities – off farm. A table of the data of the assessed annual labour requirement contained in the applicant's agricultural consultants' appraisal is reproduced below. This identifies that on the basis that 300 standard man-days equates to a full-time worker, the total assessed annual labour requirement for all of the activities of the farm business equates to 765 standard man-days or the equivalent of 2.6 full-time workers. The submitted agricultural appraisal, however, identifies that the equivalent of 375 standard man-days (1.3 full-time workers) are accounted for by staffing the farmers' market stalls and delivering compost that does not actually involve work on the farm. Therefore, if these activities are discounted, the labour requirement associated with the farm business is the equivalent of 1.3 full-time workers. Although the applicant's agricultural consultant identifies that the agricultural activities (crops and livestock) alone would not at the present time fully occupy a full-time worker, it is argued that PPS7 is supportive of farm diversification and that when the livestock-related diversified activities of the farm are taken into account the labour requirement of the farm is in excess of a full-time worker.

<b>Farm Activities</b>	<b>No. of Standard Man-days</b>
<b>Agricultural Activities (Crops and Livestock)</b>	
Grassland – grazing and 1 cut silage	39
Pigs – breeding sows and boars	28
Pigs – growing pigs	10
Dairy heifers – 4 to 18 months	22
Beef cattle – 1 to 2 years	2
Beef cattle – under 1 year	3
General maintenance	16
<b>Sub Total of Agricultural Activities</b>	<b>120</b>
<b>Diversified Activities – Performed On Farm</b>	
Cutting and boning pig carcasses	50
Preparation of sausages and other meat products	120
Staffing farm shop	50
Processing and bagging compost	50
Delivering compost	225
<b>Sub Total of Diversified Activities Performed On Farm</b>	<b>495</b>
<b>Diversified Activities – Performed Off Farm</b>	
Staffing farmers' market stalls	150
<b>Sub Total of Diversified Activities Performed Off Farm</b>	<b>150</b>

<b>Total Assessed Annual Labour Requirement</b>	<b>765</b>
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**Table 1: Assessed Annual Labour Requirement**

In direct contrast to the view of the applicant's agricultural consultant, however, it is the opinion of the independent appraisal of the agricultural consultant commissioned by the Council that the functional test is not met and that the proposed new dwelling is not warranted. When considering functional need for a permanent dwelling, the guidance contained at paragraph 3(i) of Annex A to PPS7 clearly stipulates that the dwelling should only be allowed where there is a clearly established existing functional need. In this instance, the livestock enterprise is primarily concerned with the rearing of beef cattle and young pigs. Although it is acknowledged that just over 20 farrowings will take place annually and that this may generate a need for essential care at short notice, it is advised that it is likely that only a small proportion of farrowings will require human intervention. In this respect, it is considered that the number of farrowings that take place on the site falls significantly below the number that would be necessary to provide sufficient justification for a permanent dwelling on the site. Indeed, it should also be noted that a seasonal worker's caravan rather than a permanent dwelling could meet any requirement for essential care associated with the farrowings. With regards to the other agricultural activities of the farm enterprise, such as the rearing of a small number of beef (store) cattle and the rearing of dairy heifers, it is considered that the labour requirement of these activities relates to routine management and livestock supervision (feed, water, supervision, checking for disease etc) that would not warrant the full time presence of a worker residing in this location.

Furthermore, in terms of the diversified, non-agricultural activities that take place on the farm, such as the preparation of meat products and composting, it is also considered that these activities do not establish a functional requirement for an essential presence on site at most times. Indeed, paragraph 6 of Annex A to PPS7 states that *"Requirements arising from food processing, as opposed to agriculture, cannot be used to justify an agricultural dwelling"*. The applicant also contends that the contribution of a dwelling to the security of the livestock, equipment and other property on the site should also be recognised in judging whether a functional need is fulfilled. However, paragraph 6 of Annex A to PPS7 also states that, *"The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one"*. For the above reasons, it is the opinion of the independent agricultural consultant commissioned by the Council that the current scale of the enterprise does not result in the requirement for an essential presence on the site at most times and therefore the functional test is not met.

The guidance contained at paragraph 3 of Annex A to PPS7 also states that the functional need must relate to a full-time worker, or one who is primarily employed in agriculture, and not a part-time requirement. Although it is the opinion of the Local Planning Authority that there is no functional need for an essential presence on the site, even if such a need had been demonstrated, contrary to the opinion of the applicant's agricultural consultant it is questioned whether such a need would relate to a full-time worker. In this respect, the labour calculations put forward by the applicant's agricultural consultant shows that the agricultural activities (crops and livestock) present a labour requirement that is equivalent to only 0.4 of a full-time worker. Indeed, the submitted agricultural appraisal states that the agricultural activities alone would not at the present time fully occupy a full-time worker and that the fulfilment of the functional requirement (i.e. a functional requirement must relate to a full-time worker) is dependent on allowance being made for the on-farm diversified activities and not just on strictly the agricultural activities. However, while it is acknowledged that PPS7 is supportive of farm diversification into non-agricultural activities, the guidance is unclear as to whether the labour requirement associated with such activities should be taken into consideration when assessing if the functional test has been met.

In this instance, however, even if these diversified activities are taken into account, it is still not clear that the labour requirement of the worker (i.e. the applicant) who would occupy the dwelling equates to full-time employment. In this respect, while the submitted agricultural appraisal identifies that the total labour requirement of the on-farm activities is equivalent to 1.3 full-time workers and that the applicant undertakes most of the livestock husbandry, it also identifies that other people are employed to carry out at least some proportion of the other farm activities. For example, it is stated that a butcher is employed to cut pigs one day per week, the applicant's mother assists with the packaging of sausages (6 hours per week) and an assistant is employed to work at the farmers' markets and to bag compost (2½ days per week). As such, it is unclear from the submitted information whether the labour input of the applicant in respect of the diversified on-farm activities is sufficient, when taken in conjunction with the agricultural activities, to amount to full-time employment. However, this argument is somewhat



superfluous given that it is considered that there is not an established existing functional need for the essential presence on the site of a worker at most times.

## **(ii) Financial Test**

In addition to the functional test, the guidance set out in Annex A to PPS7 also advocates that a permanent dwelling cannot be justified on agricultural grounds unless the farming enterprise is economically viable. In this respect, the agricultural enterprise concerned must have been established for at least three years, have been profitable for at least one of them, currently financially sound and have a clear prospect of remaining so. It is therefore, stated at paragraph 8 of Annex A to PPS7 that a financial test is necessary for this purpose and to provide evidence of the size of dwelling which the unit can sustain.

In support of the application, the agricultural appraisal prepared by the applicant's consultant includes an assessment of the financial viability of the farm business and states that it is concluded from the submitted figures that the business is financially viable and in that respect capable of being sustained. It is also stated that accounts for the year ended 31<sup>st</sup> March 2006 show the business to have been in profit. Consequently, the applicant argues that the financial test has been met in this instance.

With regards to the financial test, the agricultural appraisal undertaken by the independent agricultural consultant, however, states that although the unit has clearly been established for much longer than three years, the applicant's agricultural consultant has advised that the pig breeding and rearing enterprise to produce pork and beef for retail sale, that is the principle enterprise of the current farm business, was only established in 2005. As such, the agricultural activity concerned has not been established for at least three years as required in accordance with the criteria set out at paragraph 3(iii) of Annex A to PPS7. Whilst the applicant's advisor has stated that the business has made a profit, the independent agricultural consultant commissioned by the Council has also advised that given the applicant has not provided any accounts to demonstrate profitability or the current financial performance of the business, in the absence of such information it is not possible to draw any firm conclusions as to whether the business is currently financially sound.

Furthermore, the independent agricultural consultant commissioned by the Council has also advised that it would be reasonable to assume that a significant proportion of the income to the business is generated through the non-agricultural activities of food processing, retail sale and composting. This assumption tends to be borne out by the assessment of the financial viability of the farm business contained in the agricultural appraisal submitted in support of the application. As highlighted by the independent agricultural consultant commissioned by the Council, although PPS7 is supportive of diversified activities, the tests set out in paragraph 3 of Annex A specifically relate to agricultural activities. As such, it is questioned whether the farm enterprise is viable without the retail activities being taken into account.

Given these circumstances, it is considered that in the absence of sufficient information to determine whether the existing business is financially sound and has a reasonable prospect of remaining so, the proposal does not, therefore, meet the financial test set out in PPS7.

## **3. Human Rights**

As noted above, there is a long and complex history to this site which has resulted in the mobile home being present thereon and occupied by the applicant for almost 20 years in conjunction with agricultural activities.

In the event that planning permission is refused, it must therefore be recognised that there would be interference with the applicant's right under Article 1, Protocol 1 of the Human Rights Act as it would affect her property rights.

Of greater significance, however, is the effect on the applicant's right to privacy and a home under Article 8.

In both instances, however, in the absence of any justifiable overriding material consideration the interference with the applicant's rights is considered justified in terms of the public interest of protecting the countryside from unnecessary development in accordance with Development Plan policies and proportionate in that there is no lesser course of action, other than refusing planning permission, that could comply with the relevant policies.

#### **4. Visual Impact**

The site lies within the open countryside within the Special Landscape Area and therefore must be determined in relation to the general countryside policies of the Adopted Salisbury District Local Plan that seek to strictly limit development to protect and conserve the character and scenic quality of the landscape. In particular, Policy C6 requires that development within the Special Landscape Area must have particular regard to the high quality of the landscape and that the siting and scale of development must also be sympathetic with the landscape and of a high standard of design.

The site benefits from a low-lying position and the existing mobile home is substantially screened from the road by mature boundary hedging. Indeed, it is considered that the siting of the existing mobile home represents the best location to minimise its impact on the landscape and is not as significant as that of the existing agricultural buildings.

In the event that the agricultural need for the permanent retention of the existing mobile home was justified, it is considered that its' siting would not be open to objection. However, as a permanent dwelling in the countryside without sufficient justification, it is considered that it represents an unwarranted residential intrusion into the countryside that would erode the character and scenic quality of the landscape and would undermine the stated policy objectives of conserving the countryside for its own sake and avoiding sporadic new development for which there is no overriding justification.

#### **5. Residential Amenities**

The site and existing mobile home are located in a position where it is well distanced from the nearest residential property and therefore it does not have any adverse affect on the neighbouring amenities.

#### **6. Policy R2 - Provision of Recreation Facilities**

In accordance with Policy R2 of the Adopted Salisbury District Local Plan the provision of recreation facilities must be considered for all proposals for new residential development.

In determining an appeal for the erection of a permanent dwelling in 2000, the Inspector noted that permission had originally been given for the mobile home several years before Policy R2 was adopted and in these circumstances it would not be equitable to require a commuted sum under Policy R2 in relation to a new dwelling. In view of this conclusion, the same approach was adopted in the determination of an application for a permanent dwelling in 2003, albeit that this application was refused for other reasons. As a result, it is considered that the failure of the applicant to pay a commuted sum in relation to Policy R2 would not be a reasonable reason for refusing permission for this application.

#### **CONCLUSION**

In view of the expert opinion from the independent agricultural consultant regarding the functional need for an additional dwelling on the holding and the associated financial test, it is considered that there is no reason to disagree with the conclusions drawn that neither a functional need for an essential presence, or sufficient financial justification has been proved for a permanent dwelling on this site. Under the circumstances, and in the light of Government guidance and planning policies, it is considered that the development represents inappropriate development in the countryside in the form of a new permanent dwelling for which no agricultural justification currently exists.

#### **RECOMMENDATION:**

**It is recommended that the Southern Area Committee resolve that this application would have been refused for the following reason(s) had it been able to determine this application.**

1. The proposed development represents a new dwelling in the countryside, which is not justified in connection with a proven established functional need for the purposes of agriculture. The current circumstances of the existing enterprise have been taken into account but are not considered to justify an exception in this case and therefore it is considered that the proposal fails to meet the functional test set out in Annex A to PPS7. In the absence of such a justification, the proposal would lead to a permanent dwelling not required by the scale of the farming operations taking place and would represent an unwarranted residential intrusion into the countryside that would erode the character and scenic quality of the landscape, that is designated as a Special

Landscape Area, and would undermine the stated policy objectives of conserving the countryside for its own sake for which there is no overriding justification.

Furthermore, from the submitted information it is evident that the existing enterprise has not been established for three years, while it is also considered that the proposal fails to provide sufficient evidence to demonstrate that the existing farm business is financially sound and has a clear prospect of remaining so. As such, the proposal therefore also fails to meet the financial test in Annex A of PPS7.

For these reasons, the proposed development is therefore contrary to Policies H23, H27, C2 and C6 of the Adopted Salisbury District Local Plan (June 2003), Policies DP14, C1 and C9 of the Wiltshire and Swindon Structure Plan 2016 (Adopted April 2006) and the guidance contained in PPS7 "Sustainable Development in Rural Areas".

**Informative Note(s):**

1. This decision has been taken in accordance with the following policies of the adopted Replacement Salisbury District Local Plan (July 2003): G1, G2, H23, H27, C2, C6, TR11 and R2.

**Options for consideration:**

- (a) Accept the above recommendation from Southern Area Committee that planning permission should be approved; or
- (b) Accept the officer's recommendation that permission should be refused.