

(5) Application No: PAP/2015/0227

Lucky Tails Alpaca Farm, Dexter Lane, Hurley, CV9 2JG

Use of land for the siting of a temporary rural workers mobile home, for

Ms S Booth

Introduction

This application was referred to the last meeting of the Board but determination was deferred in order that further advice could be sought on the prospect of a temporary planning permission in lieu of a refusal.

As a consequence the further advice of the Council's consultant has been sought and the matter is referred back to the Board for determination.

The previous report is attached at Appendix A for convenience.

Background

At the meeting Members were aware that the key issue was whether there was an essential need to have a permanent residential presence on the site. The Council's agricultural consultant did not think so because, amongst other reasons, the applicant's business plan was not well founded given the size of the holding and the quality of the grass land. Given this position his view was that the projected business plan for the holding was not sustainable and that in any event the site is close to Hurley where suitable accommodation could be found. He also considered that the value of alpaca stock is variable and that this had not been properly allowed for in the business plan.

The applicant responded to these comments by indicating that additional land could be made available and this would put the business on a sound footing.

The present holding is 5.2 acres. At the meeting, the applicant indicated that the potential to rent additional land had now been made available. This land adjoins the holding and it amounts to some 4.4 acres, potentially giving an area of 9.6 acres of available land. The applicant's agent says that it is generally accepted that stocking rates can vary between 4 to 8 alpacas an acre depending on the quality of the pasture. He says that with the original herd of 17 on the current site this would fall below this range – just over 3 per acre. Given the poor quality of the grassland then this is said to be a reasonable stock level. The business plans to grow such that there would be 37 animals on site after three years – say 7 per acre. However the additional land would reduce this to say 4 per acre. This additional land would also enable the business to further grow to some 47 animals at year five – say five an acre. In these respects the applicant is saying that there is the potential here for a sustainable business in that reasonable stocking levels can be obtained and the quality of the existing pasture resolved through the additional land that has now been made available. In other words the business plan is sustainable.

Attached at Appendix B is a bundle of papers including the offer of the land and the applicant's agents' response to the Council's consultant's initial report. It also contains a very recent appeal decision.

The Consultant's Response

The Council's consultant is aware of the additional land being offered but maintains his objection to the key issue – that of the need to have permanent residential presence on the land. He has a number of reasons for this.

Firstly he considers the offer of the land is not explicit; it doesn't set out when that land could be made available, the terms involved or the likely rent. In other words it is only an offer and at present the impact of the terms of that offer are unknown meaning that the impact on the business plan cannot be calculated. The only known factor at present is the poor state of the existing site and his advice is that that would not support the business as proposed.

Secondly, he still considers that permanent residential presence on the site is not essential. The site is within walking distance of Hurley. Accommodation is available here and then a "mess-room/shelter" could be used on the site on a daily basis or for emergencies. There is technology to respond to power failure and to trigger security alerts/alarms as well as on-site infra-red beam technology.

Thirdly, given the uncertainty over the offer; no allowances made in the business plan for falling stock values, the low income level predicted for the applicant and the commitment to further expenditure, he remains of the view that the sustainability of the business is questionable.

Observations

The site is in the Green Belt and as indicated in the previous report the key issue is whether the "agricultural" case here put forward by the applicant is sufficiently robust in order to enable the Board to say that it amounts to the very special circumstance necessary to outweigh the presumption against new buildings in the Green Belt. The application is for a permanent residential presence on the site. It is considered that the case for this has not been satisfactorily evidenced and the conclusions of the Council's consultant are supported.

Members do need however to consider the possibility of a temporary planning permission. This would enable the applicant to reside on site and see if over the period of the consent the business could develop as predicted. At the end of that period any renewal for a further temporary period or indeed for permanent presence could be re-evaluated based on a track record of farm accounts. The Board is being advised by the Council's consultant against this approach because of the uncertainty of the terms and timing of the offer of the additional land and its impact on the business plan. This is agreed, because at the time of determination of this application this matter remains a significant "unknown" and the present site itself is not sufficient to accommodate the overall business plan. However, Members may wish to give different weight to the "offer" which they have been made aware of and to the view that this may increase the likelihood of the business plan moving forward. In other words the applicant through a temporary permission could be given the opportunity to prove the business case. Security and emergency issues could also be evidenced through that period.

On balance, the recommendation to the Board remains as one of refusal. This is because of the greater weight is given to the Green Belt position here where a "very

special circumstance” is necessary. It is not considered that this case has reached that position. However there are policies in both the National Planning Policy Framework and the Development Plan which support and encourage the rural economy and to retain the rural character of the Borough. A temporary permission, given the considerations that the Board is now aware of, would be supported by these planning policies if it thought appropriate.

Recommendations

That both recommendations (a) and (b) in Appendix A be agreed.

BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2015/0227

Background Paper No	Author	Nature of Background Paper	Date
1	Head of Development Control	Letter	12/8/15
2	Applicant's Agent	E-mail	12/8/15

Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.



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Introduction

The application is reported to Planning and Development Board because authority is sought for enforcement action should planning permission be refused.

The Site

This is 2.1 hectares of pasture land to the east of Dexter Lane and comprises an open parcel of land with an existing vehicular access onto Dexter Lane. The site has a stable block approved under a previous application and a mobile home has been sited on the field. There are a number of small holdings/equestrian uses either side of the site supporting existing rural uses. The area is predominantly rural and has a permitted equestrian use - formerly the use of the site would have been for agriculture.

There is a small stable block on the site that provides the immediate need for the stock also provides storage for the enterprise. The applicants do not have formal work experience on farms nor are farmers but are keen to develop the agricultural skills needed to develop a business. The applicants therefore seek temporary occupancy of the mobile home.

The layout of the site is illustrated below as a layout plan and by an aerial photograph:



The Proposal

It is proposed to retain the mobile home on site as a temporary rural workers home – see Appendix A.

The applicant intends to develop an alpaca breeding business with sales of alpaca stock; the ancillary production of fleece for processing wool and to stock poultry for free range eggs. Pygmy goats and giant rabbits will be bred for sale as pets, though these elements are not considered to be agricultural activity. It is argued that it is essential to have this temporary mobile home on site for agricultural reasons. The applicant is therefore seeking retention of the temporary mobile home to develop a farm enterprise to supplement existing stock levels currently at 17 Alpacas, (14 female and 6 pregnant), 2 males and a stud male, a small quantity of laying poultry, 5 female pygmy goats and one billy and a small number of giant rabbits.

The applicant has submitted an agricultural appraisal carried out by Reading Agricultural Consultants (RAC) to support the application. The business plan for the site advises that it is envisaged that by year 3 of the enterprise there would be:

- 27 breeding alpacas,
- 2 stud males,
- 11 female crias (12 months old)
- 11 male crias (12 months old),
- 8 yearling females,
- 321 laying poultry,
- 21 breeding poultry,
- breeding pygmy goats and giant rabbits.

It is envisaged that allowing for sales and mortalities a total of 43 alpacas would be on the holding by the end of the third year and an average of 70 poultry for sale each month between April and August.

The appraisal sets out the applicant's case for the estimated labour requirement for the enterprise based on these stock levels – see Appendix B. It is argued that in order to run a mix of enterprises such as the Alpacas and poultry, the applicants seek residential accommodation so they can live close to and monitor the livestock properly.

Background

The site gained permission for a stable block/hay store back in 2013 under application PAP/2013/0253. The stables and access were created with an equestrian use authorised. Planning permission is not required to keep Alpacas on the agricultural land. The mobile home on the site has a septic tank and a water supply. A generator provides electricity.

Development Plan

The North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW10 (Development Considerations) and NW12 (Quality of Development)

Saved Policies of the North Warwickshire Local Plan 2006 – HSG3 (Housing Outside of Development Boundaries); ENV13 (Building Design), ENV14 (Access Design) and TPT1 (Transport Considerations in New Development)

Other Relevant Material Considerations

The National Planning Policy Framework 2012 – (the “NPPF”)

Planning Policy Statement 7 - Annex A.

Consultations

The Council's Agricultural Advisor – Based on the functional need of the scheme and its financial sustainability, there is no essential functional need for a dwelling to support the proposed business on the land at Dexter Lane. Further to more information provided by the applicant during the application process, it is concluded that the applicant's intention and ability to develop her proposed rural business is not evidenced. From an essential functional need perspective the applicant does not need to live on site. Due to the deficiencies in relation to stock and omissions from budgets the financial test is not met. The full responses are attached at Appendix C.

Warwickshire County Council as Highway Authority – No objection subject to conditions.

Environmental Health Officer – No comments

Representations

Two letters of support have been received. One says that there was already a small touring caravan on the site as a shelter. He continues by saying that it is incumbent on the planning committee to protect and enhance the natural landscape and not to diminish green belt. The second says that this is a rural based business, not affecting any views, has no traffic issues and encourages rural activity.

Observations

The site is in the Green Belt. The main issue is whether or not the development of a temporary mobile home is inappropriate development here. The NPPF says that new buildings are inappropriate developments and that apart from some defined changes in use, they too are inappropriate. The situation here is that this application is for inappropriate development as it does not meet any of the definitions in the NPPF. As such there is a presumption of refusal. In these circumstances it will be necessary to see if any other planning considerations are of such weight as to outweigh the harm done by reason of its inappropriateness. The key consideration here is the whether there is an essential agricultural case to retain a permanent residential presence on the site albeit through a temporary mobile home.

NPPF paragraph 55 contains the guidance for local planning authorities in relation to housing in rural areas and sets out that, with a few exceptions, housing should be located where it will enhance or maintain the vitality of rural communities and that new isolated houses should be avoided unless there are special circumstances. One such circumstance is, *“The essential need for a rural worker to live permanently at or near their place of work in the countryside”*. The Development Plan reflects this position.

It is accepted that the former PPS7 is no longer a material consideration of weight, but the functional test that it contains is still a useful tool or starting point for assessing agricultural need and the consultant's analysis has used it. Moreover it is referred to in the relevant Saved Policy from the Local Plan which still carries Development Plan status – HSG3. Its' tests for temporary agricultural workers dwellings are useful for undertaking the necessary assessment. However the agent dealing with the application on behalf of the applicant considers that the application should be determined only with regard to the functional test, given there is no financial test in the NPPF or in the Council's Core Strategy.

In terms of a functional test, Appendix C provides a full copy of the Council's Advisor's advice. This runs through each of the criteria set out in the Annex against which to assess the operational and management function of the business. It also includes his response to the applicant's comments on that advice. It is clear that from all of that evidence that he considers that there is no functional need to have permanent residential presence on the site.

As a consequence of this conclusion it would not normally be necessary to look at the financial test outlined in the Annex. The Council's Advisor has however done so as can be seen from the Appendix. His conclusion reflects that of the functional test in that there is no sound business plan for the operation.

In light of this advice there is not a case in principle to support permanent and essential residential presence on the site as required by the NPPF and the Development Plan.

In terms of other planning considerations then the design of the mobile home is not really in-keeping but it is a reasonable distance from other neighbours and it would not result in a loss of amenity, privacy or loss of light that would result in unacceptable loss of amenity and privacy in the area. The access too is considered to be acceptable.

In conclusion therefore it is considered that whilst there is some evidence of an initial intention to develop the enterprise, the ability to develop the rural business has not been evidenced. From an essential need perspective the applicant does not need to live at this site particularly as the settlement of Hurley is very close by and within walking distance to the site. Due to the deficiencies identified such as issues with stock levels and omissions from the budget the financial test is not considered to have been met.

On this basis, the proposal fails to accord to the tests set out in Annex A to PPS7, and therefore in turn fails to comply with saved policy HSG3 and the guidance in the NPPF. There are not the material planning considerations here to outweigh the harm caused by this inappropriate development and as a consequence the presumption of refusal remains.

In light of this, if the recommendation below is agreed, the Board will need to consider whether it is expedient or not to instigate enforcement action. This would require the removal of the mobile home and the cessation of the use of the land for residential purposes. Clearly such action would result in the applicant becoming homeless. There is also a cost to the applicant here not only in removing the home but in finding that alternative accommodation. These are considerations of substantial weight in the consideration of what might or might not be expedient. On the other side of the balance is the need to protect the Green Belt as set out in the NPPF and the Development Plan. This has been re-emphasised by the Government very recently.

It is considered that enforcement action should be taken, not only because of the long term need to protect the Green Belt but also because the evidence as concluded by the Council's advisor is that there is no essential need here. If that had been muted in some way a different view might have been taken. However the applicant moved onto the site without the appropriate planning permission and thus took a substantial risk. Members will be aware that there is the right of appeal against any refusal of planning permission and the issue of an Enforcement Notice. As a consequence the impact of any decision here will be likely to be delayed. As is usual in these circumstances too, the compliance time for fulfilling the requirements of the Notice can be lengthened to what might be considered a reasonable period. A period of twelve months is thus recommended.

Recommendation

A) That planning permission be **REFUSED** for the following reason:

" The development is inappropriate development in the Green Belt with a presumption of refusal, but it has not been shown that there other material planning considerations of such weight to amount to the very special circumstances necessary to outweigh the harm to the Green Belt caused by that inappropriateness. In this respect those considerations put forward by the applicant have not been shown to provide sufficient evidence to support an essential functional need for permanent residential presence on the land. Whilst evidence of an initial intention to develop the enterprise has been shown the longer term sustainability of the business has not been evidenced. Therefore without verifiable agricultural justification, the proposal remains inappropriate development in the Green Belt. It fails to accord with Policies NW2 and NW3 of the North Warwickshire Core Strategy 2014 together with saved policy HSG3 of the North Warwickshire Local Plan 2006 and the NPPF."

B) That the Solicitor to the Council be authorised to issue an Enforcement Notice requiring the cessation of the land for residential purposes through the removal of the mobile home together with its associated infrastructure and that the compliance period be twelve months.

Notes

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and providing the opportunity to overcome potential reasons for refusal raised during the application process. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. As such it is considered that the Council has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2015/0227

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	9/4/15
2	NWBC Environmental Health	Consultation reply	29/4/15
3	WCC Highways	Consultation reply	1/5/15
4	Mr Martin	representation	10/5/15
5	Neighbour	representation	14/5/15
6	Rural Planning Consultant	Consultation reply	15/5/15
7	Case Officer	Email	4/6/15
8	Agent	Email	5/6/15
9	Case Officer	Email	18/6/15
10	Agent	Supporting Information	19/6/15
11	Case Officer to Rural Consultant	E-mail	9/7/15
12	Rural Planning Consultant	E-mail	13/7/15
13	Case Officer	E-mail	17/7/15
14	Case Officer	E-mail	17/7/15

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APPENDIX B

2015/0227

**Reading
Agricultural
Consultants**



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PLANNING & DEVELOPMENT
DIVISION

“Land at Hurley by Atherstone”

Warwickshire

Planning Application

for a

rural worker's temporary dwelling

Appraisal

by

Reading Agricultural Consultants

April 2015



Reading Agricultural Consultants Ltd
Registered Office as above Company No. 3282982 Registered in England



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Appendix 1 Appeal Decision APP/P1133/A/12/2188539:
Little Park Farm, Doddiscombsleigh, Exeter, Devon, EX6 7PZ

Appendix 2 Gross margin data for free-range egg production

Appendix 3 APP/Y3940/A/13/2200283
Land at Ashley, Box, Chippenham, Wiltshire SN13 8AN

1. Introduction

- 1.1 Reading Agricultural Consultants (RAC) is instructed by Stuart Mathews and Sarah Booth (the applicants) to prepare an independent appraisal of their planning application for a rural worker's dwelling at a site referred to as "*Land at Hurley by Atherstone, Warwickshire*". The business plan is to develop an agricultural holding with alpacas and poultry (free-range eggs and point of lay pullets). Pygmy goats and Continental Giant Rabbits will also be bred for sale as pets but as these are not agricultural activities they are not relied upon for viability (albeit figures of budgetary income and costs appear in the budgets) - but these are an entirely appropriate form of diversification for a small rural business, as outlined in the application letter.
- 1.2 This appraisal is intended to accompany a planning application to be submitted to North Warwickshire Borough Council for permission to site temporarily a unit of accommodation on the holding to enable the establishment and development of an agricultural holding.
- 1.3 In order to fully to explore the matters of fact and the background to this application, a site visit was undertaken when the author was able to meet the applicants and discuss the development of the holding to date, and their future aspirations.
- 1.4 The appraisal has been undertaken by Peter Williams, who is an agricultural consultant with over 20 years' experience of preparing assessments of planning applications for new dwellings in the countryside. Peter Williams is a Director of Reading Agricultural Consultants and holds an Honours Degree in Agriculture from the University of Reading and is a Member of the British Institute of Agricultural Consultants. Throughout his professional career, he has been engaged by farmers and local planning authorities to appraise a wide range of enterprises in the context of planning applications for new rural workers' dwellings and buildings. He is a regular agricultural advisor to local planning authorities in Cornwall, Devon, Dorset, Somerset and Hampshire and is regularly consulted on planning applications for agricultural developments by these authorities and by numerous other authorities across the country on an ad-hoc basis. He has also provided training courses to local planning authorities on the advice given in the former Planning Policy Statement 7, Annex A dealing with agricultural, forestry and other rural worker's dwellings.

2. Background

- 2.1 The land known as "*Land at Hurley by Atherstone, Warwickshire*" extends to 2.1ha, as shown in the application plans. The land is permanent pasture and appears - given the general condition of the land - to have been is low-intensity agricultural (possibly including with horse grazing) for some considerable period of time.
- 2.2 The land has the benefit of mains water supplied to field water troughs but there is presently no electricity to the site. It has hedge/fence boundaries and a stable block; with further extant planning permission for a hay barn. There is a small touring caravan on the land that provides staff welfare facilities.
- 2.3 The plans for the holding are to establish an alpaca breeding and rearing unit with free-range poultry also producing point-of-lay pullets, pygmy goats, and rabbits as pets. In the longer term the applicants intend to use the alpacas as a petting/tourism attraction, albeit at this stage the intention is to demonstrate that the unit can become viable and sustainable purely from the agricultural output, rather than needing to rely on value-added elements. Free-range poultry will be introduced - taking advantage of the synergistic benefits of keeping chickens with "guard alpacas" - and the eggs will be marketed in the village.
- 2.4 In terms of background, Sarah Booth is a qualified nurse and is presently working for a nursing agency. Stuart Matthews was formerly in the army and is now employed as a motorcycle mechanic. Neither has any formal work experience on farms but they are both practically-minded and keen to develop the agricultural skills needed to develop a successful business at the site.
- 2.5 In furtherance of this aim they have already variously attended courses at:
- 3-day foundation course run by British Alpaca Society (BAS) in alpaca husbandry and management;
 - 1-day BAS herd evaluation course run by BAS;
 - Charnwood Forest alpacas in Leicestershire for husbandry and management training.
- 2.6 In terms of facilities, there is already a small stable block on site that will provide for the immediate needs of the stock, and planning permission for a hay barn (referred to in more detail in the Planning Statement) that will provide further undercover storage for the enterprises.

- 2.7 With the alpacas, it is intended that a herd of approximately 30 breeding females will be established with male cria (wethers) and female breeding stock being sold. To date 17 alpacas have been purchased, which includes 14 breeding females (of which 6 are pregnant) and wethers; there are also 5 female pygmy goats. Fleeces will be processed and wool and knitted garments and toys will be sold.
- 2.8 The free-range poultry enterprise will be developed with commercial hybrid hens kept in mobile field runs. Initially, 100 pullets will be purchased in Year 1 and this number will rise to 300 hens kept in Year 3. Point-of-lay pullets will also be incubated and reared for sale at 18 weeks of age. The pygmy goat and Continental Giant Rabbits enterprises will also be developed in Year 2 and albeit the costings are included in the budgets, they are not relied upon for viability, at this time.
- 2.9 Clearly, the plans for the unit are somewhat fluid at present and the precise mix of products kept on the farm will develop as the markets for the various products are developed. However, the applicant is content that she has the necessary contacts and skills to develop the market over the next three years.
- 2.10 The labour will be provided by the applicants with assistance from friends and family (some of whom live locally) also being sought.
- 2.11 In order to run this mix of enterprises properly the applicants are seeking planning permission for residential accommodation so that they can live close to - and monitor properly - the processes and livestock on the unit.

3. Relevant Policies and Guidance

- 3.1 North Warwickshire Borough Council Local Plan Policy HSG3 "*Housing Outside Development Boundaries*" is a "saved" policy and is wholly relevant to this application. It states:

"The construction of new dwellings outside development boundaries will only be permitted if the accommodation is required to enable agricultural, forestry, or other full-time workers to live at, or in the immediate vicinity of, their place of work. The advice in Annex A to PPS7 applies to all such proposals".

- 3.2 Supporting paragraph 4.27 notes:

"Key objectives of this Local Plan are to place development in sustainable locations and maintain the quality of the Borough's natural environment and enhancement of the countryside. Remote and isolated accommodation will not meet the sustainability objectives of this Plan. It follows that housing should not be allowed in the countryside unless there is an identified and specific need".

- 3.3 However, the reference to PPS7 is now outdated as this Government guidance was revoked following the publication of the National Planning Policy Framework (NPPF) in March 2012 - and should not be relied upon.

- 3.4 The NPPF is all about sustainable development and the Ministerial Foreword makes reference to achieving sustainable development in a way that ensures better lives today do not result in poorer lives for future generations.

- 3.5 Paragraph 28 deals with rural and agricultural development and notes inter alia:

"Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- *support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;*
- *promote the development and diversification of agricultural and other land-based rural businesses..." (Emphasis added)*

- 3.6 The business model that is being developed at Atherstone clearly fits within the ethos of the NPPF such that it will be:

- (i) competitive, sustainable and environmentally friendly, within a localised market area;
- (ii) seeks to provide exciting new products and opportunities to the changing markets and tastes - including for tourism;
- (iii) complies with legislation and associated guidance; and,
- (iv) will, as the project is developed, 'add value to the primary produce'.

4.1 Paragraph 55 of the NPPF deals with residential development in the countryside and states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside..."*

4.2 Paragraph 215 then states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF Framework (the closer the policies in the plan are to the policies in the Framework, the greater the weight that may be given).

4.3 Given this policy framework - and the application to secure temporary accommodation at the holding in order to prove the project is viable - it is considered appropriate to examine whether:

- there will be an essential functional need for a worker to reside on the holding, as opposed to nearby; and,
- whether the project has been planned on a sound financial basis.

4. Appraisal

Essential need a full-time worker to live on the holding?

Alpacas

4.1 The main part of this farming operation involves the management and rearing of breeding alpacas and the need, or otherwise, to live on site has been examined at numerous planning appeals in the past. Overall, it is generally accepted that in order to farm alpacas properly - at a commercial scale - it is necessary to live close to the animals to ensure their well-being. Specific issues are known to include:

- **Mating** - alpaca mating is an intricate, managed process and not as straight forward as other conventional farm animals. Specifically, the animals are *induced ovulators* and do not display "normal heat" activity. In order to ensure that fertilisation occurs at the right time it is necessary to:
 - plan carefully and make appropriate preparations;
 - put the male in one pen and the female in an adjoining pen and observe the level of interest;
 - observe and possibly assist with mating;
 - remove the female post mating;
 - repeat for the following 2-3 days to ensure fertilisation has occurred.
- **Abortions and still-births** can be caused due to stress-related factors from 30 days after conception and a presence on site to identify problems and reduce stress is important;
- **Birth** - alpacas have a peculiar gestation insofar as there is no closely-defined gestation period: the quoted period is 330 days \pm 30days. Such timing makes it difficult to predict the timing of the birth with any accuracy and if assistance is required at parturition this would only be apparent if the animal was observed to be in difficulty; living on site would mean the likelihood of spotting such a difficulty would be considerably higher, than if living off site.
- **Rearing** - lack of milk - including colostrum - following the birth is not uncommon and can require artificial rearing. This is a time-consuming activity that requires 2-hourly feeds day and night for the first two weeks; 3-hourly feeds to eight weeks; and 3-times-daily to four months;

- **Day-to-day management** - simply looking after these animals on a regular, hands-on manner will help ensure that many health or welfare issues arising are spotted promptly and can be dealt with. Alpacas are notorious at hiding the symptoms of illness and close vigilance is required to spot subtle changes in behaviour. Travelling to the site periodically (especially at weekends, and during the long summer days) will inevitably mean the time spent watching the animals will be reduced and in such circumstance problems are more likely to develop, and animals will suffer.
- 4.2 In such circumstance - with up to 30 females, stud males, and all progeny (minus sales) in Year 3 - there must be someone on site at most times to ensure the proper functioning of the enterprise.
- 4.3 That alpacas can be at risk has long been considered by Planning Inspectors and for one unit in Devon¹ (see **Appendix 1**) where veterinary surgeons appeared for both the appellant and third party objectors the Inspector concluded:
- "...that the case for an essential need for someone to be on hand at most times, day and night, is compelling, and that the proposal complies with the requirements of the Framework (paragraph 55)."*
- 4.4 Issues related to the security of the site are also of concern and add to the balance of factors that warrant an on-site presence. Theft and attempted theft of stock can, clearly, compromise the welfare and safety of the animals, and cannot simply be dismissed as irrelevant. If the applicant was to live off site there would be a risk of intruders and such risks must be seen as additional considerations in this application.
- 4.5 Finally, alpacas are valuable, by comparison to other farm stock, with a well-bred halter trained female worth between an average £2,000 and £4,000 and often more. Clearly, if one or more animals were injured or stolen the financial impact on the enterprise could be significant - and this issue has also been a consideration in appeal decisions. Fundamentally, it is neither responsible nor practical to establish an alpaca breeding unit without living on site to care for the stock.
- Poultry
- 4.6 The 300 laying hens plus the rare-breed stock (in Year 3) will have access to runs in the day and will be locked up at night. During daylight hours there is need to ensure that the birds have access to food and water and are not injured and they will need to be let out in the morning and shut up as dusk - which can be as late as 10pm in the

¹ APP/P1133/A/12/2188539: Little Park Farm, Doddiscombsleigh, Exeter, Devon, EX6 7PZ

summer. But, unexpected emergency situation can also occur necessitating swift action, such as:

- fright from foxes prowling;
- birds of prey;
- sudden loud noises;
- adverse weather; and,
- intruders - human or wildlife.

- 4.7 Welfare legislation in the UK makes it an offence to cause unnecessary suffering and distress to animals and this could arise if there is a delay in appropriate interventions and administrations of emergency treatments.
- 4.8 The POL element will concentrate on the keeping of trios of rare-breed birds producing fertile eggs that will be incubated, and enabling the sale of point-of-lay pullets. Although the precise details of the breeds to be kept are still being developed, initial research suggests that Marans (producing very dark brown eggs), Speckledies (varying colours) and a new hybrid blue-egg layer (Chalk Hill Blue) may be kept, along with commercial hybrids that are renowned for productivity.
- 4.9 A total of 21 birds (7 trios comprising one cockerel and two hens) will be maintained and using lighting to control egg lay fertile eggs will be collected during the period December - April, with 18-week POL pullets being available from April onwards. Assuming each hen lays 20 eggs per month (a total of 280 eggs) and achieve a hatch rate of 50% (and a 50% male:female ratio) indicates that 70 POL pullets should be available during each of the summer months. Male chicks will be sexed upon hatching, and dispatched.
- 4.10 The general process requires adult birds to be reared in small hen houses with runs and fertile eggs to be collected on a daily basis. These eggs are then stored appropriately for about a week until there are sufficient to "set" in an incubator. Automated electric incubators maintain a constant temperature and turn the eggs to ensure optimal conditions, but are clearly at risk of electrical breakdown or mechanical failure. At approximately 26 days the eggs are removed from the incubator to a hatching area and close supervision is required to ensure that chicks are able properly to crack and remove the egg shells.

- 4.11 Once hatched the chicks are provided with heat from electric lamps. The chicks generally stay under heat for about four weeks (depending on ambient temperatures) and are reared to about 18 weeks when they are ready for sale as "point-of-lay".
- 4.12 Sales of POL pullets will, initially, be made locally to contacts that the applicant has in the area, and also via a website. However, the website cannot "go live" until the project is up and running, and POL pullets are unlikely to be available for sale until May 2016, at the earliest. During the period May - November (when the cockerels are removed) unfertile "normal" eggs will be sold.
- 4.13 The functional needs - in the future - of the breeding and rearing goats and rabbits simply add to the above.
- 4.14 The need for on-site accommodation to provide for the above livestock has been examined at appeal on numerous occasions and RAC is satisfied there is an essential need for a worker to live on site to provide for the needs of the stock.

Labour requirement

- 4.15 Although an assessment of labour requirement does not form part of the NPPF, nevertheless it is sensible to provide an estimate in order to demonstrate that this is a full-time operation.
- 4.16 The labour required to run this unit - once fully established - can be estimated with reference to published labour coefficient data such as that published in the John Nix Farm Management Pocket book, 45th Edition; where no data exists anecdotal evidence is used.

	Notes	SMD/hd (ha)	Enterprise size	Total
Alpacas (Breeding females)	1	8	30	120 ²
Alpacas (other)	1	4.5	30	135
Poultry	3	0.06	321	19
Goats and Rabbits	4	0.5	10	5
Grassland management		3.5	2.1	7
Subtotal				286
Management and maintenance (15%)				43
Total				329

Note 1: Anecdotal figures from Australia of 64hrs per female per annum; 36hrs for other alpacas².

² 'Alpaca, Buffalo and Rabbit Production'; A Report for The Rural Industries Research and Development Corporation, July 2001

12. It was common ground between the District Council and appellant that the proposed temporary agricultural dwelling should be regarded as inappropriate development in the Green Belt for the purposes of PPG2. It was also common ground between these parties that the agricultural building is not inappropriate development and indeed, paragraph 3.4 of PPG2 was clear that a new building inside the Green Belt is inappropriate unless it is for purposes that include agriculture.
13. The concrete pad was laid for the original siting of the temporary dwelling. PPG2 paragraph 3.12 indicated that an engineering or other operation would be inappropriate development in the Green Belt if it did not maintain openness.
14. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless it would be for one of the exceptions listed in the paragraph. These exceptions include buildings for agriculture or forestry.
15. Paragraph 90 of the Framework notes that certain other forms of development are also not inappropriate in the Green Belt provided they maintain openness and do not conflict with the purposes of including land within it. These include engineering operations. In this case the hardstanding is of a form and position that maintains openness. Additionally, throughout this inquiry the stated purpose for the retained hardstanding would be that of an agricultural structure for use in stock management and activities associated with the running of the farm. Accordingly, the Framework does not change the main parties agreed position that the hardstanding is not inappropriate development.
16. As described, the activities on the hardstanding would be sufficiently varied to maintain openness and in this respect, retention of the concrete pad would not conflict with the purposes of including land within the Green Belt. The appellant has emphasised the separation between the applications for the siting of the temporary dwelling within the Appeal A scheme and the development proposed through the Appeal B scheme. On this basis, the retention of the concrete pad is considered not to be inappropriate development.
17. Notwithstanding paragraph 12 above, within the context of paragraphs 89 and 90 of the Framework the appellant now considers that the siting of the temporary dwelling is not inappropriate development.

Appeal A - Main Issues

18. These are considered to be: (a) whether the development proposed would be inappropriate development in the Green Belt (b) the effect of the proposed development on the openness of the Green Belt; (c) the effect of the proposed development on the character and appearance of the locality; and, (d) whether any harm by the reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development proposed.

Appeal A – Reasons

Whether the development proposed would be inappropriate development

19. Five *certain other forms of development* are listed within paragraph 90 of the Framework as not being inappropriate. Previously a material change of use was specifically addressed by paragraph 3.12 of PPG2, but such development

has been omitted from the list contained within paragraph 90 of the current national policy. The appellant has drawn attention to this in deciding that the proposed siting of the temporary dwelling is not inappropriate development.

20. As the *other forms* of development that are not inappropriate are listed within paragraph 90, the exclusion of material changes of use is significant. It indicates that such development is inappropriate development in the Green Belt. Paragraph 87 of the Framework is clear that, in common with previous Green Belt policy, inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 continues by noting that substantial weight should be given to any harm to the Green Belt.

Openness of the Green Belt

21. The Government attaches great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open.² The Framework identifies the essential characteristics of Green Belts to be their openness and permanence.
22. Even though the proposed dwelling would be temporary, it would result in a loss of openness from its presence on land that is currently open. The scale of the development would be sufficient to be harmful to the openness of the Green Belt. In this respect the Appeal A scheme conflicts with the aims of the Framework and this harm adds significantly to the harm by inappropriateness.

Other considerations

Character and appearance

23. LP policies DP1 and DP3 are only permissive of development that would positively contribute to the quality and character of its environment through good layout and design.
24. The District Council refers to the Warwickshire Landscapes Project which characterised the landscapes in this region. Paragraph 4.23 of the supporting text to LP policy DP3 refers to the associated guidelines, which have been adopted as Supplementary Planning Guidance (SPG), and indicates that development proposals will have to accord with the principles set out in the guidelines to comply with LP policy DP3. The previous Inspector noted this, that consultation had taken place on the document, and accorded the SPG significant weight.³ These circumstances remain and I therefore agree with the weight attributed to the SPG.
25. The SPG's general development guidelines indicate that development should seek to integrate with the landscape, which in this instance the document shows to be an area in decline and in need of enhancement. Contemporary agricultural buildings are noted to benefit from careful siting that should consider landform and tree cover. Guidelines for the Arden landscape area highlight the role of wayside cottages in forming hamlets. Attention is drawn to the need to place new dwellings in hamlets and that development should not be permitted along lanes that are currently undeveloped.

² Paragraph 79 of the Framework

³ Paragraph 32 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

26. The appeal sites fall within the Arden parklands, which is a planned estate landscape closely associated with former wood pasture and historic deerparks. The area has an irregular road network that reflects the ancient landscape pattern and runs through a typically enclosed, gently rolling landscape with woodland edges, parkland and belts of trees. These characteristic features of the Arden parkland, including thick roadside hedgerows, are evident in the locality around the appeal sites.
27. The SPG seeks new development to be sympathetic to the vernacular style. Dwellings on Rouncil Lane are typically substantial brick and render structures, with pitched roofs, associated gables, dormers and outbuildings. The proposed temporary dwelling includes prominent overhanging eaves. While this would cause it to depart from the characteristic buildings around it, it is of a type that was envisaged by PPS7 for such a proposal.⁴
28. Although the previous Inspector found the form, design and materials of the dwelling to be acceptable for a temporary period, its siting in that instance was considered to be highly visible from a number of public vantage points and unacceptably harmful to the character and appearance of the locality.
29. The District Council has referred to appeal decision ref: APP/T3725/A/06/2030585 regarding a site in Hatton, where the Inspector concluded that the temporary siting of a chalet style building would not have been suitable in that case. However, that case preceded the decisions in relation to appeal refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & APP/T3725/A/09/2103183 and also, it has not been shown that the circumstances of the site in Hatton were comparable to the siting of the proposed temporary dwelling in this case. Consequently, appeal decision ref: APP/T3725/A/06/2030585 is not a precedent in relation to this case.
30. It is a "Core planning principle" of the Framework to always seek to secure high quality design. The District Council notes that no exception to this is signalled for temporary dwellings, and a "traditional shepherd hut" may be good design in this location. The proposed temporary dwelling in this case is a substantial structure with a "log cabin" style appearance. Paragraph 56 of the Framework states the importance that the Government attaches to the design of the built environment and that good design is a key aspect of sustainable development. However, in this case it is proposed to site the dwelling for a temporary period only.
31. The previous Inspector who considered the proposed dwelling took into account both the short term nature of the proposal, and the possible alternatives to it. A wooden dwelling was found to be unusual in this location, but not unacceptable for a temporary period, and would perhaps be less conspicuous than a conventional caravan.⁵
32. It was also concluded that the prominent siting of the agricultural building could be addressed through the use of a position closer to the site entrance. This was noted to provide greater opportunity for planting around the agricultural building and to reduce the possibility of its form breaking the skyline when viewed from the footpath.⁶ In considering this possible siting, the Inspector took into account the wet area of ground next to the highway and as

⁴ PPS7 Annex A paragraph 12

⁵ Paragraph 38 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

⁶ Paragraph 124 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

a consequence such a siting would, to a certain extent, be necessarily set back from the highway.

33. The Appeal A scheme would site the dwelling closer to the highway and at a lower level than previously proposed. Although its single storey construction results in a larger footprint than for a similar sized two storey structure, the proposed form would help to reduce visual impact associated with its height. In some views, including those from the site entrance and along the footpath that crosses the appeal site, evidence from the District Council shows the roof of the temporary dwelling would break the skyline. Any landscaping sought through a planning condition would not be likely to have a significant mitigating effect in relation to these aspects, but the views where the skyline would be broken would be limited.
34. Any temporary dwelling would be expected to introduce new sources of light into this location. A condition has been suggested to control fixed external lighting that would prevent a level and number of illumination sources in excess of that reasonably expected in this rural location.
35. The overall strategy and guidelines for Arden aim to maintain the historic dispersed pattern of hamlets and scattered farmsteads, which in this location contributes to Green Belt openness. The temporary dwelling would not be a form of wayside development in common with the examples provided in photographs from the District Council. These show dwellings near to the highway, without the characteristic thick hedges found elsewhere at the roadside. However, there are a significant number of buildings on Rouncil Lane that are noticeably set back from the highway.
36. Retention of the hedge between Rouncil Lane and the temporary dwelling would maintain the Arden parklands characteristic sense of enclosure and screen the agricultural building of the Appeal B scheme, while addressing the set back positioning considered by the previous Inspector. In addition, landscaping carried out to meet the requirements of a planning condition would have the potential to enhance the characteristic sense of enclosure and thicken hedges on the agricultural unit.
37. The Appeal A scheme would reflect the placement of other dwellings in the locality, while retaining and potentially enhancing existing characteristic features of the Arden parklands landscape. In this respect and for the reasons above, as a temporary dwelling the Appeal A scheme complies with LP policies DP1, DP3 and the SPG and this provides some weight in favour of the proposal.

Other matters

38. Evidence to the inquiry sought to address PPS7 Annex A paragraph 12, which stated that if a new dwelling were to be essential to support a new farming activity, for the first three years it should normally be provided by a caravan, a wooden structure that can easily be dismantled, or other temporary accommodation. This was within the context of the five criteria within Annex A paragraph 12 being met, and these matters were the subject of evidence and exchanges during the inquiry.

Intention and ability

39. The first criterion sought clear evidence of a firm intention and ability to develop the enterprise concerned and highlighted that significant investment in

new farm buildings is often a good indication of intentions. Given the scale of the operations at Faerie-Tale Farm, the Appeal B scheme would be a significant investment in a farm building that would have assisted the appellant during recent harsh winters.

40. In relation to the previous appeals, the Inspector looked at the appellant's ability to breed alpacas as the basis for the business to succeed. The key drivers for delivering the projected budget were identified as ensuring the health of the young alpacas, known as cria, and the quality of the stock. When the previous appeals were heard (refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & APP/T3725/A/09/2103183), Miss Vaidya had attended courses, developed links with mentors in the alpaca business community and planned to establish a website. The Inspector specifically noted that "crucially" Miss Vaidya had gained experience in delivering cria and dealing with the associated problems.⁷
41. The herd has been wintered off-site (i.e. "agisted") for three winters out of the past four. These periods were in the region of 10 weeks in 2008/09, 16 weeks in 2010/11 and the animals had been agisted for 6 weeks on the last sitting day of the inquiry. The only year that the alpacas remained at Faerie-Tale Farm throughout the winter was when the temporary dwelling was on-site in 2009/10.
42. A touring caravan was then brought onto the site that would have provided a much more basic level of accommodation during the unusually cold winter temperatures experienced in the winter of 2010/11. Although cold weather can kill alpacas quickly, especially older animals with poor fleeces, alpacas are noted to be a hardy species that are at more risk of harm from wet conditions than low temperatures.
43. Farmers have to be prepared to work during extreme weather conditions and maintaining a water supply to stock is one of the matters that would need to be attended to. It is not accepted that the stock on this holding would need to be agisted off-site for this reason, any more than stock on other farms in the locality would need to be. However, in this instance the use of a touring caravan as farm workers' accommodation understandably led to agistment during these periods and planning for further extreme weather conditions during the winter of 2011/12.
44. The inquiry heard that the appellant continued to be involved in the management of the herd's welfare during its agistment at Toft Alpacas in 2009. As a consequence, while agistment periods must reduce the day to day animal husbandry by FTA, a degree of contact between FTA and the herd has and could have been maintained during agistment periods.
45. Any sheep held by the holding were also moved off-site. These are often kept at distance from a farmer's residence and their agistment has not been adequately explained.
46. Since the previous appeals Miss Vaidya has attended a number of training events, including a birthing course. It would not be unusual for a new farmer to seek help or assistance as they develop their animal husbandry skills, and of course, there will be instances where veterinary assistance will be necessary. Veterinary evidence to the inquiry confirmed this. Within the context of the

⁷ Paragraph 43 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

previous Inspector's conclusions regarding cria deliveries and the birthing records before the inquiry, there is no convincing evidence to suggest the recent birthing course was necessary due to a lack of ability. Given the farm activity that has been carried out, it would be more appropriate to consider it to be a course that built on and improved the existing ability developed since 2008.

47. Witnesses for the appellant confirmed the FTA breeding strategy to be the use of stud males from other herds to develop the FTA bloodline. In 2010 one stud farm provided matings for 17 FTA dams. This approach is reflected in the expenditure on stud fees (budgeted at £8000 in 2011/2012), which is significantly less than the costs associated with purchasing a stud male of sufficient quality to develop the herd. Elite stud males that the FTA business plan seeks use are worth tens of thousands of pounds, with a Supreme Champion having been sold for £75,000. In addition, it is evident that if a single stud male were to be purchased it would not provide the variety of quality and fleece colour sought in developing a unique FTA bloodline.
48. The business strategy adopted by the appellant company seeks long term security through careful breeding during the establishment of the herd. Mrs Bettinson confirmed the herd is not yet of sufficient quality to deliver the best returns from its animals and the associated products. Although the current handling of stud males may be carried out by other people, the choice of breeding partners is a matter dealt with and planned by FTA and Miss Vaidya is present when matings occur. Therefore, while the lack of stud males at FTA is likely to require further investment during the period of the proposed temporary dwelling, this is a consequence of the business strategy adopted rather than being an indication of a lack of intention or ability.
49. FTA uses specialist sheering contractors, who also carry out work on alpaca teeth. Other contractors have provided fencing and carried out "topping" of the land at Faerie-Tale Farm. Miss Vaidya, with assistance in the absence of an agricultural building and crush, can deal with alpaca toe nails, drenching and injections. These are considered to be normal approaches to alpaca husbandry and land management and do not question either intention or ability.
50. Parties to the inquiry referred to a television series entitled My Dream Farm, which featured an episode on Faerie-Tale Farm. It was agreed that I would not view the programme. The District Council has sought to take weight from commentary on the television documentary regarding the appellant's intention and ability. However, FTA does not agree with comments made in the commentary and highlighted that the television channel has stated that the programme was not questioning Miss Vaidya's ability as an alpaca breeder. In any event, the evidence prepared specifically for this inquiry, and the background to it, has been tested during the proceedings. As such, it attracts significantly greater weight in comparison to the reported views from the television programme.
51. During the inquiry the business model for FTA was thoroughly examined and it became apparent why the alpaca and product sales had yet to bring in a significant income. This is largely due to the business planning for a robust presence in the market for alpaca products, which takes time to develop. Given Miss Vaidya's marketing background and her father's management expertise, there should be no lack of ability within FTA to develop the value

added product lines and the enterprise as a whole. I shall return to the financial implications of this approach below.

52. The District Council considers the management of the herd has shown a lack of commitment, which could question intention or ability. Nevertheless, overall the approaches taken have been adequately explained to demonstrate that there is clear evidence of a firm intention and ability to develop the enterprise concerned.

A sound financial basis

53. A presumption in favour of sustainable development lies at the heart of the Framework.⁸ It is the local planning authority's view that any business venture based on an imprudent business model, or grounded in unsound or unrealistic projections, could not be considered to be *sustainable*.
54. The third criterion within PPS7 Annex A paragraph 12 was whether there is clear evidence that the proposed enterprise has been planned on a sound financial basis. This differed from the demonstration of profitability required by PPS7 for proposals regarding a permanent agricultural dwelling.
55. The previous Inspector for this site concluded a *sound financial basis* to be whether the budget is realistic.⁹ He found that while the budget before him indicated a profit in every year between 2008 and 2013, the degree of variance between the budget and the year one accounts had not been adequately explained.
56. The Inspector's queries regarded the capital expenditure, the income provided to Miss Vaidya and the income streams that would support the enterprise, the possible need for fresh injections of capital, and the lack of recognition in the budget of a £170,000 loan and the return of capital in relation to it; and, the dependency of the business on parental support that may be withdrawn in the future. In concluding that there was not clear evidence that the enterprise had been planned on a sound financial basis, the Inspector deliberately did not focus on the £140,000 cost of purchasing the land, or the *apparent element of gift* (of almost £47,000) to the appellant in that case. It was concluded that the business could not be sustained for another three years without a further injection of capital.
57. The structure of the business at Faerie-tale Farm has changed significantly since the previous appeals. This has resulted in the landlord's considerable investment in purchasing the land being separated from FTA, which is the tenant company, and the loan has been written-off. Neither of these matters would be unusual for businesses that are fortunate enough to benefit from such circumstances, including the level of family support made available to it.
58. However, for FTA to demonstrate that the enterprise has been planned on a sound financial basis, it is necessary for the company to show that its budgets and business forecasts are credible, within a business model that places considerable emphasis on the initial setup period required to establish the desired quality of the herd's bloodline.

⁸ Paragraph 14 of the Framework

⁹ Paragraph 49 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

59. Attention has been drawn to an inaccurate statement regarding the share value of FTA and the working capital injected into it.¹⁰ FTA is a limited company registered in 2010. Share capital of approximately £88,000 has been introduced to the company, of which £35,000 has already been used by the business.
60. Mr Donaldson set out four matters that he considered would need to be demonstrated to provide the clear evidence sought that the business had been planned on a sound financial basis. These were that: (i) the business is trading and is expected to trade profitably; (ii) the funding requirements in capital and trading losses are understood; (iii) adequate banking or alternative funding facilities are available; and (iv), the business can provide a return for labour and capital investment.
61. FTA is trading, but at a very low level. To a certain extent this is to be expected during the establishment of both the herd, and the markets for the fleece products. Even so, at present the business does not provide Miss Vaidya with an income comparable to the average agricultural worker's wage, the national minimum wage, or the £16,000 net (£18-19,000 gross) identified by the Office for National Statistics as necessary for a single person to live on, nor has it been shown that as a company Director (and a family member), her receipt of rent addresses the shortfall. In addition, the Parish Council has highlighted the requirements of employment legislation and how this could have been reflected in the company's budget.
62. Ms Vaidya has confirmed that, in the circumstances, she can live on the available funds. If she were not to be the employee, it is not clear how the living expenses for the labour requirement identified by the appellant company would be provided. It would not be until 2013/2014 that profitability would enable Mr Donaldson's matter (iv) to be addressed. That is the business model adopted by FTA and the associated budget makes no allowance for the provision of employee accommodation.
63. The Parish Council has referred to the Accommodation Offset arrangements that are available to FTA under sections 30 and 31 of the Agricultural Wages Order 2011. It has not been suggested that, given the circumstances that pertain to the Appeal A scheme, there is a requirement for the company to use this mechanism. Instead, the temporary dwelling for which planning permission is sought is owned by Miss Vaidya and is a cost that would be borne by her as the employee. There is no reason to doubt that FTA would have access to the landholding during the temporary period sought for the siting of the dwelling, Miss Vaidya would be the employee and the cost of the accommodation would not place a demand on the business.
64. Turning to Mr Donaldson's matter (ii), in addition to the loan that has been written off and the share capital referred to above, the circumstances of FTA would be expected to require further cash inputs of several thousand pounds per month until the forecast return in 2013/14. Mr Vaidya noted the family had always met cash flow requirements in the past and would continue to do so within the context of the budget, and in this way addressed point (iii).
65. However, there would be a cut-off point for the family's financial support to the business and when that point would be reached was not clear. This is

¹⁰ Paragraph 86 of the appellant's response, dated 02-Nov-10 – within Appendix 2 of Mr Rhodes proof of evidence

especially so as the previous Inspector found the £250,000 upper-level of financial commitment before him (which included the now separate land purchase) had already been breached.¹¹

66. While the modification of the FTA budget, through inquiry document 5, could have been seen to reinforce the uncertainty regarding the budget, it is accepted that both the original omission of professional fees in relation to these appeals, and the current adjustment, can be explained by the expectation of planning permission being granted.

The UK alpaca market

67. Alpacas in the UK are not farmed for their meat. Some animals are sold as pets and others for breeding. To a certain degree this insulates the UK alpaca market from the peaks and troughs associated with other farm animal prices, but representations have compared the business to pyramid selling. The previous Inspector in relation to this site reflected this by agreeing with comments in appeal decision letter ref: APP/U2235/A/08/2081974 that "...there must be dangers in a business model based on buying expensive animals for breeding, and selling them to other people to do the same thing...".¹²
68. Prices paid for animals reflect the bloodline of the herd and the quality of the fleece that is produced. While a herd valuation is not a source of income, in August 2011 Mrs Bettinson confirmed that it would be reasonable to expect pregnant females from the existing FTA bloodline to be worth between £3,000 and £4,500.
69. The quality of the bloodline, which FTA seeks to improve, would be expected to influence the demand for their animals. While the limitations of the alpaca market are apparent and have been highlighted by previous Inspectors, and FTA has yet to sell any animals or fully develop its bloodline (which is intended to be its "unique selling point"), the market is functioning and would be expected to support a business selling animals that are attractive to it.
70. Even so, prices for breeding alpacas were shown to have fallen 21% between January 2010 and May 2011. While I do not share the District Council's pessimistic outlook regarding the ability of FTA to sell animals, if the value of the company's principal income stream were to continue to fall, this would have clear implications for the robustness of the FTA budget. However, to what extent there is a downward trend has yet to be confirmed.
71. Fleece products are shown to be a lesser component of the farm's predicted income, along with sheep sales, the single farm payment and "ELS". The experience of other breeders suggests that the sale of added value fleece products could generate a higher income than budgeted. Although this remains only a possibility at this stage, it has not been shown that the variety of colours provided by FTA alpacas, rather than easily dyed white fleeces, would be a significant disadvantage in the future.

The alpaca income stream

72. Clarification of land ownership at Faerie-Tale Farm has resulted in a slight reduction in the area of land available to the business from 14.8 acres to 14.55

¹¹ Paragraph 86 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

¹² Paragraph 78 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

acres. The usable area is further reduced by the presence of the brook and the public footpath which run across the land, and also the areas proposed for the agricultural building, concrete pad and the temporary dwelling. Mrs Bettinson noted that she stocks on the basis of a maximum of 5 animals per acre, but reduces this by a third to allow land to recover and has rented adjacent fields to enable the business to grow.

73. FTA plans a herd of approximately 50 alpacas in 2013/14. The suitability of the holding for this number of alpacas would be dependent on the quality of the land and its management. Although the proposed herd size would be at the upper end of the stocking levels used by Mrs Bettinson, it has not been demonstrated that the FTA holding would have difficulty accommodating the numbers proposed.
74. Budgeted breeding costs were shown to vary depending on the number of unsuccessful or unused matings, which are associated with the out of season births (referred to below in regard to Functional need) that seek to maximise the income from alpaca sales.
75. Alpaca sales are intended to be the principal income stream that leads to the forecast profitability in 2013/2014. Although FTA had not sold any animals in the period up to the inquiry, the bloodline being developed would be expected to make FTA animals attractive to the market. Therefore and within the context of the business model, the lack of sales at this stage is not a clear indication that the forecast profitability would fail to be achieved.

Added value products the second income stream

76. As noted above added value products are a smaller, but nonetheless important part of the FTA income. Evidence to the inquiry confirmed both the quality of UK alpaca wool and the shortage of mills to process it. Delays experienced by FTA due to changing mill ownership and availability have been adequately explained. While attention has been drawn to the differing figures produced for previous budgets, and the variability in these is a cause of concern, the prices obtained for the initial finished products support the amounts in the current budget, with potentially greater profitability if the FTA brand becomes established.¹³
77. Much of the marketing effort has been on this area of income. This is understandable as alpaca (and sheep) sales would be into an established market place, whereas milling and the outlets for added value products need to be found and developed. Given the stage of the FTA herd establishment and the differing nature of the company's income streams, the marketing emphasis is not seen to indicate unsound financial planning. However, Mrs Vaidya has been active on this side of the business, without her contribution being apparent in the budget.

Suppressed costs

78. Concerns were raised regarding budget provision for fuel and capital expenditure. While a capital expenditure budget of £2,000 is included within the budget, it is unclear how the costs of transporting and assembling the temporary dwelling, and the meeting of any associated conditions, would be met and by whom. Nor is it clear how the quad bike discussed during the

¹³ 20kg of FTA wool sheared in 2010 - 7kg of wool has yielded £1500 of sales with £600 stock remaining

inquiry, and other equipment, would be purchased and when. Nevertheless, it has not been shown the budgeted figures for fuel and capital expenditure would be insufficient to address these matters.

Financial conclusion

79. Some family funded businesses may not be forecast to make a profit for a number of years and that is the position in this case. The previous Inspector found the budget ignoring the existence of a £170,000 loan introduced a significant degree of artificiality. That loan has been written-off and the deficit that it would have shown in the current budget does not exist.
80. The District Council has described the effect of the current structure to be a lack of transparency that is no more than a contrivance to remove significant sums from the company's balance sheet. However, that is the model that is before the inquiry and the budget, which has elements of concern within it (in addition to financial compliance issues that have been raised), is nonetheless realistic.
81. Concerns have been raised that FTA is in effect an expensive hobby that could result in a permanent dwelling on the appeal site following the failure of the business. Withdrawal of funding support for FTA during the establishment phase for the business could indeed result in its closure. However, the Appeal A scheme is for a temporary dwelling, which would provide the business with an opportunity to demonstrate that it can become profitable, and in this respect, sustainable in the longer term.

Other normal planning requirements

82. Reference has been made to the potential presence of badgers in the area. The Protection of Badgers Act 1992 protects badgers and their setts, making it an offence to wilfully, kill, injure, take, possess or cruelly ill-treat a badger or attempt to do so, or to interfere with a sett, obstruct its entrance or access, or disturb a badger occupying a sett. No evidence has been produced to suggest the appeal schemes would be likely to do any of the things listed above.
83. Inchford Brook bi-sects the fields that are farmed for the alpacas and the scheme addresses potential flooding associated with this watercourse. A condition has been suggested in regard to drainage that would ensure that sewerage from the proposed development would be adequately dealt with. Other suggested conditions would address vehicular access to the site in the interests of protecting highway safety.

Functional need

84. The Framework seeks the delivery of a wide choice of high quality homes, with paragraph 55 of document addressing housing in rural areas. It indicates that new isolated homes in the countryside should be avoided unless special circumstances apply, such as the essential need for a rural worker to live permanently at or near their place of work. The appellants have sought to show that an alpaca operation of the scale proposed would require at least one full-time worker to be readily available at most times.
85. The previous Inspector found it to be highly material that the District Council had acknowledged there was a functional need for the dwelling, and he accepted the consensus view of the expert evidence before him. However, the

same experts have not reached a consensus in this case. Mr Rhodes has explained the subsequent change in his position, and that of the District Council, results from the way in which the business has been managed and births arranged since the previous inquiry.

86. A footpath passing through Faerie-Tale Farm provides access for the general public that could have both positive and negative effects regarding security. Instances of vandalism at the farm and a theft at the time of the inquiry have been reported, and attacks by dogs on alpacas have occurred elsewhere. As noted above, alpacas are valuable animals, but so too are many horses, pedigree cattle and sheep which are also present in the countryside, and located in fields some distance from dwellings.
87. Electronic surveillance could be employed to assist off-site monitoring, especially if the agricultural building were to be present. If Miss Vaidya and her dogs were to be living at Faerie-Tale Farm there would be additional surveillance to that provided by local residents and people using the highway network. Therefore, although the risk of theft or injury to animals may contribute to the need for an agricultural dwelling, it would not by itself be sufficient to justify one.
88. Veterinary evidence highlighted the general increased focus on animal welfare, and the higher levels of care that tend to occur on alpaca farms. To some extent this reflects the backgrounds of alpaca owners. However, higher levels of care and associated monitoring is also a product of these animals often failing to display clear signs of illness, which reduces the window for treatment.
89. Nonetheless, stock cannot be watched at all hours which has resulted in unaided night-time births at Faerie-Tale Farm. This demonstrates that in common with other farm animals, there will be circumstances where alpacas can be effectively monitored by regular visits, possibly including by remote means, from a nearby (rather than on-site) dwelling.
90. However, the expected frequency of late-night bespoke visits to address individual animals would increase with herd size and the practicability and sustainability of such movements needs to be considered. In this case, the main area of market housing for sale or to rent would be in Kenilworth. The District Council's suggested form of husbandry is based around residence in Kenilworth, with a late evening visit and if necessary, the ability to stay overnight in the touring caravan.
91. The previous Inspector was explicit that his starting point in relation to the availability of alternative accommodation was *the consensus between the agricultural experts*. The appeal site was noted to be remote from Kenilworth and other villages, and that there were no other dwellings available to meet the identified functional need that had been based on unpredictable birth times and the intensive care of valuable stock.¹⁴
92. Kenilworth is in the region of two miles away and the use of a dwelling in the settlement would require vehicular transport. The settlement is of sufficient size for it to be reasonable to expect that there would be available and suitable accommodation for FTA employees. This remote accommodation would be adequate to address predictable measures, such as, providing coats for older alpacas in cold weather. However, staying in Kenilworth would make late night

¹⁴ Paragraph 95 of appeal decision letter refs: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & .../2103183

monitoring much less convenient, and the potential frequency of these journeys suggests, not least in terms of sustainable transport movements, that a worker should be resident on the holding.

93. A considerable number of appeal decisions have been provided by the District Council and the appellant that address the functional test in relation to alpacas. The cases supplied by the appellant include a recent appeal decision ref: APP/F4410/A/2154297, where the Inspector concluded that the need for supervision of alpacas appeared to be greatest during late pregnancy and in the first weeks of life. This is consistent with the evidence heard in this case.
94. The Inspector in that appeal also concluded that the likely frequency of when intensive supervision would be likely to be required increases with animal numbers to a point where it is needed on-site at all times when the herd includes 20 or more breeding females. This would appear to be a significantly larger herd of alpacas than considered by the Inspector in appeal decision ref: APP/U2235/A/08/2081974, where the limited number of animals contributed to the finding that the functional test had not been met.
95. The agricultural appraisal submitted at the application stage for the current appeal scheme noted the proposal to be based on a minimum of 16-18 breeding females.¹⁵ Evidence presented to the inquiry indicated that the FTA business model is based on approximately 20 breeding females within a herd of 50.¹⁶ In terms of herd size, this will place FTA within the top 25% of British herds and close to being in the top 7.5%.¹⁷
96. Alpaca matings can be planned due to the dams being induced ovulators. While there is a degree of complexity in the process, the requirements have not been shown to include all parts of the day and therefore mating would not in itself be justification for a dwelling.
97. The term of the pregnancy can vary which causes birthing to be much less predictable than in, for example, cattle. Reference was also made to alpacas' ability to suspend foetal growth causing the length of the pregnancy to vary between 300-400 days. Mr Broadbent, who is a specialist camelid vet with extensive experience that includes being President of the British Veterinary Camelid Society, confirmed that if this occurred it would be to a herd or on a national basis, rather than a single animal. This reduces the potential for there to be unexpected births associated with this extreme variation in length of pregnancy and therefore, an elongated birthing season, as referred to in relation to 2010 and 2011.¹⁸
98. Minimising the number of intact males kept at Faerie-Tale Farm helps to prevent unexpected matings. Even so, cria births can occur outside the preferable spring/summer season. This is most likely when unsuccessful matings are addressed (or pregnant females are imported). Given the number of breeding dams at Faerie-Tale Farm and the prices that would be sought when cria are eventually sold, postponing a mating until the next season would be a significant loss of income to the FTA business.

¹⁵ Appeal document N – Mike Warren Consultancy Ltd Agricultural Appraisal – June 2010 – paragraph 3.7

¹⁶ Proof of evidence from Mr Valcya and Mr Warren paragraph 3.5

¹⁷ Proof of evidence from Mr Valcya and Mr Warren paragraph 6.12

¹⁸ Appellant's comments in Appendix 2, page 18 of Mr Rhodes' Proof of Evidence

99. Both the temporary dwelling and the agricultural building have been linked to enabling birthing at FTA outside the spring/summer window. A number of the precautionary animal welfare measures referred to within the evidence, such as separating a sickly animal from the herd to keep it warm and dry, could also be addressed by the provision of an agricultural building.
100. Case Law and Practice Guidance from The Planning Inspectorate was referred to within the evidence. It emphasises that: alpacas can give birth throughout the year; they show little sign of imminent birth or oncoming ill health; and, they can have complicated births. It also indicates that arguments that alpacas have special care needs beyond cattle, horses and sheep should be treated with caution.
101. The appellant's case in closing states that this issue is to be judged at the end of the temporary permission for which permission is sought, but that functional need can also be demonstrated in principle before an operation commences, or realises its future functional requirements.
102. Evidence shows the case in regard to functional need in this appeal to be finely balanced. Much of the animal husbandry at Faerie-Tale Farm could be carried out by a worker living off-site, for example in Kenilworth, who would travel to the holding and occasionally stay in the touring caravan. However, the proposed scale of the operation, along with the likelihood of births and a need for animal welfare outside the spring/summer birthing season are sufficient to demonstrate that a functional need exists in this case.
103. Other former PPS7 Annex A paragraph 12 criteria that are met contribute to this finding. This includes the lack of evidence that this functional need could be readily addressed by any dwellings in the immediate vicinity of the appeal site, and especially given the current income from the business.

Rural housing

104. Within the context of current national policy, rural housing is now the subject of paragraph 55 of the Framework. It states that isolated new homes in the countryside should be avoided unless there are special circumstances that would justify the dwelling. The identified functional need is one of the four examples of "special circumstances" provided by paragraph 55. The proposed temporary development would provide an opportunity for the business to demonstrate that the essential functional need would be in relation to a business that could be sustained.

Supporting a prosperous rural economy

105. The Framework is unambiguous regarding the support that should be given to supporting economic growth in rural areas. Paragraph 28 seeks planning policies to promote the development and diversification of agricultural and other land-based businesses. The proposed temporary dwelling would support the growth of the FTA business, which provides significant weight in favour of the Appeal A scheme.
106. The proposal would assist the management of the land to retain it as an attractive area for walkers and others to enjoy. However, this in itself provides little weight in favour of the proposal as, in the absence of alpaca, pasture on the site could benefit from other agricultural practices that could be carried out without a temporary dwelling. Indeed, other agricultural practices would

reasonably be expected to also make a contribution towards a prosperous rural economy.

The presumption in favour of sustainable development

107. Given the identified functional need for the dwelling, this proposal would support and enable the intended direct economic benefits to be demonstrated. These include the provision of employment for FTA staff, along with business for the mill and the knitters who work on the fleece to create products for sale. As reflected above, the Framework places significant weight on the need to support economic growth through the planning system.¹⁹
108. Sustainable development has three dimensions and the roles of the planning system in relation to these are described within the Framework.²⁰ In this case, the temporary period sought would provide the appellant with a period of time in which to demonstrate the long term economic sustainability of the business. In social terms, it would provide the temporary dwelling that is necessary to do this, and while it would reduce the characteristic openness in this location, the on-site presence of a worker would reduce transport movements to and from the site for stock management. In these ways, the Appeal A scheme would promote sustainable development in this rural area and complies with paragraph 55 of the Framework, which provides significant weight in favour of the appeal scheme.
109. In addressing the presumption in favour of sustainable development, the Framework states that where a development plan is silent, absent or out of date planning permission should be granted unless: any adverse impacts would significantly outweigh the benefits when assessed against the policies of the Framework as a whole; or, there are specific policies within the Framework that indicate the development should be restricted.²¹
110. In this respect, paragraph 87 of the Framework states that inappropriate development in the Green Belt should be restricted and only allowed in very special circumstances.
- Whether any harm by the reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the temporary agricultural dwelling proposed*
111. Evidence from the appellant in this case includes a considerable number of planning appeal decision letters and a few of these, for example appeal ref: APP/J1535/A/09/2115187, found very special circumstances to have been demonstrated in relation to alpaca farming. Each application and appeal is determined on its individual merits, with regard to the policies and circumstances that apply to it. Therefore, a finding of very special circumstances in another appeal does not set a precedent in relation to this case.
112. In this area of Green Belt, policies within the Framework seek to prevent development that would reduce openness and be contrary to the purposes for including land within the Green Belt. Indeed, the protection of the Green Belt is a "Core planning principle" of the Framework, and the Green Belt harms

¹⁹ Paragraphs 19 and 21 of the Framework

²⁰ Paragraph 7 of the Framework

²¹ Paragraph 14 of the Framework

identified above in respect to inappropriateness and openness provide substantial weight against the proposal.

113. The need to support sustainable economic development is also a "Core planning principle" and the identified essential need is a *special circumstance* within the context provided by paragraph 55 of the Framework. Nevertheless, when the other considerations (and the scope of suggested conditions) are set against the identified Green Belt harms, the Green Belt harms are not clearly outweighed. Nor when taken as a whole are the circumstances of this case, as set out above, capable of being described as *very special* for the other considerations to amount to the very special circumstances necessary to justify the temporary development proposed.

Appeal B – Main Issue

114. This is considered to be the effect of the proposed agricultural building and the concrete pad on the character and appearance of the countryside.

Appeal B – Reasons

115. The rural character of this locality and the Green Belt openness within it are described above. It is common ground between the main parties to this appeal that the proposed size, design and materials of the agricultural building are acceptable. It would be of a form and construction that would reasonably be expected to be found in a rural setting for the intended agricultural purpose. Given the number of animals proposed for the holding and the role of the building in their management, I agree that its size would also be appropriate. However, there is disagreement between parties to the inquiry regarding the acceptability of the proposed location.
116. As noted above, in determining appeals ref: APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 & APP/T3725/A/09/2103183, the previous Inspector concluded that the agricultural building could, along with the temporary dwelling, be located closer to the site entrance.
117. The current Appeal B scheme would place the agricultural building considerably closer to Rouncil Lane. District Council drawings show that in views from the site entrance the ridge line of the agricultural building, in common with the temporary dwelling, would break the skyline. In these aspects and on the footpath that crosses the appeal sites, the agricultural building would be a prominent feature. However, this would not be so in many other views and the number of people who would view the building from the site entrance, which is setback from Rouncil Lane, would be limited.
118. While the agricultural building would be too far from the site boundary to appear as a form of roadside development that would be similar to examples provided by the District Council, it would be set lower in the landscape than previously proposed. These factors, along with the topography around the site and the more limited aspects from it, would significantly reduce the visual impact of the agricultural building in the wider landscape.
119. As a built form in Green Belt countryside, the agricultural building would reduce its characteristic openness. The concrete pad is some distance from the location of agricultural building. It was the base used for the previous positioning of the temporary dwelling, which the previous Inspector noted could be seen from both near and more distance views further along Rouncil Lane.

He also commented that to effectively screen something in this location could result in an alien feature.

120. Although in the absence of the concrete pad, materials could be stored on the former site of the structure, the likelihood of such storage and associated parking would reasonably be expected to be greater with the concrete pad in place. In cross-examination the District Council's planning witness highlighted that the effect of the concrete pad would increase the farm area.
121. The application for the agricultural building and concrete pad are for permanent forms of development, and the appellant has highlighted the separation between the Appeal A and Appeal B schemes. In the absence of the temporary dwelling the physical separation between of the concrete pad and the agricultural building would be emphasised. While the appellant has drawn attention to the possible advantages of stock management from the elevated position of the concrete pad, it is not a farm layout that is evident as being a characteristic of the locality. Indeed, other farms appear to have stock handling areas in close proximity to the agricultural buildings.
122. The effect of the proposed remote "farm yard" would be to extend the erosion of the undeveloped countryside in this location in a manner that would neither reflect the scale of the holding or the characteristic layouts of the farms around it. A condition could be imposed to limit open storage on the concrete pad, but this could lead to open storage on the grassland immediately around it and in any event, the concrete pad would reasonably be expected to remain a focus of activity on the site in an elevated position.
123. It is a "Core planning principle" within paragraph 17 of the Framework that planning should always seek to secure high quality design. This is confirmed in paragraph 56 of the document which is explicit regarding the "great importance" attached to design, and that good design is both indivisible from good planning and is a key aspect of sustainable development.
124. Consequently, while the proposed agricultural building complies with the SPG, the retention of the existing hardstanding would be unacceptably harmful to the character and appearance of this countryside, and suggested conditions would not overcome this harm. As a result, the Appeal B scheme conflicts with the aims of the Framework as expressed in paragraphs of the document that include nos.17 and 56, and LP policies DP1 and DP3.

Conclusions

Appeal A

125. For the reasons above and following consideration of all matters raised in this case, the Appeal A scheme should be dismissed.

Appeal B

126. For the reasons above and following consideration of all matters raised in this case, the Appeal B scheme should be dismissed.

C Sproule

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Cooke	Counsel, instructed by Warwick District Council
He called	
Andrew Donaldson	Director, BTG Global Risk Partners
BA(Hons) ACA FRSA	
Paul Rhodes	Rhodes Rural Planning & Land Management
MRICS	
David Edmonds	Senior Appeals Officer, Warwick District Council
BSc(Hons) DipTP MRTPI	

FOR THE BEAUSALE, HASELEY, HONILEY & WROXALL PARISH COUNCIL:

Cllr. Janet Gee	Member of the Parish Council
Cllr. Richard Wood	Member of the Parish Council
Cllr. Chris Lewis	Chairman of the Parish Council

FOR THE APPELLANT:

Hugh Richards	Counsel, instructed by Willis & Co
He called	
Robert Broadbent	Stow Veterinary Surgeons
Bvet Med MRCVS	
Kiarti Vaidya	Director, Faerie Tale Alpacas Limited
Shirley Bettinson	Toft Alpacas
Mike Warren	Mike Warren Consultancy Limited
BSc(Hons) FBIAC	
Kirit Vaidya	Director, Faerie Tale Alpacas Limited
BSocSc FRSA	
Marc Willis	Managing Director, Willis & Co
BTP MRTPI MBIAC	

INTERESTED PERSONS:

Jane Heydecker	Speaking in support of the applicant
Mick Hutchcox	Speaking in support of the applicant
Dr Andrew Entwistle MBE	Speaking in support of the applicant

DOCUMENTS

- 1 Statement of common ground
- 2 Agenda Item 8 of Report Prepared 20 October 2011 – Application No. 11/1803M White Peak Alpaca Farm, Mobberley, Knutsford, Cheshire WA16 7DB
- 3 Statement on behalf of Beausale, Haseley, Honiley and Wroxall Parish Council
- 4 Letter from Clare E Whitehead BVM&S MS MRCVS DACVIM (Large Animal) – dated 10 January 2012

- 5 Appendix 26 (modified) : Budget – Faerie Tale Alpacas Ltd 2010/2011 to 2013/2014
- 6 Promap extract with farmsteads highlighted that are set back from the highway
- 7 Suggested replacement condition no.2 and additional condition no.9 within an e-mail between the Appellant and the District Council dated 12 January 2012
- 8 Costs application of behalf of the Appellant
- 9 Response of Warwick District Council to the Appellant's Costs Application

APPENDIX 3

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Appeal Decisions

Hearing and site visit held on 26 June 2012

by **Clive Kirkbride BA(Hons) DipTP MSc MRTPI**

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

Decision date: 2 August 2012

Appeal Ref: APP/C1625/C/12/2171928 and 2172069
Bird Farm, Stancombe, Dursley, Gloucestershire, GL11 6AY

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Rodney and Mrs Emma Bird against an enforcement notice issued by Stroud District Council.
 - The Council's reference is S.11/0162/UNCHU (7415).
 - The notice was issued on 22 February 2012.
 - The breach of planning control as alleged in the notice is a material change of use of the land from use for agriculture to a mixed use of agriculture and as a residential caravan site.
 - The requirements of the notice are to permanently cease the residential use on the site and permanently remove the caravan and all domestic paraphernalia from the site.
 - The period for compliance with the requirements is 6 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal Ref: APP/C1625/A/12/2171046
Bird Farm, Stancombe, Dursley, Gloucestershire, GL11 6AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Rodney and Mrs Emma Bird against the decision of Stroud District Council.
 - The application Ref S.11/2449/FUL, dated 5 December 2011, was refused by notice dated 8 February 2012.
 - The development proposed is the siting of a temporary agricultural workers dwelling with treatment plant for a period of 3 years.
-

Decisions

APP/C1625/C/12/2171928 and 2172069

1. The appeals against the enforcement notice are allowed on ground (g), and the enforcement notice is varied by the deletion of 6 months and the substitution of 9 months as the period for compliance. Subject to this variation the enforcement notice is upheld, the appeals are dismissed and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

APP/C1625/A/12/2171046

2. The appeal is dismissed.

Background

3. The notice land is situated within an area of countryside comprising a secluded valley adjacent to an escarpment and forms part of the Cotswolds Area of Outstanding Natural Beauty (AONB). The land extends to an area of about 3.8ha and is generally well screened by hedgerows and trees. The B4640 runs along the north eastern boundary, a minor rural road runs along its southern boundary and there is a public right of way along the western boundary. The land is currently being used for breeding alpacas and by free range poultry and pigs with the original, single large field subdivided by stock fencing into a number of paddocks. The appellants have also planted a small area of willows.
-

www.planningportal.gov.uk/planninginspectorate

4. A permitted new vehicular access has been constructed in the south eastern corner of the site and the land also benefits from a permitted area of hardstanding and an electricity supply. A range of lean-to structures and storage containers benefit from a temporary permission due to expire in September 2014. The appellants also have permission to construct a new agricultural building on the site where the appeal caravan is currently stationed. Their intention is to construct this once they have erected the new temporary dwelling (as a replacement for the caravan) in the position shown on Drawing No. GB20 submitted with the original planning application.

Planning policy framework

5. The Government published its new National Planning Policy Framework (the Framework) in March 2012. This cancelled a raft of Government planning policy statements (PPSs) and guidance notes, including PPS7 *Sustainable Development in Rural Areas*, with immediate effect. Annex A of PPS7, amongst other matters, set out a tried and tested methodology for assessing if there was an essential need for an agricultural worker's dwelling on a holding.
6. Saved Policy HN10 of the Stroud District Local Plan (LP) adopted 2005 seeks to restrict new residential development outside defined settlement boundaries unless there is an essential agricultural or forestry need. This is generally consistent with the wording in paragraph 55 of the Framework about local planning authorities avoiding new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.
7. However, the explanatory wording to Policy HN10 relates directly back to PPS7 and Annex A and potentially causes a problem when assessing essential need as it is now necessary to decide, on a case by case basis, what factors to take into account and give weight to. The methodology set out in Annex A can still be a material consideration, but no longer on the basis that it is Government policy. Submissions on this matter were made in writing prior to the hearing taking place and during the hearing itself.
8. Having given careful consideration to the points made by all parties I find as follows: Firstly, the essential need for a rural worker to live permanently at or near their place of work in the countryside has to be judged objectively; secondly, whilst it is no longer the case that evidence of essential need must be assessed against the tests set out in Annex A, this does not mean that evidence that shows that the requirements of Annex A are not met cannot be taken into account; thirdly, the Annex A test remains an appropriate way to assess 'essential need' as it is well-established and well understood, even though it no longer forms part of Government policy. It is, therefore, still open to decision makers to assess need against the tests set out in Annex A and conclude, in particular local circumstances, when those tests have not been met, even though PPS7 can no longer be cited as the authority for carrying out such an assessment.
9. However, the Framework does give appellants the opportunity to demonstrate that there is an essential need on the basis of evidence that does not seek to, or cannot, show that all the factors contained in Annex A have been met. The appellant suggested that the only test that mattered was the Framework's presumption in favour of sustainable development; this could include the Annex A functional needs test but not the financial one. However, no reasons were given for assessing the appeal development against one test but not the other.
10. A convincing case has to be made that there is an essential need, as required by paragraph 55 of the Framework, for the appellants to live permanently at or near their place of work in the countryside. I consider that the test for a temporary dwelling set out in Annex A to PPS7 is an appropriate starting point, even though it must carry less weight now than it did before the Framework was published.

The ground (a) and S78 appeals

Main issue

11. I consider this to be whether there is an essential need for the appellants to live at or near their place of work.

Reasons

12. The appellants are intent on developing a mixed rural enterprise. Although based predominantly on their expanding alpaca herd, they also breed and sell poultry, sell free range eggs at the farm gate, and raise pigs for meat sold to a range of local outlets, although no details were provided. Mr Bird also does local contract work including installing hurdles made from willow grown on the farm and Mrs Bird produces a range of craft products for sale at local farmers' markets made from their own alpaca fleece and harvested willow stems; she also runs weaving and basketry courses. The farm is also used as an outlet for NVQ students studying animal husbandry at colleges in Stroud and Filton.
13. In short, this would appear to be exactly the kind of rural enterprise that the Framework aims to encourage through its presumption in favour of sustainable development and support for a prosperous rural economy. Nevertheless, it is necessary to establish whether the appellants' stated intentions are reasonably likely to materialise, are capable of being sustained for a reasonable period of time (that is, they have been planned on a sound financial basis) and that the needs of their enterprise require them to live on the land itself, rather than in an existing dwelling nearby (in other words, that there is a functional need for a dwelling on the holding).

Intention and ability

14. The appellants are clearly intent on establishing and making a success of their enterprise. The Council has expressed concerns about their limited agricultural experience but I heard no compelling evidence which supported those concerns. On the contrary, the appellants clearly enjoy the support and encouragement given by an established and successful alpaca breeder (Mr Atkins) and it is the alpaca element of the appellants' business which both underpins the financial viability of their entire enterprise and leads them to consider that it is essential they live on the land.

Financial basis

15. Many of the concerns raised were based on the holding being too small to accommodate the numbers of animals proposed when the need for rotational grazing, fallow periods and the area of land which cannot not be utilised for grazing (the willows, the wildlife pond, buildings and area of hardstanding) is accounted for. As a consequence, there remain questions about the appellants' ability to maintain the proposed level of breeding stock which underpins the business plan.
16. However, it was generally acknowledged that whilst there was no obvious pattern, the sale of pedigree alpacas was very profitable and I heard evidence that viable herds have been developed on smaller areas of land than the appeal holding. I also heard that Mr Atkins had recently sold off most of his stock and may source replacement animals from the appellants whose stock was genetically similar to his own. However, there is no firm evidence that this would be the case.
17. It was also noted that alpaca prices had fallen some 25-30% between 2007 and 2011 which would impact on projected income levels. Mr Atkins has a proven record, reputation and bloodlines built up over a 10 year period whereas the appellants are, by their own admission, newcomers and novices. In such circumstances, I do not consider that their achievable income should be compared with Mr Atkins'.
18. Two local vets considered it was folly to start up an alpaca breeding herd in such a well-documented bovine tuberculosis (TB) hot-spot. Alpacas are especially vulnerable to the disease for which there is currently no reliable test and existing vaccines are unreliable and ineffective. The vets considered that the failure of the business plan to make any provision for the loss of stock to TB and that it greatly under-estimates vets' and alpaca healthcare costs were particular weaknesses. They were also concerned about bio-security risks; visitors to the farm are positively encouraged, including students and course participants, and the appellants' plans include keeping alpacas on livery in addition to their own herd.
19. Their income would be drastically hit in the event of a TB outbreak and, whilst steps could be taken to reduce the risk from TB, including badger-proofing the perimeter of the land, no such costs were included in the business plan.

20. Even though the appellants produce the majority of their own feed on rented land and are virtually self-sufficient in this respect, expenditure on alpacas is only shown to increase by a relatively small amount over the period 2011 – 2014. This is despite the planned increase in herd size and the fact that actual expenditure on this item in 2011 was more than double the estimated cost. There are also numerous established producers selling pork and free range eggs at the farm gate leading to questions about the profitability of these parts of the business without evidence of other more reliable outlets.
21. Even so, the appellants stressed that a strength of their mixed enterprise is that it has a variety of different income streams. In addition to producing breeding stock, eggs and meat they also produce, for example, a variety of craft products which have proven to be particularly profitable by adding value to willow stems and alpaca fleece grown and produced on the holding. However, I also heard that the success of this element of their business was due, in part, to the help freely given by family members living close by. More significant, however, is the fact that there is no allowance in the business plan for the cost of the dwelling intended as a replacement for the existing static caravan or for constructing the permitted agricultural building.
22. Based on the evidence before me, I find that the three year business plan over-estimates the likely income to be generated and under-estimates the level of expenditure likely to be incurred to the extent that the appellants' stated intentions would be unlikely to materialise or be sustainable. Therefore, I conclude that the appellants' enterprise has not been planned on a sound financial basis.

Functional need

23. The Council's independent agricultural appraisal found that the animal welfare requirements of the relatively small herd of alpacas proposed did not justify a full time worker living on site. Alpacas are relatively hardy and do not generally require round-the-clock supervision and birthing times could be planned to coincide with spring and summer. Non-routine welfare issues would then be primarily seasonal, requiring temporary not year round accommodation, and could be met by agricultural permitted development rights.
24. This finding was supported by the local vets who attended the hearing. They found similarities between alpaca breeding and equine enterprises and also related incidences of being called out during the night to attend the birth of lambs and calves in isolated fields, which they considered to be part-and-parcel of animal husbandry and welfare. Reference was made to alpacas generally birthing during daytime on one site and to peer-reviewed scientific papers which have found that the frequency of alpaca birthing problems is very low. The appellants are newcomers to alpaca breeding and, whilst they may be able to call on the advice and support of Mr Atkins, I consider the advice that they should plan for birthing during the spring and summer months, rather than year round, to be sound.
25. The contrary argument is that, increasingly, birthing is no longer seasonal and that many larger breeders with the right facilities will birth all year round to aid cash flow. Birthing can be straightforward for much of the time but if problems do occur, especially with night time births, workers living on site are best positioned to respond and deal with problems quickly. Prematurity, in particular, is relatively common and new born cria need immediate attention. UK practice has been to minimise contact at birth but many breeders are now following US practice of close personal contact, with smaller producers such as the appellants being particularly concerned about animal welfare.
26. The appellants consider that supervision and observation of every single birth is critical, ideally on a 24 hour basis between April and September, but outside these months as well. As alpacas also tend to show few symptoms during the early stages of illness it was argued that their welfare requirements could only be tended to by living on site and the appellants related a number of recent incidences of out-of-hours working to support their case.
27. In the appellants' view, the more time spent with their alpacas the better their chance of survival and the greater the chance their enterprise has of succeeding. This includes being on hand to at all times to defend their stock against predation by dogs and foxes, of which graphic evidence was provided by Mr Atkins. Alpacas are far more valuable than sheep and the loss of even a single alpaca could affect profitability, whereas a sheep farmer would be

likely to recover from multiple losses. There was, however, no evidence of any predation incidents having actually occurred on the appellants' land.

28. The Council and other parties argued that even if a functional need could be demonstrated this could be met by seasonal occupation of the land given that much of the appellants' work is routine, is not dependent upon them living on site and the land is not particularly remote. The appellants' search for alternative properties concentrated only on small holdings, so that they could take their animals with them, and they found none that were locally available and affordable. There is, however, good evidence of a number of dwellings being available locally for sale and rent, with prices ranging from £125,000 and £600 per month upwards. There is no evidence before me demonstrating that the appellants could not afford to buy or rent a locally available property; rather it was their choice not to do so.
29. On balance, I am not persuaded from the evidence before me that there is a requirement for the appellants to live on the land. In my judgment, a combination of living nearby and making use of permitted development rights to be on hand during a planned birthing season would enable the appellants to attend to the welfare requirements of their alpacas.

Overall conclusions on the ground (a) and s78 appeals

30. I have found that the appellants' intentions to establish a diverse rural enterprise to be genuine and generally in the spirit of the new Framework. However, I have found that their enterprise has not been planned on a sound financial basis and that there is no functional need for a dwelling on the land.
31. Consequently, I consider that the special circumstances envisaged in paragraph 55 of the Framework justifying an isolated new dwelling in the countryside do not exist. The appeal development conflicts with LP Policy HN10 in this regard and would be contrary to the Framework requirement that great weight should be given to conserving landscape and scenic beauty in nationally designated areas, such as AONBs, which have the highest status of protection.

The ground (g) enforcement appeals

32. The appellants' request that the compliance period should run for the same length of time as the temporary permission for their lean-to structures and storage containers, that is until September 2014, would almost be synonymous with granting temporary permission for an agricultural dwelling.
33. There is no physical difficulty in complying with notice requirements within the compliance period and I heard that the appellants have other properties they could live in, in the event they were to experience difficulties in finding alternative accommodation in relatively close proximity to the notice land. However, the Council raised no objections to the compliance period being extended to nine months in order to enable the appellants to concentrate on their farming and related activities for the remainder of the season without the worry also of finding alternative accommodation. On this limited basis the ground (g) appeals succeed.

C.S. Kirkfride

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gavin Jones, BSc MA MRTPI	The appellants' planning consultant and agent
P Duncan, BSc(Hons) MRICS	Consultant acting for the appellants
Ray Cheriton	The appellants' agent for the planning application
Rodney and Emma Bird	The appellants
Robert Broadbent, BVetMed MRCVS	Expert veterinary witness for the appellants
M Holland	
Nick Atkins	Local alpaca breeder
Rachel Mackenzie	Student on work placement with the appellants

FOR THE LOCAL PLANNING AUTHORITY:

David Corker, DipTP	Principal Appeals and Enforcement Officer, Stroud District Council
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INTERESTED PERSONS:

Paul Rhodes	Planning consultant acting on behalf of local residents
Keith Larkin and Rex Symons	North Nibley Parish Council
Mark Patterson, MA VetMB PhD MRCVS	Local vet
Nick Eames, BVSc MRCVS	Local vet
Ben Harford	
Sue Convery, Ben Hoffnung, Robert Maxwell, David Palmer and Audrey Sewell)) Local residents)

DOCUMENTS

- 1 Supportive emails dated 21/06/12 and 25/06/12 from Richard and Melodie Morris and Cllr Paul Denney, respectively (submitted for the Appellants)
- 2 Financial plan: First Year (2011) comparison of Plan vs Actual and Summary of Sales from 5 April 2012 to 9 June 2012 (submitted for the Appellants)
- 3 Price list for alpacas sold by Mr Atkins
- 4 Copy of Policy NE8 (development within the Cotswolds AONB) of the Stroud District Local Plan (submitted by North Nibley Parish Council)
- 5 Suggested conditions (submitted by the Council)
- 6 Bundle of documents relating to tuberculosis in camelids (submitted by Nick Eames)

PHOTOGRAPHS

- 1 Bundle of photos of the appeal site taken at different times of the year from high ground to the south (submitted by the Parish Council)
- 2 Injuries to alpacas caused by dogs (submitted by Mr Atkins)

APPENDIX 4

4/167

4/125

Average prices for Alpacas
Extract from Alpaca Seller Web site
Comparing average prices at January 2010 and May 2011

January 2010

- Pregnant females £4,851
- Females £3,314
- Females with cria £4,956
- Wethers £533
- Young males(intact) £925
- Stud males £4,849

May 2011

- Pregnant females £3,862
- Females £2,495
- Females with cria £4,107
- Wethers £479
- Young males(intact) £675
- Stud males £4,748

APPENDIX B.

Willis & Co.

Chartered Town Planners
30 The Causeway
Chippenham
Wiltshire
SN15 3DB

Our ref: MW/Booth

19th June 2015

Planning Services
North Warwickshire Borough Council
The Council House
South Street
Atherstone
Warwickshire
CV9 2JG

Telephone: (01249) 444975
Email: Willisplan@aol.com

For the attention of Mrs F. Wallace

Dear Sir,

Town and Country Planning Act 1990
Siting of a temporary rural workers dwelling on land at Lucky Tail
Alpacas, Dexter Lane, Hurley, Warwickshire, CV9 2JG
Application ref. PAP/2015/0227

1. We are instructed by Ms S. Booth and Mr S. Matthews in connection with the above application. The LPA commissioned an appraisal of the application from Paul Rhodes and this letter, the letter of even date from Peter Williams of Reading Agricultural Consultants and the supporting documents have been produced in response to his report dated May 2015.

2. It is noted that Mr Rhodes has based his assessment on the guidance set out in (the now revoked) PPS7, Annex A.

3. Stocking rates. Mr Rhodes expresses the view that the applicant does not have enough land to support the proposed stock numbers. We reject this view for two reasons. First, in reaching this view, he relies on the evidence of Mrs Bettison at the Faerie Tale Farm appeal and produces a copy of the September 2012 appeal decision. As Mr Rhodes will know, the 2012 appeal decision was subsequently quashed by the High Court. No weight can therefore be given to that appeal decision. The Faerie Tale Farm appeals were re-determined in November 2014. The matter of the stocking rates were considered at the Inquiry and in paragraph 55 of the appeal decision the Inspector concluded;

"...the planned herd size would result in a stocking rate of around 6 alpacas per acre. This appears reasonable in light of the evidence provided by the appellant concerning the practice of other alpaca breeders, which indicates that sustainable stocking rates generally fall within a range of 4 to 8 alpacas per acre. Whilst the Council and others argue that the quality of the grassland would suggest the

Contd.../

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Planning Services, North Warwickshire BC

19th June 2015

Lucky Tail Alpacas, Dexter Lane, Hurley, Appl. ref. PAP/2015/0227

lower end of the range would be more appropriate, this is disputed by the appellant, whose view I give greater weight, given its direct experience of the grazing needs and impact on the land of alpacas."

4. Mr Rhodes appeared for the Council in this case. To be clear, the 2012 Faerie Tale Farm appeal decision quoted by Mr Rhodes was quashed in the High Court and when the appeal was re-determined Mr Rhodes evidence on stocking rates was rejected by the Inspector, who found that a stocking rate closer to 8 alpacas/acre was reasonable. Mr Rhodes has no evidence to support his view that a lower stocking rate is appropriate here. A copy of the November 2014 Faerie Tale Farm appeal decision is submitted herewith.

5. Second, Mr Rhodes was told at the site meeting that the applicants had been investigating the possibility of renting land in the locality, if and when this will be required. There will certainly be no need to rent additional land for the first couple of years, but once the enterprise becomes fully established further land may be useful for (a) additional grazing and (b) to produce fodder.

6. The applicants have approached a close neighbour, Mr Barry Robinson, the owner of Springfield Stables, Dexter Lane, which is located some 300m to the north of the application site. It is understood that Springfield Stables extends to some 4.39 acres. As is clear from the attached letter Mr Robinson confirms that his land is available to the applicants to rent, if and when it is required. No rental figure has been discussed at this time, because it is unlikely that the land will be required for 2-3 years, but when it is required it is likely to be available at a reasonable rent, reflecting the market rent in the locality.

7. At the end of year three, there are likely to be 37 adult alpacas on the land. With 5.18 acres of land available, this is a stocking rate of 7 alpacas/acre. This in itself is entirely appropriate. However, if a further 4.39 acres of rented land is available, the stocking rate reduces to less than 4 alpacas/acre. Even at the end of 5 years with 47 alpacas on the enterprise, the stocking rate will be below 5 alpacas/acre.

8. It is clear that Mr Rhodes conclusions at paragraph 6.1.7 and paragraph 6.1.8 of his report that the enterprise will not be able to support the number of alpacas proposed is not supported by evidence and is simply wrong. It would be wholly unreasonable for the LPA to follow Mr Rhodes advice on this point.

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Lucky Tail Alpacas, Dexter Lane, Hurley, Appl. ref. PAP/2015/0227

9. All of the other issues raised, in particular the functional and financial tests, are dealt with in some detail in the attached letter from Peter Williams of Reading Agricultural Consultants.

10. The functional test. The evidence produced by Mr Williams is compelling and includes detailed reference to some 25 relevant appeal decisions, including the later Faerie Tales Farm appeal decision. It will be noted that Mr Rhodes acted for the local planning authority in that case and that not only did the appellant win the appeal, costs were awarded against the LPA for continuing to pursue the functional test issue without producing any compelling new evidence to support its view. The Inspector also expressly rejected Mr Rhodes evidence on the labour requirements of the enterprise.

11. The financial test. Mr Williams explains that his methodology is based soundly on the guidance set out in the High Court in *Roger Raymond Jarman v Welwyn Hatfield DC*. It is also the methodology used in every one of the 25 appeal decisions listed by Mr Williams in his letter.

12. Mr Rhodes also claims that there is a downward trend in alpaca prices and this has not been reflected in the preparation of the business plan. This is not so. The stock values assumed in the business plan are based on average Alpaca Seller values as at April 2015. The applicants stock is of above average value and the applicant anticipates that the sale value of her stock will be above average when she starts to sell her stock in Year Three. The business plan has a built-in conservative allowance for the value of the stock being average, rather than above average value. The assumed alpaca sales figures included in the business plan are robust and do allow for a downward movement in alpaca values.

13. This assumes of course, that it is reasonable to extrapolate from the period 2011-2015, a period of world-wide recession. We do not agree that the performance of the worldwide economy during this period is a reasonable basis for planning a business over the next 3-5 years.

14. It is also worthwhile pointing out that the enterprise does not rely wholly on the sale of alpacas; the projected income from the sale of alpaca fleece, eggs, chickens, goats and rabbits makes up 53% of the turnover in Year 3 and 40% of the turnover in Year 4. It is noted that Mr Rhodes does not dispute any of these values.

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Planning Services, North Warwickshire BC

19th June 2015

Lucky Tail Alpacas, Dexter Lane, Hurley, Appl. ref. PAP/2015/0227

15. The correct approach to the financial test, as set out by Mr Williams in his letter referring to similar appeals, is to give the applicant the opportunity to undertake the 'trial run'.

16. Conclusions. It must be pointed out that every part of the applicants evidence is underpinned by reference to established guidance, High Court precedent and 25 similar appeal decisions. Mr Rhodes is aided by just two appeal decisions, one of which was quashed in the High Court and later re-determined in favour of the appellant, with costs awarded against the LPA. Obviously, this appeal decision (Faerie Tale Farm, September 2012) must be completely disregarded.

17. I do accept, of course, that each case must be determined on its merits and that similar appeal decisions, whilst they are a material consideration, can only be of limited weight. However, it simply could not be reasonable for the LPA to rely on just one appeal decision dating from August 2012 which supports its view and not to have regard to the 25 appeal decisions which favour the applicants position which we have drawn to your attention.

18. I would respectfully remind the Council that it is Government policy (paragraph 28 of the Framework) to support rural enterprise, to approach applications in a positive way (paragraph 186 of the Framework) and to seek solutions rather than problems (paragraph 187 of the Framework).

19. I trust this is helpful and look forward to hearing from you.

Yours faithfully,



Marc D. Willis BTP MRTPI MBIAC

Enclosures;

- Reading Agricultural Consultants letter dated 19th June 2015
- Faerie Tale Farm appeal decision, November 2014
- Barry Robinson letter dated 11th June 2015 and plan

Barry W Robinson

Rivington,

Dexter Lane,

Hurley,

Cv92JQ

11/06/15

In the event of Miss Booths expansion plans coming to fruition in their business venture in the future I Barry W Robinson would be prepared to offer Springfield Stables to rent in its entirety. This being an ideal location to present premises

Regards

B Robinson

Applicants Additional Evidence



2015/0227

NORTH WARWICKSHIRE
BOROUGH COUNCIL
RECEIVED
9-APR-15
PLANNING & DEVELOPMENT
DIVISION

Willis & Co.
Chartered Town Planners
30 The Causeway, Chippenham, Wiltshire, SN15 3DB
Telephone: 01249 444975 Email: Willisplan@aol.com

Title: Mr S. Booth & Mr S. Matthews
Siting of a temporary rural workers dwelling on land at Lucky Tall Alpacas, Decker Lane, Hurley, Warwickshire, CV9 2JG.
Location Plan

Scale: 1/1,250 Date: March 2015 Drawing No: 2011/01

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Our Ref: 6637mw-1
Your Ref:

19 June 2015

Willis and Co.
30 The Causeway
Chippenham
SN15 3DB

Dear Mr Willis

Thank you for sending me a copy of the *Rhodes Rural Planning* report concerning the planning application for temporary accommodation for a rural worker at Lucky Tails Alpaca Farm, Dexter Lane, Hurely. I have now had the opportunity of reviewing the document and note (using Mr Rhodes' paragraph numbers):

6.1.3 *et seq* On the availability of land

The holding extends to 2.1ha and will be perfectly able to accommodate the business in the initial years.

I understand that Mr Rhodes was informed by the applicant (and Mr Willis) that local land will be rented as required, and a block of virtually contiguous land at Springfield Stables has already been identified. The owner has provided a letter to confirm the availability of this land.

The issue of land rental, and reliance upon it for agricultural businesses is often debated at planning appeals but is, to my mind, fairly immaterial. Vast swathes of UK agricultural land is owned by a few large land owners and is rented to tenants on varying terms, from (relatively secure) 1986 Agricultural Holdings Act tenancies, to Farm Business Tenancies (of various lengths), to insecure annual grazing agreements, and I am aware of various planning applications (and appeals) that Mr Rhodes has been involved with for the applicant/appellant that rely almost exclusively on rented land (including at Haseley Knob, in Warwickshire¹).

6.2 *et seq* Functional Need

On functional need, Mr Rhodes appears to dismiss almost in its entirety the reasons why there is a need to live on site, because, he suggests "*the applicant has decided to arrange for her alpacas to give birth during the best weather*".

I find it hard to believe that such a naïve statement can be made from a rural professional with 15+ years' experience. Just because the applicant intends to calve alpacas in spring early summer does not a) mean she will achieve it all of the time, or b) that problems will not occur.

The Council should be clear that this is especially perverse given the findings of the appeal Inspector in the *Fairie Tale*² decision (an earlier (quashed) appeal decision cited by Mr Rhodes in his response) where it was reported:

¹ APP3725/A/07/2054971, Woodside Farm, Haseley Knob, Warwickshire, CV35 7NJ

² APP/T3725/A/11/2159250, Faerie-Tale Farm, Rouncil Lane, Kenilworth, Warwickshire



"The provision of a temporary dwelling as proposed would facilitate the implementation of the appellant's business plan in full. In light of the planned herd size and the likelihood of birth/rearing activities extending throughout much of the year, I am content that it is likely to be essential for the proper functioning of the planned enterprise for a worker to be readily available at most times. These findings are consistent with the views reached by the first and second Inspector."

And, Mr Rhodes was present for that appeal - and appears to have dismissed it as irrelevant.

In my opinion, this topic it has been adequately addresses in numerous appeal decisions. The Doddiscombsleigh decision³ (referred to in my report submitted with the application - paragraph 4.3) was possibly the most useful with veterinary surgeons appearing for both the appellant and the third party objectors - which enabled a detailed examination of the relevant livestock issues to be explored. Although I did not provide the full quote in the application report, the Inspector reported:

"Whilst the majority of alpacas give birth without complications during the morning and early afternoon, this is not always the case; informed veterinary evidence at the Hearing pointed to around 5-10% of alpacas having difficult births, with a minority born at night. This percentage is probably not significantly different from several other farm animals; however, in my view it is potentially more critical for alpacas, because they nearly always give birth to just one cria, so the loss is proportionately greater than for many other animals, and because they are considerably more valuable than many other British livestock (although I accept that some pedigree breeds of other animals can fetch high prices). I heard that selling prices for alpacas averaged around £7,000 per adult female, a figure that was not challenged at the Hearing..."

...Regarding immediate after-care following birthing, it is not uncommon for crias to require bottle feeding, for example where their mothers have insufficient milk or have died. During the first month of their lives, crias require feeds every two hours, and for the first 6 months, bottle feeds should still be given last thing at night (at least 22:00 hrs) and first thing in the morning (06:00- 07:00 hrs). Unlike calves, with bigger stomachs, it is not possible to reduce the rate of feeds for crias whilst increasing the amount, because 'overloading' causes C1 acidosis, and colic can be life threatening..."

...Alpacas are more susceptible to illness than many native species, due to wet winter climatic conditions in the UK, and it is not uncommon for them to progress from showing no clinical signs to being found dead within a 24 hour period. Although it is commonly assumed that alpacas are hardy species, having originated from the Peruvian and Bolivian Andean Altiplano, the climate in these Latin American countries is generally drier than in parts of the UK such as Devon. I also note that there is a 75% mortality rate in Peru; which would not be acceptable in the UK on animal welfare or economic grounds. Whereas sheep have natural oils, alpacas have no such defence against a combination of rain and the cold. This all points to the need for a high level of round the clock 'hands-on' care and a close understanding of the animals.

Although several residents, including local farmers and a vet, challenged the appellant's conclusions on alpaca husbandry, health and welfare, none of them provided firm or specific evidence to seriously challenge these conclusions.

... I therefore conclude that the case for an essential need for someone to be on hand at most times, day and night, is compelling, and that the proposal complies with the requirements of the Framework (paragraph 55)."

³ APP/P1133/A/12/2188539, Little Park Farm, Doddiscombsleigh, Exeter

As noted above, all these issues have been considered on numerous occasions at appeals and rarely do Inspectors conclude that commercial alpaca farms can be developed without an on-site presence. The table below provides a very brief overview of the issues addressed in various appeal decisions - though I have not (at this stage) appended the documents.

	Not like sheep/cattle	Variable length of gestation	Parturition problems	Induced ovulator	Bottle rearing	Hypothermia	Risk of theft	Loss of value	Hiding disease symptom
APP/F1610/A01/1074932		✓						✓	
APP/U1105/C/06/22006875	✓	✓	✓	✓	✓				
APP/T3725/C/07/2058051	✓	✓	✓					✓	✓
APP/L3815/X/08/2066373			✓				✓		
APP/W3005/C/08/2068527		✓	✓	✓				✓	
APP/Y0815/A/08/2075800	✓			✓		✓	✓		✓
APP/G2713/A/08/2080523	✓	✓		✓	✓				✓
APP/X1118/A/08/2083511	✓	✓	✓	✓	✓		✓	✓	
APP/H3320/C/08/2091317	✓	✓	✓	✓	✓	✓			
APP/A2470/A/09/2096081		✓		✓					
APP/X0360/A/09/2103514	✓	✓	✓	✓	✓	✓			✓
APP/J1535/A/09/2115187		✓	✓		✓			✓	
APP/R0660/C/10/2119734		✓	✓					✓	✓
APP/A2470/A/10/2123083				✓		✓			✓
APP/F4410/A/10/2127860		✓	✓					✓	
APP/N1215/A/10/2128486	✓	✓	✓				✓	✓	
APP/X1118/A/10/2129481		✓	✓						
APP/T2405/C/10/2133382		✓	✓		✓			✓	
APP/Y1138/Q/11/2144082		✓	✓			✓			✓

More recent examples include:

	Not like sheep/cattle	Variable length of gestation	Parturition problems	Induced ovulator	Bottle rearing	Hypothermia	Risk of theft	Loss of value	Hiding disease symptom
APP/P1133/A/12/2188539	✓	✓	✓	✓	✓	✓		✓	✓
APP/Y3940/A/13/2200283		✓	✓	✓	✓	✓	✓	✓	✓
APP/C3430/C/13/2209280		✓	✓		✓				✓
APP/T3725/A/11/2159250	✓	✓	✓	✓	✓		✓		✓
APP/W3005/A/14/2218698	✓	✓	✓	✓					✓
APP/W1145/A/14/2218039		✓	✓	✓			✓	✓	✓

The final decision in the table above dealt with an appeal holding in Devon⁴ where there was also input from a specialist camelid vet. Here, the Inspector reported:

"The Council refers me to the British Alpaca Society (BAS) website which states that alpaca are generally hardy, healthy animals that are relatively easy to keep. However, the same website also advises that pregnant females or females with young cria will need a much higher level of supervision. I have been given a number of specific examples of

⁴ APP/W1145/A/14/2218039, Worthy Farm, Dolton, Devon EX19 8PP

incidents which have necessitated human intervention and these provide evidence of the additional level of care required for a breeding alpaca herd.

The BAS states that female alpaca tend to give birth in the morning. If this were the case then supervision could be provided during normal working hours by a non-resident worker. However, a written submission from a veterinary surgeon specialising in camelid medicine suggests that many births occur in the late afternoon and evening. Evidence presented at the hearing supports this, with the appellant having had direct experience of evening births.

The gestation period in alpaca is highly variable, with births happening several weeks either side of the due date. Moreover, alpaca have the ability to disguise signs of labour and therefore close monitoring of the pregnant females is required. It is largely impossible to know if a birth is imminent, and similarly difficult to predict whether problems are likely to occur.

It is put to me that most of the problems that arise could be dealt with by a non-resident worker and that at most an occasional overnight stay might be needed. However, it seems to me that this is impractical for a herd of this size. Mating is not always successful and may need to be repeated. The likelihood, therefore, is that pregnancies would be staggered. When combined with the unpredictable gestation period this would create a wide birthing window which would necessitate a worker living on site for a prolonged period.

Overall, whilst the routine animal husbandry, mating and halter training can take place during normal working hours there is sufficient evidence to persuade me that there is a need to closely monitor pregnant females and young cria, and respond promptly to any problems. This creates an essential need for a worker to be readily available at most times. The absence of any available dwellings within sight and sound of the holding means that the most practical solution is for a worker to live on site.

Although the essential need to live on site arises as a result of animal welfare considerations, I am mindful of the fact that some of the alpaca are high value animals. The loss of one alpaca could therefore have serious financial implications for the business. This adds further weight to the appellant's case". (Emphasis added)

On the issue of standard man days, again, Mr Rhodes has also failed to take account of the findings of the Fairie-Tale decision where the Inspector expressly rejected the Council's position and - finding for the appellant - reported:

"There are no established standard man day (SMD) guidelines for the assessment of the manpower required to run an alpaca farm in the UK. The appellant has made estimates based on Australian data, factored down to more closely reflect UK conditions. These estimates suggest one full time worker would be required at Faerie-Tale Farm. The Council's estimate based on figures for dairy cows suggests only a part-time requirement. I acknowledge that both approaches need to be treated with caution, as neither set of base data is directly applicable to FTA. Nonetheless, I give the appellant's estimate greater weight, as whilst there are some similarities between dairy cows and alpacas, such as giving birth once a year, there are also significant differences in manpower requirements, such as the time taken to shear alpacas. I note that Annex A of PPS7, referred to by the Council, did not require proposals for temporary dwellings to demonstrate that the need relates to a full-time worker and that the trial period proposed in this case would allow more site specific data to be gathered".

Perhaps most importantly, in the Costs Decision (found against the Council) the Inspector directed:

"The first Inspector determined it had been demonstrated that there was a functional need for a worker to be readily available at most times and that need could not be met by other accommodation in the area, such as within Kenilworth. The reasoning and conclusions of the second Inspector do not indicate that an alternative conclusion would be justified in relation to these matters and these are aspects of his decision which were not subject to challenge. Nonetheless, the Council persisted in its objection to proposal A on the basis that a functional need had not been demonstrated and, if it had been, the need could be met by other accommodation in the area. In my judgement, the Council has failed to produce any compelling new evidence to substantiate its position. My own conclusions, on basis of the updated evidence before me, align with those of my colleagues in relation to these matters. I consider that by persisting in this objection, the Council has behaved unreasonably and this has caused the appellant to incur unnecessary expense in dealing with those matters during the re-determination of appeal A".

Put plainly, quite why Mr Rhodes considers he is better qualified to report on this matter than vets, professional owners, Planning Inspectors and other Council advisors has not been made clear, and I consider the Council should take close attention to all the above decisions, rather than rely on the opinion of their advisor - especially where Inspectors have found against Mr Rhodes' professional advice.

6.3.1 *et seq* Financially Sound

The issue of whether a business has been planned on a sound financial basis is often a difficult topic upon which to be determinative - hence the provision in the (revoked) PPS7, Annex A for a 3-year period in which to prove the viability of a plan.

This has been acknowledged in numerous appeal decisions including two with alpacas (in Wiltshire⁴ where the Inspector reported:

"...for the time being it would appear premature to reach a judgement that financial viability for the suggested enterprise would be out of the question at the end of the trial period..."

And, in Doncaster:

"...For the time being and in the light of current projections, it would seem to be premature to reach a judgement that financial viability would be out of the question at the end of a trial period of 3 years..."

In Somerset (where I was acting for Third Party objectors) the Inspector opined:

"...overall I give more weight to the figures supplied by the appellant. In doing so I am mindful that it is he who will be taking the financial risk and that if he felt the market conditions were such that that risk was excessive, then the enterprise would not go ahead".

On the issue of whether the applicant should generate an income sufficient to reward her labour input with an income equivalent to the minimum wage - or as Mr Rhodes suggests - some arbitrary greater figure, the guidance from Government (issued to LPAs in 1992) was that the minimum (agricultural) wage should be used.

The use of this methodology still has the backing of the Courts including in Roger Raymond Jarman-v-Welwyn Hatfield DC where it was reported:

"Paragraph 110 [of PPG7] reads:

"New permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. A financial test is necessary for this purpose, and to provide evidence of the size of dwelling which the unit can sustain.

There is accordingly a financial test provided and generally recognised which was developed by MAFF and known as "LU1893". The applicable document in this case was dated December 1992...

LU1893 stated that a viable and sustainable agricultural business needed to generate sufficient surplus income to finance:

- i) a return to land capital;
- ii) a return to working capital;
- iii) a return to labour.

These were then taken to be:

- i) a rental equivalent for the land - say, £100-£300 per hectare;
- ii) 2½% return on working capital;
- iii) the minimum agricultural wage

The figures presented with this application were prepared along exactly these (Court-endorsed lines) with figures being added into the assessment for unpaid labour (£14,000); a figure for rental of £1,000 (based on £250 per hectare); and a rate of return to investment of 2.5%).

6.4.1 et seq Locally available housing

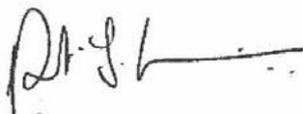
Housing off site will not provide the availability of cover required for this business as it drives forward. To suggest that living 0.5-miles distant will still enable adequate care to be provided to vulnerable stock is cavalier and somewhat at odds with the requirements of the Animal Welfare Act (2007).

Attending to pre-parturient animals on a regular basis - but at a distance - is counter intuitive.

Providing bottle feeds every 2 hours over a 1-2 month period to vulnerable cria travelling ½-mile each way is equally wholly impractical.

Overall, Mr Rhodes' comments lack the backing of previous Planning Inspectors and seem to rely on the fact that there is insufficient land to accommodate the stock - which point was addressed at the site visit - and has been ignored in his report to the Council.

Yours sincerely



Peter Williams BSc, OND, MBIAC



Appeal Decisions

Hearing held on 8 and 9 July 2014

Site visit made on 8 July 2014

by **I Jenkins BSc CEng MICE MCIWEM**

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

Decision date: **11 November 2014**

Appeal A - Ref: **APP/T3725/A/11/2159250**

Faerie-Tale Farm, Rouncil Lane, Kenilworth, Warwickshire, CV8 1NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Faerie-Tale Alpacas Limited against Warwick District Council.
 - The application Ref. W/10/0922, is dated 9 July 2010.
 - The development proposed is the siting of a temporary agricultural worker's mobile home (revised proposal).
 - This decision supersedes that issued on 3 September 2012. That decision on the appeal was quashed by order of the High Court.
-

Appeal B - Ref: **APP/T3725/A/11/2159251**

Faerie-Tale Farm, Rouncil Lane, Kenilworth, Warwickshire, CV8 1NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Faerie-Tale Alpacas Limited against Warwick District Council.
 - The application Ref. W/10/0923, is dated 9 July 2010.
 - The development proposed is the erection of a general purpose agricultural building (revised proposal).
 - This decision supersedes that issued on 3 September 2012. That decision on the appeal was quashed by order of the High Court.
-

Decisions

1. Appeal A is allowed and planning permission is granted for the siting of a temporary agricultural worker's mobile home (revised proposal) at Faerie-Tale Farm, Rouncil Lane, Kenilworth, Warwickshire, CV8 1NN in accordance with the terms of the application, Ref W/10/0922, dated 9 July 2010, subject to the conditions set out in the attached *Appeal A - Schedule of Conditions*.
2. Appeal B is allowed and planning permission is granted for the erection of a general purpose agricultural building (revised proposal) at Faerie-Tale Farm, Rouncil Lane, Kenilworth, Warwickshire, CV8 1NN in accordance with the terms of the application, Ref W/10/0923, dated 9 July 2010, subject to the conditions set out in the attached *Appeal B - Schedule of Conditions*.

Application for costs

3. At the Hearing, an application for costs was made by the appellant against Warwick District Council. This application is the subject of a separate Decision.

Procedural matters

4. Faerie-Tale Farm comprises approximately 5.9 hectares of pasture land, which is situated within an area of open countryside that forms part of the West Midlands Green Belt. At the Hearing the Council and appellant agreed that in both cases the appellant is Faerie-Tale Alpacas Limited (FTA), which is run by Ms (Miss) Kierti Vaidya whose name appeared on the planning application forms. In 2008 the appellant commenced an alpaca breeding and fleece products enterprise on this land. The farm is positioned to the southwest of, and is accessed from, Rouncil Lane.
5. The respective applications indicate that proposal B involves the erection of a general purpose agricultural building and proposal A the siting of a temporary agricultural workers mobile home for a period of up to 3 years. Appeals involving similar, although not identical, proposals were dismissed in 2010¹. The findings of my colleague, who I will refer to as the 'first Inspector', are a material consideration in the cases before me.
6. The appeals now before me were first heard by way of a Public Inquiry held by the 'second Inspector', which opened on the 10 January 2012. His decisions, dated 3 September 2012, were the subject of an application to the High Court by the appellant, and on 10 July 2013, the Court ordered, by consent, that the decisions be remitted to the Secretary of State for re-hearing and re-determination. The Courts have made clear that in re-determining a planning appeal the case has to be considered 'de-novo'. Therefore, while the details of the previous decisions and grounds upon which they were quashed are a material consideration, it is essential also to give renewed consideration to the planning issues.
7. In each case the appeal is against the Council's failure to give notice of its decision within the prescribed period. In its Statement of Case, dated November 2011, the Council set out its main areas of concern. In relation to both proposals, the Council cited harm to the openness of the Green Belt as well as the character and appearance of the countryside. It also considered that proposal A amounted to inappropriate development in the Green Belt and evidence had not been submitted to show that any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development. It cited, in particular a lack of evidence to show: a firm intention and ability to develop the enterprise; a functional need for the dwelling; and, that the business had been planned on a sound financial basis.
8. Prior to the Hearing, the Council and appellant have submitted a Statement of Common Ground, dated 30 May 2014 (SoCG). It confirms, in relation to proposal A, that the Council is now content that the appellant has demonstrated the intention and ability to operate the enterprise.
9. Proposal B considered by the second Inspector included the retention of an existing area of concrete hardstanding, which is located on higher ground some

¹ APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 and 2103183.

distance to the southwest of the position of the proposed agricultural building. In keeping with the SoCG, at the Hearing the appellant requested that the appeal be considered on the basis that the existing concrete hardstanding would not be retained and in the event of appeal B being allowed a condition be imposed to ensure that it would be removed. There was no objection to this approach at the Hearing and I consider that it would be unlikely to prejudice the interests of anyone. Therefore, I have considered proposal B on the basis that it includes the removal of the existing concrete hardstanding. The SoCG indicates that, subject to the removal of this existing hardstanding and in light of the findings of the second Inspector, the Council has no objection to the grant of planning permission for proposal B. However, the objections of some others have not been withdrawn.

10. The application the subject of Appeal A was accompanied by a drawing which showed the location of the proposed dwelling. Whilst it gave, amongst other things, an indication of the location of the existing hardstanding on the farm holding, the extent of the area was unclear. At the Hearing, the appellant provided drawing no. 2013/01/E, which clarified the extent of the existing hardstanding. In support of appeal B the appellant also provided drawing no. 2013/01/F, which clarified the extent of the existing concrete hardstanding and the forecourt of the proposed agricultural building. There were no objections from those present at the Hearing to those new plans being taken into account. I consider that the differences between the new and original plans are minor and it would be unlikely to prejudice the interests of anyone to do so. Therefore, I have taken account of drawing nos. 2013/01/E and F.
11. During the course of the appeals the *National Planning Policy Framework* (the Framework) has been published, replacing *Planning Policy Guidance 2-Green Belts* and *Planning Policy Statement 7-Sustainable Development in Rural Areas* (PPS7). The national *Planning Practice Guidance* (PPG) has also been published.
12. Following the close of the Hearing, the *Redhill Aerodrome Ltd v SSCLG & Tandridge DC & Reigate and Banstead BC* [2014] EWHC 2476 (Admin) judgement (Redhill judgement) was issued, which dealt in part with the interpretation of 'any other harm' when considering in Green Belt cases whether '*the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations*'. The parties who had been present at the Hearing were given an opportunity to comment on whether the judgement had any implications for their cases. However, since then the judgement has been overturned by the Court of Appeal² and so I give it no weight.
13. I will deal first with appeal B.

Appeal B – Main issues

14. I consider that the main issues in this case are the effect of proposal B on the character and appearance of the locality and the openness of the Green Belt.

Reasons

Character and appearance

² [2014] EWCA Civ 612.

15. Policy DP3 of the *Warwick District Local Plan, 1996-2011* (LP), seeks to ensure that development proposals protect and enhance the landscape character of the area. The reasoned justification for this Policy indicates that proposals will have to accord with the principles set out in the *Warwickshire Landscapes Guidelines* which has been adopted by the Council as Supplementary Planning Guidance (SPG). The SoCG confirms that the farm holding lies within the Arden Regional Landscape Character Area, as identified by the SPG, and more specifically an area characteristic of the Arden Parklands Landscape Type. The SPG indicates that characteristic features of this landscape type include a gently rolling landscape defined by woodland edges, belts of trees and thick roadside hedgerows. Characteristics of built development in the locality are identified by the SoCG as a dispersed settlement pattern of brick-built farmsteads, modern farmsteads, hamlets and loose clusters of wayside cottages. The aims of the SPG include ensuring that: new agricultural buildings are sited, designed and landscaped to blend in with the surrounding farmed landscape.
16. The proposal comprises an agricultural building with forecourt to the front. The form and construction of the proposed agricultural building, which would have a pitched roof clad in corrugated sheeting and walls clad in timber, would be typical of many others in rural areas. Furthermore, its size would be modest in comparison with a number of other agricultural buildings that I saw in the locality.
17. Proposal B would be situated towards the northeastern corner of the farm holding, on land which is relatively low lying in comparison with the proposed location before the first Inspector. Mature planting, which comprises hedgerow and trees, along the northeastern boundary of the site would soften the appearance of the development, if not entirely screen it from view, when passers-by along Rouncil Lane look towards the site. The nearest public vantage points to the west which provide views towards Faerie-Tale Farm are some distance away and those views are limited to an extent by intervening planting. Under these circumstances, and given its relatively low lying position, proposal B would not be a prominent addition to the landscape when viewed from those vantage points. In my judgement, it is likely that the only public vantage point from which the whole of the proposal would be visible would be from the public footpath that runs through the farm holding from Rouncil Lane. The visual impact of the proposal when seen from there could be softened to a degree through planting, which could be secured by condition, thereby strengthening the wooded character of the locality.
18. I consider that the proposed development would be sited, designed and landscaped to blend in with the surrounding farmed landscape, in keeping with the aims of the SPG. I conclude that the effect of proposal B on the character and appearance of the locality would be acceptable. It would accord with the aims of LP Policies DP3 and DP1; a view shared by the Council, as confirmed at the Hearing.

Green Belt

19. The appeal site is situated in an area of the Green Belt which, in my view, serves the purpose of assisting in the safeguarding of the countryside from encroachment. The Framework indicates that, with certain exceptions, the construction of new buildings within the Green Belt is inappropriate

development. The identified exceptions include buildings for agriculture³. As I have indicated the form and construction of proposal B would be typical of many others in rural areas. I am content that, in terms of its physical appearance and layout, the proposed development would be capable of use for the purposes of agriculture. Therefore, in my judgement, proposal B would not constitute inappropriate development in the Green Belt under the terms of the Framework. However, by introducing new building to an undeveloped area of pasture, it would encroach on the countryside, reducing the openness of the Green Belt.

20. I conclude that whilst proposal B would not constitute inappropriate development in the Green Belt, it would encroach on the countryside, causing limited harm to the openness of the Green Belt. The Framework indicates that the essential characteristics of Green Belts are their openness and permanence and substantial weight should be given to any harm to the Green Belt.

Other matters

21. Whilst alpacas are known to be tolerant of low temperatures, they are more at risk from wet conditions and can deteriorate quickly when ill. A number of field shelters have been deployed within the farm holding. However, I agree with the appellant that these open fronted structures would not provide adequate shelter for alpacas when ill or during severe weather conditions, functions that could be satisfactorily fulfilled by the proposed agricultural building. In the absence of such a building, the appellant has, not unreasonably in my view, found it necessary to pay for the stock to be accommodated at another farm during the winter where suitable shelter can be provided when necessary. The proposed building would also provide space suitable for the storage of feed, shearing activity as well as both the sorting and storage of fleece, and would allow alpacas to be shown to prospective buyers under cover. In light of the number of animals already on the farm holding, I am content that proposal B is necessary in order to meet these identified needs of the enterprise. The framework gives encouragement to the development of agricultural businesses in the interests of supporting a prosperous rural economy. I consider that the benefits of proposal B in these respects would together be sufficient to outweigh the harm that it would cause to the openness of the Green Belt.
22. The SoCG confirms the view of the Council that planning permission can be granted subject to conditions. This adds further weight to my findings.

Conditions

23. The SoCG suggests that a number of conditions, 1 to 7, should be imposed in the event of the appeal being allowed and planning permission granted in this case. I consider that in addition to the normal commencement condition (1), a condition would be necessary in the interests of clarity and proper planning, to ensure that the works are undertaken in accordance with the approved plans. In the interests of visual amenity, conditions (2 & 3) would be necessary to control the materials used in the external surfaces of the proposed building as well as hard and soft landscaping within the farm holding.

³ The Town and Country Planning Act, 1990 (as amended) s336 - 'agriculture' includes ... the breeding and keeping of livestock (including any creature kept for the production of wool), the use of the land for grazing land.

24. At the Hearing, the Council confirmed that the visibility splays necessary to allow drivers to safely emerge from the farm holding onto the highway fall within the highway verge, controlled by the Highway Authority. Therefore, the condition (4(i)) listed in the SoCG which seeks to ensure that adequate visibility splays are maintained would not be necessary. I have no reason to disagree. However, a condition (4(ii)) would be necessary, in the interests of highway safety, to ensure that facilities would be provided within the farm holding to allow vehicles to turn around and thereby leave in a forward gear, securing compliance with LP Policy DP6.
25. Badgers have been recorded in the area local to, although not within, the farm holding. Consequently, a condition would be necessary to ensure that a pre-development survey would be carried out and any necessary mitigation measures put in place, in order to safeguard the interests of this protected species (5).
26. As previously mentioned, a condition would be required to ensure that the existing concrete hardstanding shown on the application plans is removed (6). I consider that this would be necessary in order to limit the impact of development within the holding on the character and appearance of the locality. A condition would also be necessary to ensure that the use of the proposed building is related to agriculture. However, in my judgement, it would be unreasonable to require the removal of the building in the event that use by FTA was to cease (7). The building is clearly intended to be permanent and it may well be of use for other agricultural activities.

Conclusion

27. For the reasons given above, I conclude that the appeal B should be allowed.

Appeal A - Main issues

28. I consider that the main issues in this case are: the effect of the proposed temporary agricultural worker's dwelling on the character and appearance of the locality; whether the proposal would be inappropriate development in the Green Belt; its effect on the openness of the Green Belt; and, if it would be inappropriate development in the Green Belt, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Character and appearance

29. The proposed dwelling, which would be a single storey structure, would be set back to the southwest of Rouncil Lane beyond the proposed position of the agricultural building. Consequently, it would not reflect the setting of the nearest neighbouring dwellings along the lane, which have the appearance of wayside cottages. Nonetheless, this is not fatal to the proposal given that the pattern of development in the locality includes dispersed farmsteads with some properties set back from the highway. Proposal A would be sited on lower ground than the dwelling considered by the first Inspector. In common with the proposed agricultural building, this would reduce the potential for it to be seen from the wider surroundings and it would be possible to ensure that the partial screening effect of planting along the roadside boundary would be

reinforced by condition. This particular measure would also continue to enhance the character and appearance of the locality after the time limited planning permission sought for the proposed dwelling has expired.

30. However, the proposed dwelling would be clearly visible from the public footpath that runs through the farm holding. The SPG indicates that a characteristic feature of the Arden landscape is brick built dwellings and it seeks to ensure that new housing should harmonise with the vernacular style. The proposal, which would have a 'log cabin' type appearance, would not do so. Nor, due to the pronounced overhang of the front section of its roof, would it reflect the design of other timbered buildings I saw hereabouts. I consider that, as a consequence, it would harm the character and appearance of the locality as appreciated from the footpath through the farm holding.
31. Nevertheless, given the temporary nature of the development proposed, a brick built structure would not be appropriate in this particular case, as it would not be easily dismantled and removed at the end of the period, whereas the proposed temporary structure could be. Furthermore, in comparison with a caravan, which is likely to be the only alternative, the proposed timber structure would have an appearance which is more natural and sympathetic to this rural location.
32. I conclude overall that the effect of proposal A on the character and appearance of the locality would be acceptable. It would accord with the aims of LP Policies DP3 and DP1. This is a position which was conceded by the Council at the Hearing, although not clearly set out in its previous written submissions.

Inappropriate development in the Green Belt

33. The Framework identifies exceptional purposes for which the construction of new buildings in the Green Belt are not considered to be inappropriate. The proposed dwelling is not for one of those purposes. I conclude therefore that the scheme would amount to inappropriate development in the Green Belt; a matter which is accepted by the appellant⁴. The Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. These circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Openness

34. By introducing the proposed dwelling to an undeveloped area of pasture, the proposal would encroach on the countryside, reducing the openness of the Green Belt. However, as the scheme involves a temporary dwelling of modest proportions, the harm would be limited.

Other considerations

Need

35. The Framework indicates that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances,

⁴ Fordent Holdings Ltd SSCLG & Cheshire West and Chester Council [2013] EWHC 2844 (Admin).

such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. The appellant argues that the proposed temporary dwelling is required to meet such a need related to FTA, a matter disputed by the Council, the Parish Council⁵ and some others.

36. The business plan for FTA is based on: the establishment of a high quality breeding herd of alpacas from which around 10 breeding females would be sold annually when the herd size has stabilised at the planned level of approximately 25 to 27 breeding females and a total herd size of around 70 to 75 alpacas; the sale of male alpacas, which, as well as taking a role in breeding, can be used as pets or to protect sheep and chickens from predators; and, the harvesting of fleece to be processed into yarn and other fleece based products. At the time of the Hearing, the herd comprised some 58 alpacas, including more than 20 breeding females.
37. Much of the animal husbandry required at Faerie-Tale Farm comprises routine activities during daylight hours, such as feeding and routine welfare checks on alpacas, which are known for giving little indication of oncoming ill health. As alpacas are induced ovulators, the mating process can also be managed during the daytime and can theoretically proceed throughout the year. However, there is no dispute that it can be difficult to determine whether mating has been successful at an early stage of a pregnancy and lost pregnancies are relatively common. Whilst these factors may lead to a need for re-mating later in the year, the appellant has indicated that in the absence of an agricultural building to house new born alpacas in bad weather, mating has so far had to be curtailed to avoid winter births. Consequently, at the time of the Hearing only 14 of the breeding females in the herd were pregnant and historic records for FTA indicate that to date the majority of births have occurred in the period May to September inclusive. The appellant has confirmed that in the event of the proposed agricultural building becoming available, it would be its intention to breed all year round. Given that the financial success of the enterprise relies heavily on breeding rates, I consider that this would be likely.
38. In common with cattle, horses and sheep, daytime births are most common⁶. However, FTA records indicate that births have taken place at Faerie-Tale Farm during the night. Furthermore, difficulties during birthing are not unusual, requiring intervention. The appellant has confirmed that alpacas frequently give birth up to 2-3 weeks either side of the anticipated birth date and the Council acknowledges that the onset of birth cannot be readily predicted. I accept, as indicated by the appellant, that these factors are likely to necessitate close attention being paid to a pregnant female in the lead up to the anticipated birth date. In addition, the appellant has confirmed that it is not uncommon for new born alpacas to have to be hand reared, due to a lack of dam's milk, which involves night-time feeds for at least the first 2 months following birth. A matter not disputed by the Council.
39. There are no established standard man day (SMD) guidelines for the assessment of the manpower required to run an alpaca farm in the UK. The appellant has made estimates based on Australian data, factored down to more closely reflect UK conditions. These estimates suggest one full time worker would be required at Faerie-Tale Farm. The Council's estimate based on figures for dairy cows suggests only a part-time requirement.

⁵ Beausale, Haseley, Honiley & Wroxall Parish Council.

⁶ The Planning Inspectorate's Case Law and Practice Guide 7 – Alpaca farming

I acknowledge that both approaches need to be treated with caution, as neither set of base data is directly applicable to FTA. Nonetheless, I give the appellant's estimates greater weight, as whilst there are some similarities between dairy cows and alpacas, such as giving birth once a year, there are also significant differences in manpower requirements, such as the time taken to shear alpacas. I note that Annex A of PPS7, referred to by the Council, did not require proposals for temporary dwellings to demonstrate that the need relates to a full-time worker and that the trial period proposed in this case would allow more site specific data to be gathered.

40. There have been instances of vandalism and attempted theft of equipment at the farm holding and although there have been no incidents of dogs attacking the livestock, such incidents have been recorded at other farm holdings. By enabling a worker to stay on site at most times, the proposed dwelling would improve the security of the site. However, storage of equipment out of sight in the proposed agricultural building would also reduce the risk of vandalism and theft. Although walkers using the public footpath across the land may contribute to security by providing some natural surveillance, I understand that it is not a well used path and so the positive effects of this would be limited. For the same reason the likelihood of dog attacks is also likely to be small. Whilst the benefit of living on site in terms of added security adds some weight in favour of the scheme, it would not be sufficient on its own to justify an agricultural dwelling.
41. The provision of a temporary dwelling as proposed would facilitate the implementation of the appellant's business plan in full. In light of the planned herd size and the likelihood of birth/rearing activities extending throughout much of the year, I am content that it is likely to be essential for the proper functioning of the planned enterprise for a worker to be readily available at most times. These findings are consistent with the views reached by the first and second Inspector.

Other accommodation

42. The Council has suggested that the needs of the stock could be managed from an off-site dwelling with the monitoring necessary for alpacas close to parturition provided by utilising a seasonal caravan at the farm holding. Given the likelihood that the period when parturition monitoring is required is likely to extend beyond the warmer months of the year, in my view, reliance on a seasonal caravan for that purpose would not be appropriate. Whilst the appellant has made use of a touring caravan on site for parts of the year in the past, in the winter the stock has generally been kept elsewhere.
43. There is no evidence before me to show that there is other suitable accommodation within the immediate vicinity of the farm. I do not doubt that a range of reasonably priced dwellings are likely to be available for purchase or rent within 3 miles of the site, which would include parts of the town of Kenilworth. However, I consider that as the functional need relates in large part to unpredictable birth times and the need for intensive care of some stock, meeting this need would be likely to involve travelling back and forth at all hours, which would not be reasonable. In my judgement, the functional need of the enterprise is unlikely to be met by existing accommodation in the area which is suitable and available for occupation by the worker concerned.

This finding is consistent with the views reached by the first and second Inspector.

Sound financial planning

44. Given the investment made in the herd and breeding success to date, I am content that the appellant has shown clear evidence of a firm intention and ability to develop the enterprise. This is a view shared by the first and second Inspector and now also by the Council, as set out in the SoCG. However, the first Inspector found, on the basis of the evidence before him, that there was not clear evidence that the enterprise had been planned on a sound financial basis. The Council and the Parish Council have suggested that this remains the case and as a consequence, it cannot be regarded as sustainable.
45. There is no dispute that, unlike Appendix A of PPS7 which is no longer extant, paragraph 55 of the Framework does not require a 'financial test' to be applied when considering agricultural dwellings⁷. Nonetheless, I agree with the Council that the question of whether the enterprise has been planned on a sound financial basis is a material consideration when determining whether the proposal is likely to amount to sustainable development.
46. Ms Vaidya commenced the alpaca breeding enterprise as a sole trader at Faerie-Tale Farm in 2008. She was supported in this by her parents, Mr & Mrs Vaidya, through, amongst other things, the provision of loans. In light of the concerns raised by the first Inspector, the business was restructured prior to the submission of the planning applications which are now before me. This included the formation of a Limited company, FTA, with Ms Vaidya and her parents as equal shareholders, on the basis of which the sums loaned within the family were written off. As shareholders Mr & Mrs Vaidya have a vested interest in seeing the enterprise succeed and I have no reason to believe that their support is likely to be withdrawn in the foreseeable future. The land and permanent fixtures at Faerie-Tale Farm, which would include the proposed agricultural building, are separately owned and rented to FTA as a tenant. This separation of landlord's and tenant's interests is common place in the agricultural sector and, in my judgement, it is no less legitimate in this case in which the same people comprise the landlords as well as the shareholders of FTA.
47. The budget projections provided by the appellant indicate that, after deduction of an agricultural wage, the enterprise would generate a profit within 3 years providing a return on the investment made.
48. The sales value of alpacas is of significant importance to the question of profitability. The price paid for alpacas is greatly influenced by factors such as bloodline and fleece quality and against this background the strategy of FTA is based on breeding high quality animals. A comparison between the results of a professional valuation of FTA's pregnant female stock undertaken in August 2011 and data from the UK Alpaca Seller website in December 2011 appears to indicate the FTA is succeeding in that respect. While the website cited an average price of £3,264, an average value of £3,890 was put on pregnant FTA females.

⁷ The Queen on the application of Embleton Parish Council, David Ainsley v Northumberland County Council v Ivor Gaston [2013] EWHC 3631 (Admin).

49. However, there is no dispute between the parties that prices have declined in recent years. Between December 2011 and April 2014 the average price quoted on the UK Alpaca Seller website for pregnant females had fallen from £3,264 to £2,820. I agree with the appellant that this fall in prices is likely to have been caused, at least in part, by the poor conditions in the wider economy over recent years. However, the wider economy has begun to recover and I have not been provided with any compelling evidence to show that alpaca prices are likely to continue to decline in the longer term. The appellant has made some allowance for the drop in prices over recent years in its budget projections. For example, it has used an average figure of £3,500 for pregnant females.
50. In my judgement, the validity of the average rates used by the appellant in its budget projections are not cast into doubt by its decision this year to advertise 2 of its female alpacas on the UK Alpaca Seller website for much lower rates. Whilst the value of some, such as those advertised, may fall short of the average, in light of the results of the professional valuation undertaken in 2011, a number are also likely to have a value significantly greater than the average.
51. During the period 2008 to 2014 although alpacas have been bred by FTA, no sales of the animals have taken place and only a small amount of fleece has been sold. The Council and a number of objectors suggest this indicates that the stock values assumed by the appellant are unrealistic and the enterprise is unlikely to become viable.
52. For its part the appellant argues that lack of progress in these respects is a direct result of the refusal of planning permission for the two schemes now before me. It indicates that when selling high value stock such as alpacas, an essential aspect is to give the buyer confidence that the seller has credibility and the ability to provide after sales support. Furthermore, it is difficult to promote confidence when operating from a touring caravan on the site. The agricultural building would be used in part as a facility within which alpacas could be prepared for sale and shown to buyers under cover and away from the herd. The dwelling would include some office space. Furthermore, given the uncertainties as to whether the identified facilities will become available, thereby allowing the business plan to be implemented in full, the appellant has indicated that it has been unable to make any significant commitments as regards the supply of fleece or fleece products to others. In my judgement, the appellant's explanation for lack of sales is plausible and a trial period, which would be facilitated by the two schemes before me, would allow it to be tested.
53. Under the circumstances, I consider that the absence of alpaca sales to date does not cast significant doubt over the values assumed in the budget projections, nor does this together with the limited progress in the sales of fleece/fleece products give a reliable indication of the future viability of the enterprise. In my judgement, these factors should be afforded little weight at this particular stage. Furthermore, in light of the UK Alpaca seller website April 2014 data and given the high quality breeding strategy of the enterprise, I consider that the values put on stock within the appellant's budget projections are likely to be reasonable.
54. I have had regard to the observation of some of my colleagues that *'there must be dangers in a business model based on buying expensive animals for*

*breeding, and selling them to other people to do the same thing*⁶ and the Council's 'pyramid selling' analogy. However, I have not been provided with any compelling evidence to show that such dangers would be likely to pose a threat to the appellant's enterprise in the foreseeable future. The evidence provided by the appellant indicates that the size of the UK herd has continued to rise over recent years and new markets are opening up in Europe.

55. Having discounted certain areas of land within the farm holding that are unlikely to be productive, such as the area occupied by the footpath, the planned herd size would result in a stocking rate of around 6 alpacas per acre. This appears reasonable in light of the evidence provided by the appellant concerning the practice of other alpaca breeders, which indicates that sustainable stocking rates generally fall within a range of 4 to 8 alpacas per acre. Whilst the Council and others argue that the quality of the grassland would suggest the lower end of the range would be more appropriate, this is disputed by the appellant, whose view I give greater weight, given its direct experience of the grazing needs and impact on the land of alpacas. Based on the evidence presented, I am content that sufficient land is available at the farm holding to sustain the herd size proposed. I am also conscious that this is a matter which the proposed trial period would serve to test further.
56. I understand that the cost of the erection of the proposed agricultural building would be borne by the landlords, adding to the capital value of the property, rather than the outgoings of the enterprise. Similarly the proposed temporary dwelling is already separately owned by Ms Vaidya and she would station it at the farm during the trial period without cost to the business. Under the circumstances, I consider it reasonable that no costs have been attributed to these items in the FTA budget projections. The Council and the Parish Council have suggested that a number of other costs should be reflected in the budget projections, such as land rent, and they have cast doubt over other items, such as the continuing availability of Single Farm Payment. However, based on the evidence presented, I am not convinced that such matters would be likely to have a significant effect on the financial analysis. Whilst the landlords have formally agreed to suspend rent until the enterprise starts operating profitably, an allowance has been made for the payment of an enhanced level of rent beyond that point.
57. I consider overall, there is clear evidence that the enterprise has been planned on a sound financial basis. The appeal A scheme is for a temporary dwelling which would provide the enterprise with an opportunity to demonstrate the validity of assumptions underlying its budget projections and that it can become profitable and be sustained in the longer term.
58. Whilst my attention has been drawn to a number of appeal decisions related to proposals elsewhere, none of them deal with circumstances that are directly comparable to those in the cases before me, one of the important factors being herd size and numbers of breeding females, and so I have found them to be of little assistance.

Conditions

59. The SoCG suggests a number of conditions, 1-10, should be imposed in the event of the appeal being allowed and planning permission granted in this case.

⁶ APP/T3725/C/09/2105468, APP/T3725/A/09/2103181 and 2103183 para 78.

I consider that in addition to the normal commencement condition (1), conditions would be necessary in the interests of clarity and proper planning, to ensure that the works are undertaken in accordance with the approved plans and occupation of the dwelling is linked to work at Faerie-Tale Farm (2). A condition would be required to ensure that the proposed dwelling would be removed from the site in a timely manner following the expiration of the identified temporary period. Due to the timing of the decision, approaching winter, I agree with the appellant that it may not now be possible to establish the proposed dwelling on site for up to 6 months. Consequently, I consider that it would be reasonable to extend the period over which the planning permission would remain extant from 3 years (36 months) to 42 months.

60. In the interests of visual amenity, conditions would be necessary to control hard and soft landscaping within the farm holding (4/10) as well as the materials used in the external surfaces of the proposed dwelling and external lighting (6). At the Hearing, the Council confirmed that it is not necessary to restrict permitted development rights, as there would be little scope for such development within the confines of the appeal site boundary (5). I agree. For the reasons referred to above in relation to proposal B, conditions would be necessary to ensure the provision turning space within the site (7) and to secure a pre-commencement badger survey and any associated mitigation (9).
61. At the Hearing, the appellant confirmed that an underground sewage treatment plant has been installed on site to service the needs of the proposed dwelling and a permit allowing a discharge from the plant to Inchford Brook, which runs through the farm holding, has been issued by the Environment Agency. However, a permanent power supply has yet to be provided, in the absence of which the plant has not been commissioned. Nonetheless, subject to the imposition of a condition (8) to ensure that the plant is commissioned prior to the occupation of the proposed building, drainage of the site would be acceptable and the scheme would accord with the aims of LP Policy DP9, which seeks to control pollution.
62. The proposed dwelling would be sited on sloping ground and the appellant has indicated that its floor level would be positioned no higher than the mid-point of the slope of the land within the footprint of the building. A condition would be necessary to ensure that this is the case, in order to control the ridge level of the dwelling and thereby limit its visual impact.

Conclusion in relation to the other considerations

63. The siting and temporary nature of the proposed single-storey dwelling would limit its impact on the character and appearance of the locality. Associated planting, secured by condition, would be likely to provide longer term benefits for the landscape. Insofar as its provisions remain relevant, the scheme would accord with the aims of the Development Plan.
64. However, the proposal would amount to inappropriate development which is, by definition, harmful to the Green Belt. It would encroach on the countryside, contrary to a purpose of the Green Belt designation and would harm the openness of the Green Belt, albeit to a limited extent given the modest size of the proposed building and that it would be removed after a relatively short period of time. The Framework indicates that substantial weight should be given to any harm to the Green Belt.

65. Nevertheless, there are other considerations that weigh in favour of the scheme. The appellant has shown a firm intention and ability to develop the enterprise in accordance with its budget projections. It is likely to be essential for the proper functioning of the planned enterprise for a worker to be readily available at most times and it is unlikely that this need could be met by existing accommodation in the area. In addition, there is clear evidence that the proposed enterprise has been planned on a sound financial basis. The provision of a temporary dwelling as proposed would facilitate the implementation of the appellant's business plan in full, thereby providing the opportunity to demonstrate whether the enterprise is likely to be financially viable in the longer term and whether there is a need for more permanent accommodation. The Framework seeks to promote the development of agricultural businesses as a means of promoting a strong rural economy and also to deliver needed homes.
66. Having had regard to the particular economic, social and environmental aspects of the scheme before me, I consider that the benefits are sufficient to clearly outweigh the harm that I have identified and the proposed temporary dwelling would amount to sustainable development. In my view, looking at the case as a whole, very special circumstances exist which justify the proposed development and it would accord with the aims of the Framework.
67. The particular circumstances in the case before me are not the same in all respects as those before the second Inspector, who reached a different conclusion. In its Hearing Statement, the Council has indicated that if it is demonstrated that: there is a firm intention and ability to develop the enterprise; there is a functional need for a dwelling at the site; and, the enterprise has been planned on a sound financial basis, then very special circumstances would be likely to have been demonstrated. Furthermore, a condition has been identified which would control the ridge level of the dwelling and thereby limit its impact on the sky line when viewed from the nearby footpath.
68. Given its early stage towards adoption, little weight can be attributed to the provisions of the *Warwick District Council Local Plan-Publication Draft, April 2014*. In any event, I consider that the proposal would not conflict with those policies drawn to my attention by the Council; Policies DS19, PC0, EC2, H1, H12, BE1, TR1 and NE4.

Conclusion

69. I conclude on balance, for the reasons given above, that appeal A should be allowed.

I Jenkins
INSPECTOR

Appeal A – Schedule of Conditions

- a) The development hereby permitted shall begin not later than three years from the date of this decision.
- b) The development hereby permitted shall be carried out in accordance with the following approved plans: 2013/02; Ground Floor plan; Elevations 1; Elevations 2; and 2013/01/D.
- c) The occupation of the temporary dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, at Faerie-Tale Farm, or a widow or widower of such a person, and to any resident dependants.
- d) The permission hereby granted shall expire 42 months from the date of this decision. Thereafter the temporary dwelling hereby permitted shall be removed and the land restored to its former condition on or before the expiry of 45 months from the date of this decision.
- e) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: any new hardstanding; all trees to be retained; proposed tree and shrub planting, including specifications, species, sizes, spacing and the maintenance thereof; and, an implementation programme. These works shall be carried out in accordance with the approved details. Any tree or shrub which is removed, dies, becomes severely damaged or becomes diseased within 42 months of the date of this permission shall be replaced by plants of a similar size and species to those originally required to be planted.
- f) The existing area of concrete hardstanding identified on the approved plans shall be dismantled and either: 1) permanently removed from the farm holding; or, 2) used in the construction of development for which planning permission has been granted, prior to first occupation of the building hereby approved.
- g) No external lights shall be placed within the site, or the adjacent land in the ownership of the appellant, unless it is in accordance with a lighting scheme which shall first have been submitted to and approved in writing by the local planning authority.
- h) No development shall commence until details of facilities to be provided within the site for vehicles to turn so that they may enter and leave the site in forward gear have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details prior to the first occupation of the temporary dwelling hereby approved.
- i) No development shall commence until a scheme for the drainage of foul water from the site and the supply of electricity to the site, including a timetable for the implementation of those works, have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details prior to the first occupation of the temporary dwelling hereby approved.
- j) No development shall commence until a detailed badger survey, including timetabled mitigation measures where appropriate, has been carried out by

a suitably qualified badger consultant and has been submitted to and approved in writing by the local planning authority. Any approved mitigation measures shall be implemented in accordance with the approved timetable.

- k) No development shall commence until details, including cross-sections, have been submitted to and approved in writing by the local planning authority to demonstrate that the floor level of the temporary dwelling hereby permitted shall be positioned no higher than the mid-point of the slope of the land within its footprint. The works shall be carried out in accordance with the approved details.

Appeal B – Schedule of Conditions

- a) The development hereby permitted shall begin not later than three years from the date of this decision.
- b) The development hereby permitted shall be carried out in accordance with the following approved plans: 2013/02; 2013/01/D; 2013/01/F; and, Withington⁹.
- c) No development shall commence until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- d) No development shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: any new hardstanding; all trees to be retained; proposed tree and shrub planting, including specifications, species, sizes, spacing and the maintenance thereof; and, an implementation programme. These works shall be carried out in accordance with the approved details. Any tree or shrub which is removed, dies, becomes severely damaged or becomes diseased within 5 years of the date of this permission shall be replaced by plants of a similar size and species to those originally required to be planted.
- e) No development shall commence until details of facilities to be provided within the site for vehicles to turn so that they may enter and leave the site in forward gear have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details prior to the building hereby approved being first brought into use.
- f) No development shall commence until a detailed badger survey, including timetabled mitigation measures where appropriate, has been carried out by a suitably qualified badger consultant and has been submitted to and approved in writing by the local planning authority. Any approved mitigation measures shall be implemented in accordance with the approved timetable.

⁹ Drawing entitled 'Withington' details the elevations of the proposed agricultural building.

- g) The existing area of concrete hardstanding identified on the approved plans shall be dismantled and either: 1) permanently removed from the farm holding; or, 2) used in the construction of development for which planning permission has been granted, prior to first occupation of the building hereby approved.
- h) The building hereby approved shall only be used in connection with the use of the appeal site for agricultural purposes.
- i) No external lights shall be placed within the site, or the adjacent land in the ownership of the appellant, unless it is in accordance with a lighting scheme which shall first have been submitted to and approved in writing by the local planning authority.

APPEARANCES

FOR THE APPELLANT:

Ms K Vaidya	Faerie-Tale Alpacas Ltd.
Mr H Richards Of Counsel	No. 5 Chambers.
Mr M Willis	Willis & Co.
BTP MRTPI MBIAC	
Mr M Warren	Mike Warren Consultancy Ltd.
BSc (hons) FBIAC	
Mr K Vaidya	Faerie-Tale Alpacas Ltd.
Mrs A Vaidya	Faerie-Tale Alpacas Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Gregory	Warwickshire County Council.
Mr G Fisher	Warwick District Council.
Mr P Rhodes MRICS	Rhodes Rural Planning.

OTHER INTERESTED PARTIES:

Councillor J Gee	Beausale, Haseley, Honiley & Wroxall Parish Council.
Councillor A Beaumont	Beausale, Haseley, Honiley & Wroxall Parish Council.
Mr Entwistle	Interested party.
Dr A Entwistle	Interested party.
Councillor S Gallagher	Warwick District Council.

DOCUMENTS

- 1 Letters notifying interested parties of the appeal and the Hearing arrangements.
- 2 Consultation responses to the appeal notifications.
- 3 The Queen on the application of Embleton Parish Council, David Ainsley v Northumberland County Council v Ivor Gaston [2013] EWHC 3631 (Admin).
- 4 Emerging Local Plan Position Statement.
- 5 Response of the Parish Council to the revised Business Plan presented by FTA to the Hearing-July 2014.
- 6 Plan showing highway maintainable at public expense.
- 7 Warwickshire Landscapes Guidelines.
- 8 Drawing no. 2013/01/E.
- 9 Drawing no. 2013/01/F.
- 10 Rightmove website extract.
- 11 Elevations 2.
- 12 Mrs Jean Timmins & A W Lymm Limited v Gedling Borough Council and Westerleigh Group Limited [2014] EWHC 654 (Admin).
- 13 Revised appendix 34 to Mike Warren Consultancy Ltd April 2014 statement.
- 14 Suggested condition.
- 15 Council's response to the appellant's costs application.

Post Hearing responses to the Redhill judgement.

- 16 Email from the Parish Council, dated 10 September 2014.
- 17 Email from the Council, dated 14 September 2014.
- 18 Email from the appellant, dated 15 September 2014.
- 19 Email from A Entwistle, dated 25 September 2014.
- 20 Email from the appellant, dated 24 September 2014.
- 21 Email from the appellant, dated 29 September 2014.