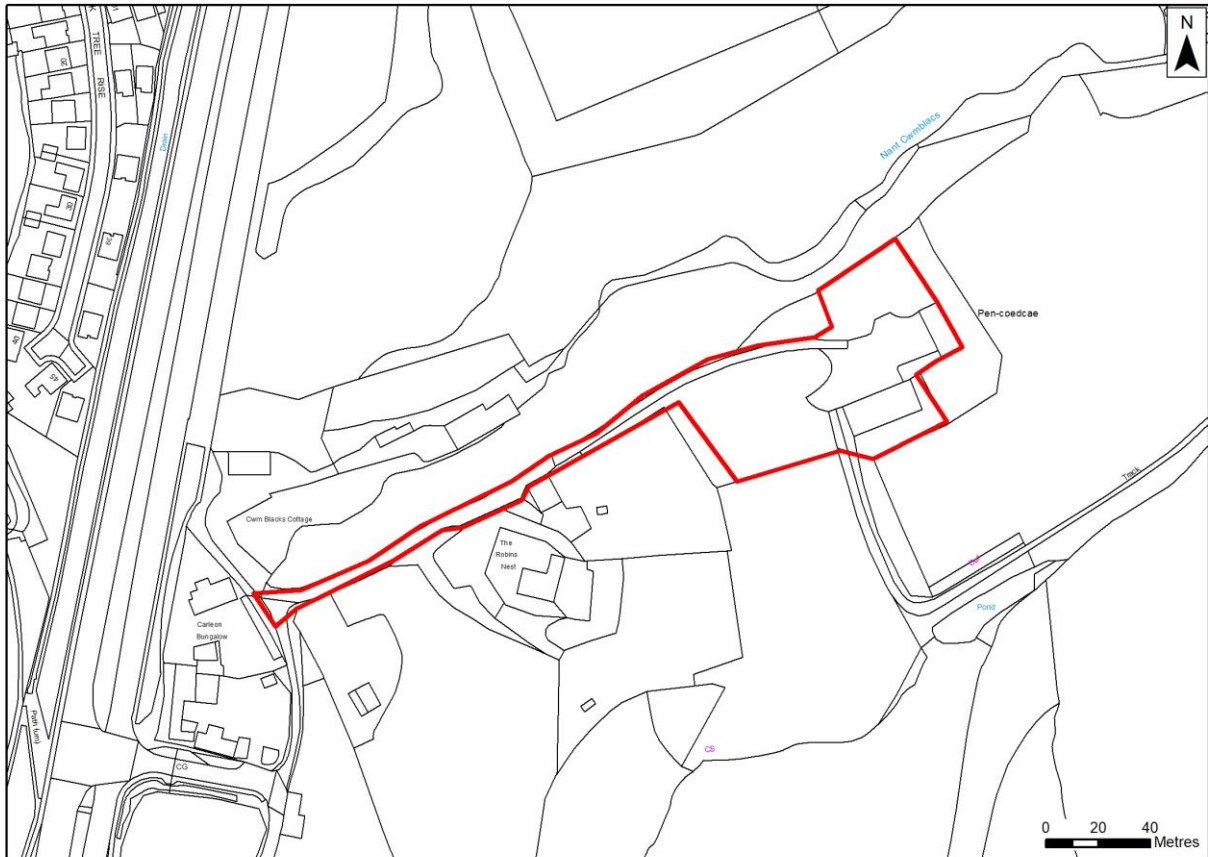


DATE WRITTEN	4th February 2025
REPORT AUTHOR	Judith Jones
CASE OFFICER	Rebecca Owens
COMMITTEE	Planning and Regulatory
COMMITTEE DATE	12th February 2025

Application No. P/24/0038	Date 16th February 2024	Determining Authority MTCBC
Proposed Development	Location	Name & Address of Applicant/Agent
Sitting of a rural enterprise temporary dwelling (3 years) Erection of a general purpose livestock building part for agricultural use, part with stables for Livery and Stud services and associated works	Pen-coedcae Farm A4060 Leos roundabout to Mountain Hare roundabout Southbound Merthyr Tydfil CF48 4AJ	Rhoswen Marshallsea c/o Mr Brian Griffin Brian Griffin P & C C Limited The Cottage Green Bottom Littledean



Councillor David Jones has requested that this application be reported to Committee to consider the application in detail.

APPLICATION SITE

This application relates to an area of farmland measuring approximately 0.15 of a hectare. The site itself comprises part of a field, an unsurfaced access track, an area of disturbed grassland and a mound of earth with scrub vegetation. In the immediate vicinity, there are three agricultural buildings, two of which are of a typical sheet metal construction and one is of a block work construction with a rendered finish. These structures generally appear to be in a poor condition and it was noted during the site visit that there are other dilapidated structures and paraphernalia.

The site is situated in a countryside location with a dense woodland area and steep embankment to the north and open fields on all other sides. The main access to the site is from the A4060 to the west via an unsurfaced track, which also serves an existing residential property (Robin's Nest to the south-west). It is noted that there is also a track that extends to the south of the site, which provides access to the nearby fields and the common land to the north-east.

PROPOSED DEVELOPMENT

Full planning permission is sought for the siting of a temporary rural enterprise dwelling (for a period of 3 years). This would be located in the north eastern part of the site. The dwelling would provide a floor area of 29.77m², measuring externally 9.76m by 3.05m and would provide one bedroom, a bathroom and a kitchen diner. It would comprise of steel bonded insulated panels with a mono-pitched roof (maximum height 2.9m) and would be finished in timber boarding. It would be erected on a consolidated hardcore base which would require some associated ground works.

In addition, permission is sort for the erection of a general purpose livestock building which would be for agricultural use while also providing seven stables for livery and stud services and a feed/fodder storage area. This would be located directly to the south of the access track and to the south-west of the proposed temporary dwelling. The building would have a rectangular footprint 18.4m by 9.2m and a shallow pitched roof with a ridge height of 4.7m. The lower half of the external elevations would comprise of concrete span walling and timber span walling, while the upper sections would be corrugated sheeting (Goose Wing Grey in colour).

There are also associated works which involve the creation of parking and turning facilities for both the dwelling and agricultural/stable building, boundary treatments and landscaping.

In support of the application, a Planning Statement and Business Plan have been provided to demonstrate the need for the development and its viability, together with a supporting statement dated December 2023.

PLANNING HISTORY

The relevant planning history is summarised below:

P/22/0218 Siting of a rural enterprise dwelling (3 years) with dependent relative's annex and the erection of a general purpose livestock building and associated works
REFUSED permission on 12.10.2022 for the following reasons:

1. The proposed development fails to justify the need for a temporary rural enterprise dwelling and agricultural building on the site, in that it does not adequately demonstrate a functional need or the viability of the business. As such, the development is contrary to policy SW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 and it fails to meet the tests set out in Section 4.7.1 of Technical Advice Note 6: Planning for Sustainable Rural Communities.
2. The proposed development, by virtue of its unwarranted intrusion in the open countryside, would have an adverse impact on the character and appearance of the surrounding landscape. As such, the proposal is contrary to policies SW11 and EnW5 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031.

P/21/0330 Erection of a rural enterprise dwelling
REFUSED permission on 04.04.2022 for the following reasons:

1. The proposed development fails to justify a permanent need for a new rural enterprise dwelling on the site, in that it does not adequately demonstrate a functional need or the viability of the business. As such, the development is contrary to policy SW4 of the Merthyr Tydfil Replacement Local Development Plan 2016-2031 and it fails to meet the tests set out in Section 4.7.1 of Technical Advice Note 6: Planning for Sustainable Rural Communities.
2. The proposed development, by virtue of its unwarranted intrusion in the open countryside, would have an adverse impact on the character and appearance of the surrounding landscape. As such, the proposal is contrary to policies SW11 and EnW5 of the Merthyr Tydfil Replacement Local Development Plan 2016-2031.

CONSULTATION

The following bodies were consulted and their responses are presented below:

Head of Engineering and Highways	No objection
Planning Policy Officer	Objection as the development does not meet the requirements of TAN6 and subsequently Policy SW4 of the LDP.
Planning Ecologist	Concerns raised in respect of the validity of the survey information which is deemed to be out of date and does not include consideration of the green infrastructure, stepwise approach and net- benefits.
Welsh Water	No objection

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to neighbouring properties and a site notice was displayed within the vicinity of the site.

No letters of objection were received following this publicity exercise.

POLICY CONTEXT

National planning policy

The Future Wales – the National Plan 2040 sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

Planning Policy Wales (PPW), Edition 12, February 2024:

Para 3.5 – 3.13 set out the importance of high quality design to ensure inclusive design, to promote environmental sustainability and ensure high environmental quality. Regard should also be given to the special characteristics of an area, community safety and to encourage sustainable forms of transport.

Para 3.38 considers the countryside to be “*a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources*”.

Para 3.55 notes that previously developed land wherever possible should be used in preference to greenfield sites where it is suitable for development.

Para 3.60 highlights that “*development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation...However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled*”.

Para 4.1.43 – 4.1.57 set out the need to reduce the level and speed of traffic in new development, the provision of car parking and how this may be integrated into new development to minimise the reliance on cars. Transport assessments are also an important mechanism to determine anticipated impacts a development proposal may have.

Para 4.2.37 indicates that “*The purpose of ‘rural enterprise dwellings’ is to enable rural enterprise workers to live at or close to their place of work, including encouraging younger people to manage farm businesses and supporting the diversification of established farms. Rural enterprise dwellings represent one of the few circumstances in which isolated new residential development in the open countryside may be justified*”.

Para 4.2.38 highlights that “all applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need” and notes the importance of establishing “whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time”. The planning guidance in TAN 6 sets out the need for rural enterprise dwelling appraisals.

In regard to biodiversity and ecology, para 6.4.3 states ‘The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement’. Paragraph 6.4.15 also outlines the step-wise approach.

Technical Advice Notes (TAN):

- TAN 5 Nature Conservation and Planning, September 2009
- TAN 6 Planning for Sustainable Rural Communities, July 2010
- TAN 6 Rural Enterprise Dwellings – Practice Guidance, December 2011
- TAN 12 Design, March 2016

Local planning policy

Merthyr Tydfil Replacement Local Development Plan (LDP) 2016-2031:

- Policy SW4 - Settlement Boundaries
- Policy SW9 - Planning Obligations
- Policy SW11 - Sustainable Design and Placemaking
- Policy SW12 - Improving the Transport Network
- Policy EnW1 - Nature Conservation and Ecosystem Resilience
- Policy EnW3 - Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species.
- Policy EnW4 - Environmental Protection
- Policy EnW5 - Landscape Protection

Supplementary Planning Guidance (SPG):

- SPG 4 Sustainable Design, July 2013
- SPG 5 Nature and Development, May 2015

PLANNING CONSIDERATIONS

Land use and rural enterprise justification

The application site is located outside of the settlement boundary

Background

Pencoedcae Farm comprises a 14 hectare (35 acres) holding with grazing rights on Merthyr Common, which is managed by the applicant on a full-time basis. The enterprise also includes an outlying field, menage and stable building (that is used for the keeping of horses).

This is located approximately 7km away in Heolgerrig where the applicant currently resides in a caravan. It has been highlighted that the land in Heolgerrig is in joint ownership and that there is a need to sell this land as part of the Marshalsea Family division of assets. All of the elements associated with the equine enterprise would then be moved to Pencoedcae Farm. In this respect the agent has suggested a S106 agreement or planning condition requiring Heolgerrig to be severed from the enterprise after a 12-month period from any planning approval to ensure that the applicant doesn't become homeless.

The existing enterprise has been established for a number of years, which includes mainly the pedigree breeding of ponies and coloured horses and the keeping of pedigree Hereford suckler cows, with youngstock reared through to sale as yearlings. The Business Plan indicates that there are twenty two horses/ponies with foals. Two stallions and two of the more valuable mares are kept at the Heolgerrig site while the rest are located at Pencoedcae. These comprise eight Section A Welsh Mountain ponies (smallest grade) with foals (usually about six) which are kept out on the Common for the majority of the year; seven cob mares (coloureds and part breeds) which are stabled by day and out by night; and six Welsh Section C mares. The foals are kept back and housed, halter broken, micro chipped and passports obtained for them. They are then sold on in the mid-winter as riding ponies in the UK and Europe.

The applicant has indicated that the suckler cow element of the business is a conventional upland cattle enterprise, with as many as 61 cattle of various ages present at the site (the submitted information details 56 current beef cattle plus calves), which would include suckler cows, young and breeding heifers, bulls and young calves. The young stock is mainly reared and sold on as forward store cattle. Calving is undertaken within the existing farm buildings at Pencoedcae Farm from January through to June with some in the autumn.

It is the intention of the applicant to diversify the existing enterprise to include B&B for show horses/horses in transit and receiving visiting mares to their stallions but the submission details indicate that this is not possible until the applicant can live on site. It is stated that Heolgerrig cannot satisfactorily provide the need for stabling with an adjoining yard area with buildings for storage of feed, fodder and equipment.

It is indicated in the planning statement that a previous farmhouse was located at the farm which was lost through dereliction in 1980. It is acknowledged that the dwelling adjacent to the site (Robin's Nest) historically formed part of Pencoedcae Farm, which replaced the original farmhouse. Although it was intended that this property would be tied to the agricultural holding, it was later established that the planning conditions that sought to impose such restriction could no longer be enforced. As such, the dwelling was later sold and has been used independently from the farm. At the time it was established through the enforcement case (PE/12/0123) that Mr Harris (applicant's partner) previously owned the farmhouse, which was sold in 2011/2012. The dwelling was more recently sold at auction in 2019 for approximately £90,000. Although the applicant considered purchasing the dwelling, the sale price was deemed to be excessive owing to their knowledge of subsidence issues in the immediate vicinity of the dwelling. Although, no evidence has been provided to demonstrate the dwelling is subject to ground stability issues.

It is presumed that the dwelling would be occupied by both the applicant (Rhoswell Marshallsea) and Mr Harris, although there is only reference to the essential need of Ms Marshallsea to live at the site to readily attend to the livestock.

The existing rural enterprise currently operates across two sites, being Pencoedcae Farm and the land in Heolgerrig where the applicant currently resides in a caravan. A certificate of lawful development was submitted (P/15/0334) by the applicant and granted in 2015, for the siting of a caravan for residential use on the land in Heolgerrig for a period in excess of 10 years. Accordingly, given the length of time that the applicant has resided at the site, being their main residence, the caravan is deemed to constitute a dwelling. Indeed outline planning permission has recently been granted for the erection of a detached dwelling to replace the caravan (P/23/0031).

As such, this proposal would provide a second dwelling sited on land that forms part of the rural enterprise. In such cases, the qualifying criteria for second dwellings are set out under Section 4.5.1 of TAN 6, which does not allow for a second, 'temporary' dwelling. The applicant has indicated that it is not their intention to seek a second dwelling and that the site in Heolgerrig would be sold in the future. Be this as it may, the rural enterprise is currently operating across two sites and could continue to do so until the site in Heolgerrig is no longer available to the applicant.

Appraisal of dwelling

The application seeks permission for the erection of a temporary rural enterprise dwelling at Pencoedcae, outside of the established settlement boundary as defined by policy SW4 of the LDP. Therefore the proposed dwelling would constitute countryside development. Residential development outside of the settlement limits would normally present a departure from the LDP. However, in exceptional circumstances policy SW4 sets out, amongst other criteria, that development '*associated with a rural enterprise or the winning and working of minerals*' may be permitted where such locations can be fully justified and satisfies other relevant plan policies. In conjunction with this TAN 6 sets out the justification for allowing new rural enterprise dwellings in the open countryside.

Given that the applicant already benefits from a permanent caravan at their Heolgerrig site, this application is seeking permission to construct a second dwelling (albeit for a temporary period) on the holding at Pencoedcae as this location is considered to be more beneficial for developing their enterprise. However, they have indicated that it is their intention to sell the land at Heolgerrig and have suggested a Section 106 Agreement which would sever the Heolgerrig site from the enterprise 12 months after planning approval. This would ensure the applicant doesn't become homeless and would effectively result in a temporary replacement dwelling following the 12 month overlap. Assessing this against the criteria set out in TAN 6, it would not appear that this would fall within the scenarios where new rural dwellings would be deemed acceptable in principle.

Firstly, the application is seeking permission for a temporary dwelling which under TAN 6 is generally only permitted in the case of new dwellings on new enterprises (para 4.6.1) where the case is not completely proven for a new permanent dwelling (4.6.2). It is recognised that the agent for the application has contended that the proposal relates to a new enterprise given that currently there is no livery, stud and equine B&B being provided. However having reviewed the information submitted within the business plan it is not considered that the proposal does amount to a new enterprise. The horse livery, stud and equine B&B would be run alongside the existing business by the same people, using the same site and requiring the funds from the existing enterprise. The business plan provided does not separate the proposed elements from the existing enterprise and the evidence provided to justify the new

dwelling is based on both the existing business and proposed livery, stud and equine B&B. If the dwelling was being proposed to serve the new enterprise then the details of the existing enterprise would be separate. Accordingly, it is considered that this is a diversification of an existing enterprise and as such the proposal cannot be assessed against 4.6.1 of TAN 6.

Thus, it must be considered as a new dwelling on an established rural enterprise which is covered by Section 4.4.1 of TAN 6. This sets out the key considerations in respect of new dwellings on established rural enterprises stating:

'New permanent dwellings should only be allowed to support established rural enterprises providing:

- a. There is a clearly established existing functional need;*
- b. The need relates to a full time worker, and does not relate to a part-time requirement;*
- c. The enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for a job, is currently financially sound, and has a clear prospect for remaining so;*
- d. The functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned;*
- e. Other normal planning requirements, for example siting and access, are satisfied.'*

It is highlighted that this specifically states "new **permanent** dwellings". Which does not apply in this case given that the proposal is for a temporary dwelling.

It is also noted that second dwellings are only permitted on established farms where:

- there are secure and legally binding arrangements in place to demonstrate that management of the farm business has been transferred to a person younger than the person currently responsible for management, or, that transfer of management is only conditional upon grant of planning permission for the dwelling. The younger person should demonstrate majority control over the farm business and be the decision maker for the farm business; or,
- There is an existing functional need for an additional 0.5 or more of a full time worker and that person obtains at least 50% of a Grade 2 Standard Worker salary, (as defined by the latest version of the Agricultural Wages Order), from the farm business.

This clearly does not apply to this proposal.

Nevertheless, Section 4.7.1 of TAN 6 sets out the need for a rural enterprise dwelling appraisal to be undertaken for new permanent and temporary rural enterprise dwellings in the open countryside, which should address the following tests:

- The *functional test* to provide evidence of whether there is a functional need for a resident worker for the proper functioning of the enterprise;
- The *time test* to provide evidence of the labour requirements for the worker,
- The *financial test* to provide evidence of the economic sustainability that justifies the size of dwelling that the enterprise can sustain, which should be commensurate with its functional need and financial justification;

- The *other dwellings test* to identify whether there are existing dwellings or buildings suitable for conversion on the enterprise or a dwelling within the locality that could meet the identified functional need.
- *Other normal planning requirements test* to demonstrate the dwelling is suitably located and to minimise any impact on the wider environment.

The proposal has been assessed against each of these test as follows:

Functional test

Tan 6 highlights in paragraph 4.8.1 that *“A functional test is necessary to establish whether it is essential, for the proper functioning of the enterprise, for one or more workers to be readily available at most times. It should relate to unexpected situations that might arise, for which workers are needed to be on hand outside of normal working hours for the particular enterprise. Such requirements might arise, for example, if workers are needed to be on hand night and day to deal with an emergency that would threaten the continued viability and existence of the enterprise without immediate attention”*.

There is a legal responsibility under the Animal Welfare Act 2006 to ensure that all animals are kept in a manner, which accords them freedom from thirst, hunger and malnutrition; appropriate comfort and shelter, the prevention or rapid diagnosis and treatment or injury, disease or infestation; freedom from fear; and freedom to display most normal patterns of behaviour. The issue of security owing to the location of the farm is also acknowledged to be an increasing problem. The overall responsibility for Duty of Care for animal welfare currently lies entirely with the applicant and for the majority of the time the care is provided solely and successfully by Ms Marshallsea, who lives approximately 5.9km away by road.

There is no doubt that the cattle generally require a degree of out-of-hours care with associated emergency requirements during calving, related metabolic disorders and possible physical injuries, which may need rapid intervention on grounds of animal welfare. However, the herd is small and a large proportion is located on the mountain, some distance from the application site. The applicant has managed this herd successfully for a number of years living remotely from the site. The same is the case for many of the horses, with the exception of those which are considered to be more valuable and stabled at the site in Heolgerrig, where the applicant currently lives.

Generally, stallions should be kept separately from other horses and may not be suitable for mixing in fields. Horses due to foal will need additional supervision but only during foaling season. Limited detail has been provided in this respect and a significant amount of the justification relies on the security of the animals. In the applicant's statement (dated January 2024) reference is made to a small number of incidences of unauthorised access, which were reported to the police in 2019 and more recently incidences of damage to the former farmhouse Robin's Nest in 2020. This does not appear to indicate a significant security issue, relating to incidents some 4 years ago. Furthermore, there appears to have been no attempt to improve the security at Pencoedcae Farm i.e. CCTV, flood lights with motion sensors or security alarms etc. Indeed, there appears to be no attempt to provide secure units with two of the agricultural buildings having open front access.

The applicant has noted in the Business Plan that foaling and stabling of stallions takes place at the Heolgerrig site, where sufficient supervision and security can be provided. The welfare

needs of the animals, including security of those considered most valuable, is adequately met through regular daily checks and there is no requirement for a worker to be available most of the time at Pencoedcae Farm.

Based on the current arrangement which has been in place for a number of years and is seemingly functioning effectively, it does not appear that there is a need for a second temporary dwelling at Pencoedcae. The applicant's justification seems to centre more on factors which have not yet occurred, namely:

- The need to sell the Heolgerrig site in the future and as a result of the subsequent loss of the applicant's current dwelling and thus the need for the aspects of the enterprise undertaken at Heolgerrig to be relocated to the Pencoedcae site which may then necessitate the need for the applicant to live at that site.
- To allow the diversification of the business to incorporate a B&B livery service for show horses/horse in transit in the lead up to shows or to and from sales.

Whilst the applicant wishes to move all of the stock associated with the equine enterprise to Pencoedcae Farm due to the need to sell the Heolgerrig site, this by itself, does not provide sufficient justification for the functional need for a new dwelling in the open countryside. Within the previous planning application P/22/0218 it was stated that the Heolgerrig site was expected to be sold within the next two years. However, to date the site has not been sold and remains in use as part of the existing enterprise, indeed this current application now suggest that it would be sold within the next 3 years. The timeframe for sale of the land at Heolgerrig does not seem to be imperative and there is no guarantee when it would be sold. At present, the business is operating successfully across the two sites which already includes a dwelling in a sustainable location within the settlement boundary.

It has been highlighted in the Business Plan that the applicant has aspirations to expand the equine enterprise, to include a livery/show horse B&B facility and stud service at Pencoedcae Farm. However, full details relating to the livery/show horse B&B have not been provided and there is no guarantee that this will indeed be implemented. The plans appear to be more aspirational at this stage with no investment or improvement works having been undertaken at the Pencoedcae site to suggest that these plans are being actively worked towards or a clear intention that it would be implemented. Therefore, little weight can be given to these future plans.

Furthermore, as highlighted above, paragraph 4.81. states that *"Where there are existing dwelling(s) on the enterprise then the need for additional workers to live on the site for the proper functioning of the enterprise must be demonstrated to be essential"*. However, this is not the case as the dwelling would be an additional/replacement dwelling for the applicant and not justified under the need for additional workers.

Time test

Paragraph 4.9 of TAN 6 notes that *"If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant. Where there is currently no dwelling associated with the rural enterprise the worker for whom there is a functional need for new accommodation must be a full-time worker. With the exception of second dwellings on established farms, it must not relate to a part-time requirement, or a requirement that does not relate to the*

enterprise. If this is a second (or further) dwelling, all existing dwellings must also be occupied by full-time workers for whom it is essential that they also remain on site for functional reasons, or by workers and their dependents last employed in a rural enterprise”.

It appears that the labour requirement calculation in the Planning Statement is based on aspirational figures. There is currently no show horse B&B service and there are no details of an existing livery or stud service apart from within the Business Plan.

Having regard to the low stock levels and the nature of the management of the animals, it is considered unlikely that there would be a need for a full time worker at the Pencoedcae site under the current management regime. The labour requirement is mostly accrued from the equine element of the business. However, the submitted information confirms that at present those horses, which require the most monitoring are kept at the site in Heolgerrig. This would suggest that the time required at Pencoedcae Farm would be reduced. Therefore, in terms of labour requirement, currently this is split between the two sites with the greater time apportioned to animals at the site in Heolgerrig. This suggests that Pencoedcae Farm does not generate the need for 1 full time worker at present.

In the scenario where a livery and stud services were to be introduced with all of the animals kept at Pencoedcae Farm as suggested in the Business Plan, then the labour requirement may likely increase as suggested in the submission. However, this proposal is aspirational, and limited evidence has been submitted of demand or investment in the dedicated facilities or improvements to the site which would be required to facilitate this. As such, it has not demonstrated that this expansion of the business would be forthcoming in the near future, and if it were, that it would be both viable and profitable.

However, in the case of a second or further dwelling TAN 6 paragraph 4.9 states “*all existing dwellings must also be occupied by full-time workers for whom it is essential that they also remain on site for functional reasons, or by workers and their dependents last employed in a rural enterprise*”. This is not the case in this application and thus notwithstanding the above, the dwelling would not meet this test.

Financial test

The financial test requires the rural enterprise to be financially sound and with good prospects of remaining economically sustainable for a reasonable period of time (usually 5 years).

Financial details have been provided for Pencoedcae Farm for the years 2020 to 2023 inclusive. No further details prior to this date have been provided and it is not known how long the business has been trading altogether, although Pencoedcae Farm was purchased by the applicant in 2011. The farm records have also been reviewed as part of the previous applications (P/21/0330 and P/22/0218) for a rural enterprise dwelling. In terms of the financial sustainability of the business, it appears that it was indeed profitable in 2021 to the extent that it could cover the wage of a full-time worker. However, business profitability has since fallen significantly to the point that it does not cover a full-time worker's wage, and this is the determinant for existing businesses.

It is recognised that the submitted Business Plan details an intention to expand the business and generate additional income through the provision of a livery and stud services in addition to the existing beef and horse breeding enterprises. The evidence and basis of the financial

assertions within the business plan is lacking and, although sensible figures for the likely income per animal from the proposed services have been included, no regard has been had to the current level of demand for the proposed business structure or indeed, whether it would provide a viable source of income. Thus, it is not clear whether these aspirational figures are realistic in terms of demand. It is also noted that whilst the figures have been broken down over 5 years the livery and stud fee element jumps from zero in year one, to 21 livery and B&B and 7 stud fees from year two onwards. Rather than showing a steady progression as this aspect of the business establishes itself, these figures suggest that from setting up livery and stud services it would immediately receive this demand and that this would be maintained over the following 3 years. It is questionable if this is a realistic assumption. Furthermore, this aspect of the business is not yet established and the infrastructure and developments needed to accommodate it have not yet been put in place. It is disputable whether the livery and stud elements could be set up and delivering the numbers suggested in such a short space of time.

In the applicant's statement (dated January 2024) additional information (emails from clients) was provided to demonstrate that there is some demand for a livery/stud service. Whilst this is useful, as it indicates a potential demand for the services, these are dated two years ago. Furthermore, additional evidence could be provided in the form of identifying similar available services within the area and their capacity to establish sufficient demand. Some limited information has been provided in terms of the livery fees of other facilities but evidence is lacking to justify the anticipated sales figures and costs as well as evidence of past stud fees obtained which would add to the soundness of the evidence on which the figures in the Business Plan are based.

Additionally, it is arguable if the multi-purpose agricultural/equine building is commensurate with the proposals to develop the business in the manner set out in the Business Plan. It would be expected that a purpose-built stable facility would be required to enhance the existing stabling provision available or quality of the site at Pencoedcae Farm. There is no evidence to suggest that the existing, sub-standard facilities have been improved, or that there is an intention to improve such facilities. It would be unlikely that customers would be willing to livery their horses in the current condition of the site.

The applicant has indicated in their statement (dated January 2024) that a conventional stabling block is not required with an American Barn type structure favoured as its layout would provide more flexibility and adaptability. They have noted that the horses accommodated would range in breed and thus may require different size pens at a time when cows may also be calving. The proposal would allow them to move partitioning/penning to their changing requirements. However, it is difficult to understand how the livery and stud facilities can be provided without specialist infrastructure and whether clients would be amenable to leaving their horses in stables shared with livestock. It is also notable that seven stables are identified within the proposed building but it is presumed that four of these would house those mares and stallions currently kept at Heolgerrig. This would leave just 3 stables to accommodate the livery and stud business. It would not appear that this is adequate provision to take forward the business as set out in the business plan. In addition, it is not clear if, or how, the existing buildings would be adapted for the relocation from Heolgerrig or indeed to facilitate the new aspects of the business. Furthermore, no evidence of market research or the level of demand for the applicant's facilities and stallions have been provided. On that basis, the proposal does not provide clear evidence of a firm intention and ability to develop the rural enterprise, contrary to Section 4.6.1 a of TAN 6.

It is noted that upgrading of the existing site and facilities would likely be required and it is recognised that the submitted financial information does include a figure for “site works, yard improvements etc” but this is not broken down so it is unclear exactly what this covers or whether the figure is reasonable. The information also omits the timing for the provision of any new facilities and how this is linked to profit. For example, when is the new building to be provided? Are existing facilities to be upgraded? If so, when? As such, the Business Plan is insufficiently robust in this respect and does not appear to have been planned on a sound financial basis. Therefore, it does not meet the test in Section 4.6.1 c of TAN 6.

Paragraph 4.10.2 notes that *“a financial test is also necessary to assess the size of dwelling which the enterprise can afford to build and maintain. Dwellings which are unusually large in relation to the needs of the enterprise, or unusually expensive to construct in relation to the income it can sustain in the long-term, should not be permitted. It is the requirements of the enterprise rather than of the owner or occupier which are relevant to determining the size of dwelling that is appropriate”*.

The submitted business plan has broken down the cost of providing the proposed dwelling, general purpose building and associated site works etc. However, given that the enterprise is not generating sufficient income to cover a full time workers wage and with questions over the evidence and assertions within the business plan, it has not been adequately demonstrated that it would also be capable of covering the build costs of the dwelling, and indeed the proposed multi-purpose building, along with the associated fixtures/facilities and any improvements works.

The TAN 6 Practice Guidance advises that where the business plan is not planned on a sound financial basis, then this would not be a suitable case for a temporary dwelling. In this instance, there is insufficient robust evidence provided to demonstrate the viability of the business model or indeed the intention and ability to develop the proposed enterprise at Pencoedcae Farm.

Other dwellings test

Paragraph 4.11.1 of TAN 6 states that *“Evidence must be provided to demonstrate that there is no other dwelling(s) or buildings suitable for conversion, which are available to meet the need. If there are existing dwelling(s) on the enterprise it needs to be shown why these cannot be used to meet the needs of the enterprise for a resident worker, and why labour or residential arrangements cannot be re-organised to ensure that the existing accommodation meets the needs of the enterprise without the need for a further dwelling”*.

It has been indicated by the applicant that the land at Heolgerrig is to be sold and is currently in the ownership of the applicant and her siblings. However, the fact remains that it is currently utilised as part of the existing enterprise and provides the applicant’s permanent home. The Planning Statement indicates all the stock is to be kept at Pencoedcae Farm. However, until a time when the site in Heolgerrig is severed from the business, which is not actually proposed in the submission, it must be considered available. The option of severing this site by means of a planning condition or section 106 agreement is discussed later in this report. At present, the enterprise is split over two sites and operates successfully with adequate on-site surveillance over the highest value animals’ over-night at the Heolgerrig site. To grant permission for the proposal could potentially allow two dwellings to form part of the rural enterprise. With the exception of the caravan at the Heolgerrig site, there are presently no

other dwellings on the holding and none of the farm buildings are suitable for conversion. In addition, whilst the need to sell the land at Heolgerrig has been highlighted, no indication has been provided as to whether the applicant could herself purchase it to prevent the need to relocate from within the settlement boundary. Indeed as highlighted previously outline planning permission has recently been granted for the erection of a detached dwelling on the land in Heolgerrig to replace the caravan (P/23/0031).

The applicant has carried out a search of www.rightmove.co.uk on 24 January 2024 which indicated 21 dwellings were available for sale or rent within 0.25 miles of the application site. Based on the information provided, there are a number of properties closer to Pencoedcae Farm that could be occupied that would provide shorter journeys to the farm. These properties have been discounted in the submission as they are deemed to be small suburban plots with no capacity for parking farm tractors or secure storage for a workshop, tools, fuel or foaling horses. Nor would they provide effective supervision of the Pencoedcae farmstead. Notwithstanding this, no attempts appear to have been made to provide secure facilities at Pencoedcae Farm, which may address this concern.

Should the entirety of the operations be moved to Pencoedcae and developed in line with the submitted business plan, then it may well be that a stronger case could be put forward, to demonstrate a functional need for a worker to live on site. However, the rural enterprise already accommodates a dwelling that successfully forms part of the business and remains available to the applicant

Other planning requirements test

In terms of other planning requirements, Tan 6 paragraph 4.12.1 states “*Rural enterprise dwellings should satisfy the usual planning requirements in terms of design, sustainability and access. The siting of the proposed dwelling should relate closely to the activities for which there is a need. In most cases this will mean that the new dwelling should be sited in close proximity to existing buildings and in the case of dwellings for agricultural enterprises, should not be isolated from the farmstead or in locations that could encourage farm fragmentation. Local planning authorities should resist planning applications for rural enterprise dwellings that are prominent in the landscape*”.

Design approach

The development would be located in a countryside setting where it would be visible from the surrounding area, including the open access common land. The site is also situated in a landscape of outstanding historic interest, where maintaining its character is of importance. The construction of a new dwelling (and agricultural building) has the potential to adversely impact on the character and appearance of the countryside through the intensification of development on the farmstead. The dwelling would also be located in an unsustainable location away from local services, including poor connections to public transport. In contrast, the applicant’s existing residence on land in Heolgerrig is deemed to be a sustainable location within walking distance of services and public transport.

The design of the proposed dwelling would be similar to that of a bungalow given its footprint and single storey height. Whilst it would be of a modest design with timber cladding on the elevations, its overall design does not reflect a typical rural farmhouse. The submission indicates it would be required for a temporary period of 3 years. Whilst the supporting

documents indicate that there would be an intention to construct a more appropriate dwelling in the future, this cannot be guaranteed and such a dwelling may not meet the tests set out above.

It is not entirely clear in the information provided whether the dwelling would be brought on to the site partly constructed, or whether it would be entirely constructed on site. However, the information states that the unit would require a consolidated hardcore base and a bio-disc for foul waste. Thus it may not be easily reversible in the event that a future planning permission for a permanent dwelling is not granted.

In this instance, there is insufficient justification to demonstrate that the functional need for the development outweighs the harm it would have on the countryside. Consequently, the development would be contrary to policies SW11 and EnW5 of the LDP.

Highway implications

The initial section of the highway from the A4060 trunk road to the west of the site has a suitable surface with acceptable dimensions to accommodate two-way traffic movements. The existing private access track leading from the highway to the farm has an uneven gravel surface, which is of a typical construction in a countryside location. This track is of an adequate size to accommodate the traffic movements associated with the proposed dwelling and the existing operations of the farm. The submitted plans indicate a new driveway serving the dwelling would be provided with access from the existing lane. At least 2 parking spaces would be accommodated to the front of the dwelling with sufficient room to enable vehicles to turn within the curtilage. This access and parking arrangement is deemed to be acceptable. Accordingly, this element of the development would not lead to any significant highway safety concerns.

Ecology

A Preliminary Ecological Assessment has been submitted in support of the application.

It was noted in the PEA that the site periphery offers foraging habitat for bat species along the woodland edge and open fields and roosting potential within mature trees and structures within the locality. During the site survey no reptiles were identified, nor was the site generally considered to provide a suitable habitat. Additionally, the PEA considers the site is not suitable for nesting or foraging birds, although the surrounding area does present such environments. The PEA also indicates there to be no suitable habitats for Badgers, amphibians, Water Vole, Otter and Dormouse.

The PEA concludes that the proposed development would not have an adverse impact on any protected species or habitats and that the development would be confined to an area that is of little conservation importance. The PEA also notes that there would be sufficient room between the development and the nearby woodland not to impose on the potential foraging environment for bats. Furthermore, it is noted that the proposal does not include any works to the existing farm buildings.

The PEA recommends that a lighting scheme needs to be agreed to ensure the development does not impact on nocturnal species, such as bats. It is recommended that 2 bird boxes, 2 bat boxes and 2 roost boxes be attached to nearby structures or trees to further mitigate any

potential impacts. Additionally, the report indicates 2 hedgehog boxes and 2 insect houses could be provided within the site, which would offer further enhancements.

The planning authority's Ecologist has considered this document and highlighted that the survey was conducted in September 2021 and as a result the report is now out of date. As such he has requested that a professional ecologist undertake a visit to the site to review the validity of the report and update any information accordingly. However, whilst it is not disputed that the ecology reports is now over three years old, it would appear that generally the site circumstances have not significantly changed in the intervening years. The developments proposed would not impact on any of the existing structures and would generally affect land that is already disturbed as part of the existing operations of the rural enterprise (i.e from tractors, trailers, vehicles and cows/horses within the fields. As such following a site visit and noting that there are not been any significant changes to the site, it is not considered that the development would have any greater impact than already identified in the initial PEA. Thus subject to conditions relating to the proposed lighting scheme and the identified mitigation measures, it is considered that the proposal complies with policies EnW1 and EnW3 of the LDP

Similarly, it is recognised that chapter 6 of Planning Policy Wales (edition 12) requests that applications be supported by Green Infrastructure Statements (GIS). In this instance a GIS has not been provided but as identified above, the development would be located in parts of the site that are already disturbed and have limited value. Having regard to this and given the in principle unacceptability of the proposal this has not been pursued. Notwithstanding this, had the development been deemed acceptable, ecological enhancement would have been sought and secured by condition, which would contribute to the wider green infrastructure objectives.

Ground conditions

Part of the application site lies within an area that is deemed to be at high risk to past coal mining activities. As such, a Coal Mining Risk Assessment (CMRA) has been submitted in support of the application. The CMRA acknowledges that the locality has experienced extensive mining for both coal and ironstone. The mining records show the site to be within the influencing distance of old workings in three coal seams and two ironstone veins. At least one of the coal seams, which is at a shallow depth may pose a risk to the development. Additionally, two disused mine adits have been noted (to the south-east) within 20m of the site. It is recommended in the CMRA that exploratory boreholes and drilling on the site be carried out to examine in greater detail the shallow old working to assess the risk it may pose on the development. If shallow old workings are found to present a risk, then the land will need to be stabilised by means of a drilling and grouting programme. This document was considered by The Coal Authority under the previous planning application (Planning Ref: P/22/0218) and no objection was raised to the development subject to conditions relating to a scheme of intrusive investigation and remediation works. As site circumstances have not changed the advice within the CMRA and The Coal Authority's previous comments would still be applicable. Accordingly, it has been adequately demonstrated that the site can be developed and any ground stability concerns could be appropriately mitigated. Therefore, the proposal complies with policy EnW4 of the LDP.

Section 106/Planning Condition

As outlined above, it is recognised that the applicant has suggested a planning condition or Section 106 agreement to ensure that the Heolegrrig site is severed from the enterprise thus resulting in the proposed temporary dwelling becoming a replacement rather than additional dwelling. The use of a Section 106 Agreement has been considered but this would not overcome the above issues. A section 106 Agreement is also not found to be a viable option given the complexities involved, including the drafting of a sound legal agreement and the implications of shared land ownership and securing agreement from all landowners (it is assumed that the applicant is not the only owner of the land in Heolgerrig given the need to sell this and divide the asset).

It is also noted that the Section 106 Agreement has been suggested as a means of allowing the applicant to move the parts of the enterprise from the site in Heolgerrig to Pencoedcae Farm without making themselves homeless in the process. This is also proposed as a means of demonstrating that there would not be two dwellings that form part of the enterprise. However, this application is for a temporary dwelling and there is no guarantee that a permanent dwelling would be granted planning permission in three years time, particularly having regard to the above considerations of the tests that make up a rural enterprise dwelling appraisal. As such, the applicant could lose their existing, permanent dwelling, located within the settlement boundary, which currently allows the business to function effectively and in three years time find that an application for a permanent dwelling at Pencoedcae is not acceptable. This would present a self-inflicted scenario where the applicant could be rendered homeless and put the business at increased risk. This would also serve to put increased pressure for a permanent and unjustified dwelling in the open countryside.

The rural enterprise in Heolgerrig is deemed to be in an acceptable location within the settlement limits. As such, the severance of the rural enterprise from the land in Heolgerrig would not be appropriate, as it does not overcome a material planning issue, and only serves to support the applicant's case for a dwelling in the open countryside. Similarly, the existing dwelling in Heolgerrig is deemed to be acceptable. Indeed there would be no issue with the continued use of the Heolgerrig site as part of a rural enterprise which has already been operating with some success. Accordingly, the use of a condition or S106 to prevent the applicant's rural enterprise operating from the Heolgerrig site would not overcome a material planning issue. The need for a temporary or replacement dwelling at Pencoedcae Farm has not been adequately justified and the imposition of a condition or S106 as requested by the applicant would not adequately overcome this issue.

Appraisal of agricultural building

The application also seeks permission for the erection of an agricultural/equine building which would again be outside of the established settlement boundary as defined by policy SW4 of the LDP. Therefore, the proposal is regarded as 'countryside development' and a presumption against inappropriate development will apply unless the development proposal comprises one of the listed exceptions, one of which being that the development is associated with a rural enterprise. This is defined by para 4.3.2 of TAN 6 as 'land related businesses including agriculture, forestry, and other activities that obtain their primary inputs from the site, such as the processing of agricultural, forestry and mineral products together with land management activities and support services...'. There is no dispute that there are agricultural activities taking place and the business constitutes a rural enterprise.

The proposed agricultural building would be of a typical design and construction that you might expect on a working farm, incorporating a portal frame with a combination of concrete panels and timber/metal cladding. Limited information has been provided to justify the scale of the building in the open countryside. The supporting documents indicate the building would be used to provide a flexible space for agricultural purposes, storage and the proposed livery/horse show B&B with stud service. Whilst a floor plan has been provided which illustrates seven stables (and only the materials for seven stables have been included in the breakdown of costs), it is not clear what portion of the building would be required as part of existing operations of the farm as this element of the business would remain unchanged. It is assumed that four of the stables would be required to replace those lost at the Heolgerrig site with only three then provided for the proposed extension of the business into livery and studding. Notwithstanding this, it would appear that there is scope for it to provide up to 10 spaces. Pencoaeae farm already has two existing buildings, one which is detailed on the plans as a livestock building and another which apparently provides 4 stables and the business has been operating at a steady scale with these for a number of years. This would suggest that the main use of the new building would be to accommodate the proposed expansion of the business. However, as detailed above, the exact way in which this would be used has not been provided. On this basis, it has not been adequately demonstrated that there is a need for an additional agricultural building alongside the existing farm units.

There is a fundamental concern following consideration of the business plan that insufficient research has taken place into the market for a horse B&B and stud service and not enough consideration given to the various facilities and improvement works that would be required alongside the provision of the building to demonstrate that this would be a viable and profitable venture. Thus, if permission were granted for this building on the basis of an unsound venture that were to fail, it would result in an unnecessary structure being permitted within the open countryside. In addition, the proposed business expansion plans are considered aspirational and there is also a possibility that these may not even be implemented. Whilst the expansion plans may be genuine, the information submitted is not sufficiently sound to demonstrate any immediate or well considered intention of their provision and the local planning authority must be mindful that there are instances where such plans are put forth as a means of justifying a dwelling in the open countryside.

Furthermore, the siting of the agricultural building away from the existing farm units would result in a greater impact on the countryside landscape. This has also necessitated the need for the proposed parking and turning area along the side building which would further erode the qualities of the area. No details have been provided to justify the siting of the building away from the existing group of agricultural buildings, where the existing access and hardstanding could be better utilised. This would in turn further reduce the environmental impacts by avoiding/minimising the need to construct a new lane and hardstanding area in the open countryside.

The supporting information indicates the agricultural building would be used to support a potential livery/horse show B&B and stud service in the future. This in itself would have the potential to attract a far greater level of traffic movement to and from the site. It is also noted that rather than being a permanent livery service it would only appear to be utilised on a temporary basis for examples, when horses are attending shows in the area. As such rather than the associated comings and goings been spread out, they may in fact result in more intense highway uses over a short period of time. It is not clear from the submitted information

how this element of the business would operate and thus the level of traffic movements and parking requirements are also uncertain. The plans of the building proposed identify seven stables but it would be able to accommodate more than this depending on the internal layout adopted. Despite this, the Head of Engineering and Highways has not raised any objection to the proposal and as such it is on balance considered that the development would not give rise to any significant highway safety concerns. Consideration of ecology and ground conditions have already been outlined above in respect to the dwelling and would be equally applicable to the considerations of the agricultural building.

CONCLUSIONS

The introduction of a temporary dwelling to serve an established enterprise (albeit with an intention to expand/diversify this) does not fall within the remit of TAN6. Temporary dwellings are only considered in respect to 'new enterprises' whereas new "permanent dwellings" are referred to in respect to established enterprises. Notwithstanding this principle unacceptability, the dwelling would also fail to meet the tests required to demonstrate a viable need for a new rural enterprise dwelling and agricultural building. Similarly, it has not been demonstrated that there is a justified need for the proposed agricultural/equine building that would warrant its approval in a countryside location. Consequently, the development would be inappropriately located outside of the settlement limits, contrary to the LDP policies and national planning policy.

In reaching the recommendation, the requirements of section 3 and 5 of the Wellbeing of Future Generations (Wales) Act 2015 have been taken into account. The recommendation is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Minister's well-being objective of supporting safe, cohesive and resilient communities.

Accordingly the following recommendation is made:

RECOMMENDATION: BE REFUSED for the following **REASONS:**

1. The proposed development fails to justify the need for a temporary rural enterprise dwelling and agricultural building on the site, in that it does not adequately demonstrate a functional need or the viability of the business. As such, the development is contrary to policy SW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 and it fails to meet the tests set out in Section 4.7.1 of Technical Advice Note 6: Planning for Sustainable Rural Communities.
2. The proposed development, by virtue of its unwarranted intrusion in the open countryside, would have an adverse impact on the character and appearance of the surrounding landscape. As such, the proposal is contrary to policies SW11 and EnW5 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031