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Your Ref: P/22/0218
Our Ref: 9407b

28 October 2022

Mr David Cross
Merthyr Tydfil County Borough Council
Unit 5,
Triangle Business Park,
Pentrebach,
Merthyr Tydfil,
CF48 4TQ

Dear Mr Cross

Site: Pencoedcae Farm, Cwmbblacs, Merthyr Tydfil, CF48 4AJ

Reference: P/22/0218

Proposal: Siting of rural enterprise dwelling (3 years) with dependent relative's annex and the erection of a general-purpose livestock building and associated works

Thank you for your instruction dated 23rd August 2022 requesting Reading Agricultural Consultants Ltd (RAC) comments on the above application.

In preparing this response I have had regard to:

- the Planning Statement and TAN 6 Wales Appraisal by Brian Griffin Planning & Countryside Consultants Limited (dated 27th July 2022);
- Business Plan by Brian Griffin Planning & Countryside Consultants Limited (dated 13th July 2022)
- the business accounts for A W Harris & RC Marshallsea trading as Pencoedcae Farm for the years ended March 2019 to March 2021 inclusive;
- the associated plans; and
- supplementary information provided from the agent by yourself on 11th October 2022

I visited the site at Pencoedcae on 3rd November 2021 in association with application P/21/0330 and owing to nature of the proposal, did not consider a further visit was necessary in order to advise in respect of the current application. I have not visited Heolgerrig.

Background

1. Pencoedcae Farm, managed by Rhoswen Marshallsea in partnership with Andrew Harris, is a 14ha (35 acres) holding with Grazing rights (number not known) on Merthyr Common. The enterprise is based at Pencoedcae with an outlying field and livestock building, approximately 5.9km (3.7 miles) away and within the defined settlement boundary, at Heolgerrig where Rhoswen Marshallsea lives in a caravan.



Reading Agricultural Consultants Ltd

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Registered in England

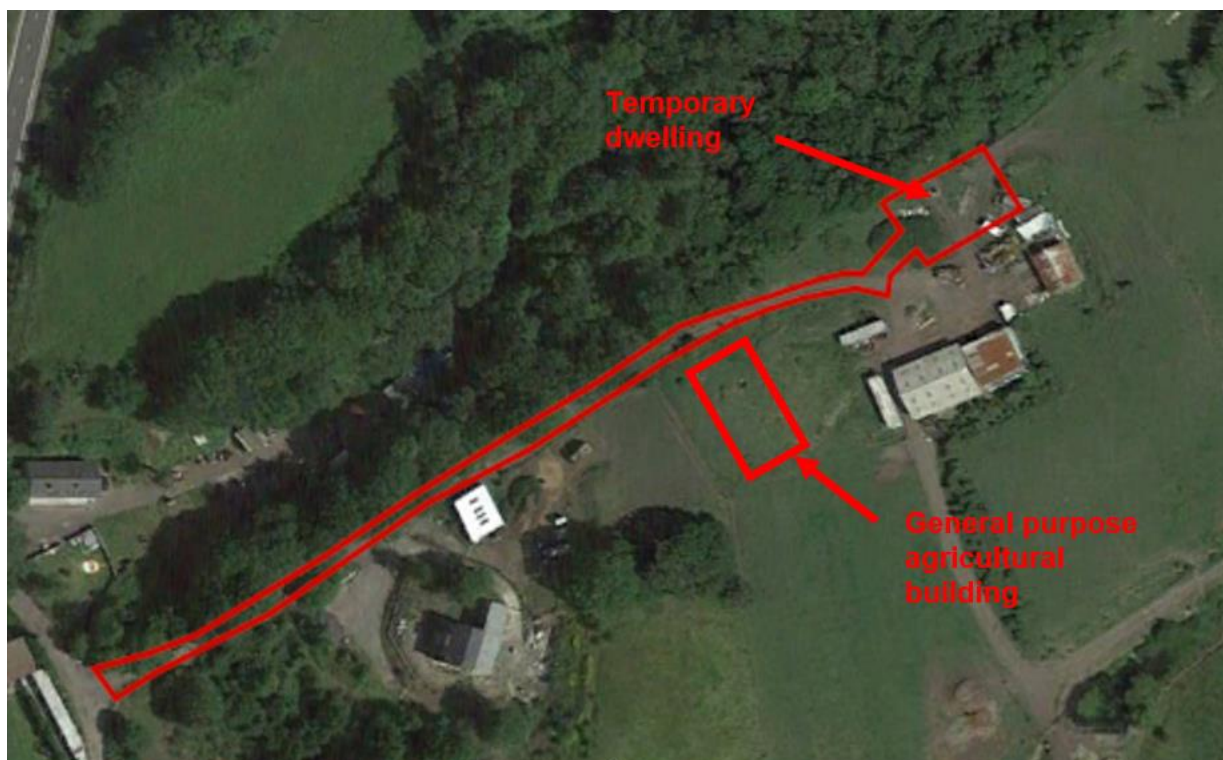


2. It has been confirmed in email correspondence between the agent and Local Planning Authority that the land at Heolgerrig is in shared ownership between Ms Marshallsea and her siblings, who are not named as business partners. Although it is stated within the email correspondence that the intention is to sell Heolgerrig, this is not addressed directly in the submission and there is no proposal to sever it from the enterprise or cease occupation of the caravan.
3. The enterprise has been established for a number of years (exact number unconfirmed) and the application is supported by accounts to demonstrate such. However, the proposal is for a temporary dwelling. The supporting information maintains that this is because "*changes are proposed to the business*". These changes comprise the construction of a building at Pencoedcae, for which permission is sought under this application, and for show horses and visiting mares to be received there. The case is that the current location of the lawful residential caravan at Heolgerrig is too distant from Pencoedcae and therefore constructing a dwelling and relocating all stock to the application site will save the applicant travelling between the two, 2-3 times per day.
4. Ms Marshallsea works full-time on the holding whilst Mr Harris works part time in addition to his role as a plant operator/contractor. It is stated in the submitted Planning Statement that farm machinery is used for contracting work both locally and further afield for work which is not directly linked to Pencoedcae. It is not clear where Mr Harris lives and there is no mention of him occupying the proposed temporary dwelling. It is clear however that he is not available locally to assist with the farm when undertaking his other work. It is not known how regularly he is unavailable.
5. Livestock comprise two bulls and 25 pedigree Hereford suckler cows, with youngstock reared through to sale as yearlings.
6. In addition, there are 21 horses/ponies, with some grazed on the common as part of conservation management. The submission details that 8 ponies live out on the common over winter, the rest (typically 13 mares, 2 stallions) are stabled at night either at Heolgerrig or Pencoedcae and let out by day where they are handled and worked according to their sale market during the winter. The progeny of the Cobs retained for sale as 3-year-olds are stabled at night during the summer as well and usually total 6 horses / ponies.
7. The proposed 72m², 3-bedroom temporary dwelling would be occupied by the applicant and her dependent mother, for which a one-bedroom (bedroom 3) "annexe" has been proposed.

Proposal

8. The application before the Council seeks outline permission for the erection of a temporary rural enterprise worker's dwelling and livestock building at Pencoedcae, which is located east of the A4060 by-pass and outside of the established settlement boundary. The dwelling is proposed to be located within the existing farmyard, on the site of a previously derelict dwelling (see Fig.1 below).

Figure 1. Proposed location of dwelling and agricultural building in relation to existing farm buildings.



Relevant Planning Policies

9. One of the Welsh Government's main objectives for rural areas, as set out in 'Farming, Food & Countryside - Building a secure future' (May 2009), is the promotion of a:

"...sustainable and profitable future for farming families and businesses through the production and processing of farm and forestry products while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities. The planning system can play an important part in supporting the future sustainability of agriculture."
10. The Welsh Government's Technical Advice Note 6 (TAN 6) Planning for Sustainable Rural Communities (July 2010) is broadly supportive of a strong rural and agricultural economy. It states:

"The Welsh Assembly Government's objective is a sustainable and profitable future for farming families and businesses through the production and processing of farm products while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities. The planning system can play an important part in supporting the future sustainability of agriculture."
11. At paragraph 4.4.1 TAN 6 also indicates that permission may be granted for new permanent dwellings on well-established agricultural units for essential workers who need to live on the unit where it can be demonstrated that:
 - 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 the job, is currently financially sound, and has a clear prospect of 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; and*
- e) *other normal planning requirements, for example siting and access, are satisfied.*
12. The exact circumstances of the existing caravan at Heolgerrig are not entirely clear. The Local Planning Authority has confirmed it is lawful but it is not known whether it meets the definition of a 'dwelling house'. If it does, then the proposal would represent a second dwelling on the holding. The qualifying criteria for second dwellings are set out under 4.5.1. The TAN does not allow for second 'temporary' dwellings and no proposal for a 'second dwelling' has been put forward.
13. The temporary dwelling policy is provided at paragraph 4.6.1 of the TAN and states:
 "If it is considered that a new dwelling will be essential to support a new rural enterprise, it should satisfy the following criteria:
- a. clear evidence of a firm intention and ability to develop the rural enterprise concerned (significant investment in new buildings and equipment is often a good indication of intentions);**
 - b. clear evidence that the new enterprise needs to be established at the proposed location and that it cannot be accommodated at another suitable site where a dwelling is likely to be available;**
 - c. clear evidence that the proposed enterprise has been planned on a sound financial basis;**
 - d. there is a clearly established functional need and that need relates to a *full-time* worker, and does not relate to a part-time requirement;**
 - e. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building on the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the workers concerned; and**
 - f. other normal planning requirements, for example siting and access, are satisfied."**
14. The text associated with temporary dwellings within the TAN relates to new dwellings on enterprises (4.6). However, the text at 4.6.2 suggests that temporary permission may be granted for dwellings on established enterprises:
- "Where the case is not completely proven for a dwelling permission should, not be granted for it, but it may be appropriate for the planning authority to test the evidence by granting permission for temporary accommodation for a limited period. Three years will normally be appropriate to ensure that the circumstances are fully assessed. If such a permission for temporary accommodation is granted, permission for a permanent dwelling should not subsequently be given unless the criteria in paragraphs 4.4.1 (new dwellings on established rural enterprises) or 4.6.1 (new dwellings on new enterprises) are met"*
15. Furthermore, the flow diagram on page 13 of the TAN 6 Practice Guidance does not restrict the approval of temporary dwellings to new enterprises. For the purposes of this assessment, it is assumed that the caravan is not a dwelling by definition. The case of a temporary dwelling has therefore been considered. However, the LPA should carefully consider whether the existing caravan is considered to be a dwelling or not.
16. The Merthyr Tydfil County Borough Council Replacement Local Development Plan (2016-2031) Policy SW 4 Settlement Boundaries states:
- "Outside defined settlement boundaries, proposals will be regarded as 'countryside development' and will not be permitted unless the development: -*
- is for the purposes of agriculture or forestry;*
 - is associated with rural enterprises or the winning and working of minerals;*
 - is for the re-use, adaptation, or replacement of rural buildings and dwellings;*
 - supports the expansion of an existing business in the countryside..."*

Appraisal

Functional Need

17. This 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. An important aspect of assessing the functional needs of an enterprise is a consideration of the scale and nature of the enterprise concerned.
18. In this case, there is an established herd of suckler cows and number of horses at Pencoedcae and Heolgerrig. The submitted information states that half of the horse stock is kept at Pencoedcae and the other half at Heolgerrig. Foaling takes place at Heolgerrig as sufficient supervision is not possible at Pencoedcae. The two stallions and the two most valuable mares are also kept at Heolgerrig for security and to ensure safe foaling.
19. An assessment of the essential need for a rural worker to live at or near their place of work requires:
 - an evaluation of the risks involved;
 - the frequency and type of out-of-hours emergency that might arise;
 - the scale and loss that could be incurred should that emergency situation occur;
 - the potential for an on-site worker to identify the problem; and,
 - the ability of that resident worker to rectify the problem.
20. In order to provide appropriate supervision for the enterprise, the applicant considers it essential that a farm worker lives on site at Pencoedcae in order to supervise the herd of cows to ensure their welfare needs are not compromised; and to manage the horses and ponies on the common and farmstead.
21. Indeed, 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.
22. The overall responsibility for Duty of Care for animal welfare currently lies entirely with the applicants, 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.
23. Indeed, cattle generally require a degree of out-of-hours care with associated emergency requirements during calving and 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 (some in excess of £25,000 according to the submission) and stabled at Heolgerrig, where the applicant currently lives.
24. In terms of supervision for horses, the Code of Practice for Horses, Ponies, Donkeys and their Hybrids (UK Government, 2017) states that:

“Horses at grass should be inspected at least once a day, preferably more often. Stabled or group-housed horses should be inspected at least twice a day. Particular attention should be paid to their gait, demeanour, feet, body condition and appetite so that early signs of disease, injury, illness or parasites can be noticed and appropriate treatment promptly provided. Close examinations should also be conducted at regular intervals, ideally daily, in order to identify any problems (e.g. skin conditions and increase or decrease in body condition score) that may not be apparent from a distance.”

25. 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. No evidence of previous incidents has been provided, nor has detail of any investment in security measures.
26. The applicant currently has facilities for foaling and stabling of stallions at her home. Currently, 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 at most times on the site at Pencoedcae.
27. Notwithstanding this, should all stock be moved to Pencoedcae and the business offer livery and stud services as indicated in the submitted Business plan, then owners would reasonably expect to have someone available at all times to monitor their horses. Given the distance between the two sites, the proper functioning of the business would be impacted if the applicant was not able to live on site, thereby having a significant impact on its viability.

Time Test

28. It appears that the labour requirement calculation in the July 2022 Planning Statement is based on aspirational figures. There is currently no 'Show horse B&B' service and there is no detail of existing livery stud service apart from within the business plan. In the current application, the calculations do however make sensible reductions for feral ponies and section A foals.
29. The below table utilises figures provided within the submitted information compiled from reference data for standard labour requirements for suckler cows and youngstock as noted in the John Nix Pocketbook (53rd Edition 2023) and horses from the Equine Business Guide (7th Edition 2017). However, the farm's existing livestock numbers have been used to calculate the current labour requirement, which is highlighted in comparison to the aspirational figure.

Enterprise	No / ha	Multiplier	Total Days
Section A (semi feral)	8	2	16
Section A foals (stabled and handled for 2 – 3 months)	7	4.7	32.9
In hand brood mares (most valuable)	3	76	228
Foals	3	35	105
Show Horses B& B (proposed)	21	1.59	33.39
3 other breeding mares	1 bred from typically	76	152
Foals	per year	35	70
	2		
Stud services (Proposed)	7 mares kept for 2 months on part livery	13.8	96
		Subtotal 733.3	Equine 310.91

		Reduce by 40% for 11-20 horses	Equine – aspirational 440.3
Bulls	2	3.5	7
Suckle cows with calf to weaning age	25	1.35	33.75
Total Enterprise Labour Requirement		40.75 + 15% maintenance and management (6.1)	Cattle 46.85
		No of workers at 278 SMD/worker Existing	1.29
		No of workers at 278 SMD/worker Aspirational	1.75

30. Given the current stock levels, there is a labour requirement of 1.29 full-time workers. This is mostly accrued from the equine element of the business. However, the submitted information confirms that at present those horses which require monitoring are kept at Heolgerrig. Using the 50/50 split indicated, the time element for Pencoedcae can be reduced to 155.46 SMD and even further if taking into account the split between those horses which need greater monitoring at Heolgerrig. The figures in relation to cattle confirm that only 0.17 of a full-time worker is required.
31. Therefore, in terms of labour requirement, currently this is split between the two sites with the greater time apportioned to animals at Heolgerrig. The site at Pencoedcae does not generate the need for 1 full time worker at present. However, should livery and stud services be introduced and all animals kept at Pencoedcae as indicated the Business plan then the requirement would exist and, if successful, would eventually increase to 1.7 as suggested within the submission. However, depending on the status of the caravan, this could result in two dwellings.
32. Considering the animals in greatest need are already cared for successfully on land where the applicant lives, the livery and stud services could be logically provided in that location where the functional need can be served without the need for an additional dwelling.

Financial Sustainability

33. The financial test in TAN 6 requires that:

“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 the job, is currently financially sound, and has a clear prospect of remaining so...”

34. Paragraph 4.10.2 states:

“To assess economic sustainability it will be necessary to show the business has a reasonable prospect of providing a market return for all operators for the amount of management and manual labour inputs, including the job for which the rural enterprise

dwelling is being sought, for at least five years from the anticipated completion of the proposed development.”

35. RAC have been provided with accounts for Pencoedcae for years ending 31st March 2019 to 31st March 2021 inclusive, on a confidential basis. No accounts prior to this date have been provided and it is not known how long the business has been trading altogether, although Pencoedcae was purchased by Ms Marshallsea in 2011. We have previously had sight of farm records and spoke to Ms Marshallsea regarding finances and the operation of the business. A Business Plan for the proposed business has also been provided but no projections extending to five years from the anticipated completion of the development, or indeed five years from the anticipated completion of a permanent dwelling, should it be approved, after the expiry of the temporary permission.
36. The TAN 6 Practice Guidance states that in order for a farming business to demonstrate viability, it should be generating sufficient profits to reward the owner for any unpaid labour – equivalent to the national minimum wage and provide for the build cost of the proposed dwelling.
37. During our previous site visit, Ms Marshallsea confirmed that the off-site, self-employed income of Mr Harris was included in the business accounts submitted as part of the application – clearly this income is not admissible to that of a rural enterprise operating on the application site. On average he invoiced £1300 per week for his self-employed work which included the hire charges of plant. It is not known what proportion of the overall income (sales) this accounts for but it is likely to be a significant one – RAC estimates it at (£1,300 x 52) £67,600 from the applicant's disclosure.
38. Given the above, it would seem that the sales income stated in the submitted accounts is therefore mainly generated from work not associated with the rural enterprise and it is not able to cover the wage of 1.3 full-time workers at minimum wage or indeed a wage commensurate with Ms Marshallsea's skills and qualifications.
39. Notwithstanding this, the submitted business plan details an intention to develop the business and generate additional income through provision of 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 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. Furthermore, only the final year's aspirational net profit figures for the business are provided. It is not clear whether the aspirational figures are realistic in terms of demand.
40. In addition to the above, the proposed erection of a 'general purpose agricultural building' is not commensurate with the proposals to develop the business in the manner stated. 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. There is no evidence to suggest that existing, sub-standard facilities have been updated since the time of my site visit. It would be unlikely that many fee-paying customers would be willing to livery their horses in such conditions.

Photograph of horses on site taken 3 November 2021



41. The TAN 6 Practice Guidance suggests 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, the plan is insufficiently robust and not supported by adequate evidence in order to demonstrate that the proposed livery B&B and stud services required to justify the dwelling at Pencoedcae would be viable.

Other Dwellings

42. In emails between the agent and the Local Planning Authority it is stated that 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, as confirmed within the submission, and provides the site for applicant's permanent home.
43. Within the submitted information (Table 1 in Business plan) it is stated that all stock is to be kept at Pencoedcae. However, until a time when Heolgerrig is severed from the business, which is not actually proposed in the submission, it must be considered available. It is not clear whether the applicant pays rent to her siblings in respect of its use as part of her business. At present, the enterprise is split over two sites and operates successfully with adequate on-site surveillance over the highest value animals over-night from Heolgerrig. To grant permission for the proposal could potentially allow two dwellings.
44. With the exception of the Heolgerrig caravan, there are no other dwellings on the holding and none of the farm buildings are suitable for conversion.
45. A search of www.rightmove.co.uk on 26th January 2022 indicated 15 dwellings were available for sale within 0.5 miles of the application site ranging between a one-bedroom ground floor flat at 56,000 to a detached 5-bedroom home at £575,000, which would normally be considered as beyond the affordability range of a farm worker. Notably, within there were a number of 2–3-bedroom dwellings between £105,000 and £160,000. At the same distance a three-bedroom house and a one-bedroom flat were found as available to rent between £725-750pcm.

46. Should the entirety of the operations be moved to Pencoedcae and developed in line with the business plan then, notwithstanding the above or the issue of whether the caravan at Heolgerrig is considered to be a dwelling or not, in order to meet the functional need and for the proper functioning of the business, the full-time worker would need to be living on the site to be within close proximity to the livestock for welfare and security of stock. It is not clear why the livery and stud services cannot be provided at Heolgerrig where the applicant currently lives.
47. Without further clarification in relation to the status of the caravan, it is not possible to confirm whether this test has been satisfied or not.

Proposed Siting

48. It is proposed to site the dwelling within the farm yard and on the footprint of a previous dilapidated dwelling. RAC has no concerns regarding the proposed siting in terms of meeting the welfare requirements of the animals although the LPA should apply normal considerations associated with amenity and ground stability.

Conclusion

49. The applicant's level of expertise and qualifications have been emphasised in the submission and existing business is currently operating successfully over two sites in terms of meeting the existing functional need.
50. There is no evidence of investment to develop Pencoedcae in line with the business plan i.e. through the construction of purpose-built stabling, improvement of the condition of the land or through provision of enhanced security.
51. There is potentially an existing 'dwelling' at Heolgerrig in the form of a caravan but this will be for the LPA to determine. The LPA may conclude, that if the caravan is classed as a dwelling, Heolgerrig is a more preferable location and could comfortably accommodate the horse accommodation necessary to develop the business. There would be some daily travel between the two sites but the remaining horses at Pencoedcae would be managed extensively and the number of cattle is small and not proposed to increase.
52. If the Council is satisfied that Heolgerrig does not provide a permanent dwelling for the applicant then there may be a case to allow a temporary dwelling at Pencoedcae if all stock was to be moved to that location to ensure the business could operate effectively as proposed. However, at present facilities are substandard and the proposed 'general purpose agricultural building' does not appear to be dedicated, or particularly suitable, for equine purposes.
53. There is insufficient detail in the application to indicate that the applicant has a clear intention of implementing the proposed business plan or that the proposed enterprise has been planned on a sound financial basis. No evidence of market research or level of demand for the applicant's facilities and stallions has been provided.
54. The net margin of the proposed business is stated as £23,257 but this is once the business is operating at the desired capacity. Furthermore, this does not meet the 1.3 full time worker wage (1.3 x £19,332) of £25,131 at minimum wage and would not pay Ms Marsahllsea a wage commensurate with her stated skills and experience. There is no evidence of when the stated profit is expected to be achieved or indeed whether it can be achieved within the three-year period. It would therefore appear that the proposal is unable to cover the notional wages required.
55. The size of the proposed dwelling as indicated on the outline plan is commensurate with that of an affordable dwelling and its location is such that it would enable the welfare of the animals to be met although the LPA should apply the relevant considerations in terms of the amenity of the future occupants and land stability.
56. In light of the above, it is concluded that no compelling evidence has been presented to demonstrate the viability of the business model or indeed the intention and ability to develop the enterprise concerned. There is ambiguity over the future relationship of Pencoedcae with Heolgerrig and it seems possible that the business model could be implemented at Heolgerrig where horses are currently stabled without the need for the construction of a new dwelling in the countryside.

I trust these comments are helpful in your deliberations.

Yours sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Sophie Berry BSc (Hons) MSc