

DELEGATED REPORT

Application No: P/23/0083

Site Address: Pendducae Fawr Farm
Treharris
CF46 6UE

Development: Erection of rural enterprise dwelling

Case Officer: Emma Watkins

Application Expiry Date: 13th December 2023

Consultation reply date expired: 15th November 2023

APPLICATION SITE

The application relates to Pendducae Farm, which is located east of (and accessed from) Parish Road, in a valley between Bedlinog (to the east) and Aberfan and Troedyrhiw (to the west).

The application site is located outside a defined settlement boundary, is located within a Special Landscape Area 5 'Gelligaer and Taf Bargoed' (SLA) and within a sandstone, with potential for high specification aggregate, resource area. The site is also within proximity of Site of Importance for Nature Conservation 25 'Cwm Bargoed' (SINC).

The site includes the remains of a dwelling that formally served Pendducae Farm and was lost in a fire and agricultural buildings.

PROPOSED DEVELOPMENT

The application proposes the erection of a permanent rural enterprise dwelling at Pendducae Fawr Farm, Treharris. The dwelling is proposed to be sited on the footprint of a previous dilapidated and fire damaged property, within proximity of an agricultural shed and farmyard. The proposed dwelling is a modest two-storey, three-bedroom dwelling. Proposed materials are indicated as stone walls, slate roof, white upvc windows and doors.

PLANNING HISTORY

No planning history.

CONSULTATION

Highways and Engineering – No objection

Planning Ecologist – No objection, but additional information required prior to determination.

DCWW – No objection

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, 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 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 11, February 2021.

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 3.5 – 3.15 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 3.55 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 – 4.1.56 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 4.2.36 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 4.2.37 highlights that all applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need and that the planning guidance in TAN 6 sets out the need for rural enterprise dwelling appraisals.

Para 6.4.21 – 6.4.23 note that local authorities should seek to maintain and enhance biodiversity and build resilient ecological networks to ensure that any adverse environmental effects can first be avoided, mitigated or compensated. Regard should also be given to any potential impacts on protected species which may result in disturbance or harm to the species or its habitat.

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

Technical Advice Note 6 Planning for Sustainable Communities is the main policy against which such proposals will be assessed and is broadly supportive of a strong rural and agricultural economy. It states that:

“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 whilst safeguarding the environment, animal health and welfare, adapting to climate changes and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities.”

Paragraph 4.3 of TAN 6 identifies that one of the few circumstances in which new residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work. Rural dwellings can include a new dwelling on an established enterprise, a second dwelling on an established enterprise or a new dwelling on a new rural enterprise.

The detailed requirements of TAN6 are considered in the appraisal below.

Local Policy

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

Policy SW4 – Settlement boundaries
Policy SW11 – Sustainable design and Placemaking
Policy EnW1 – Nature Conservation and Ecosystem Resilience
Policy EnW4 – Environmental Protection
Policy EnW5 – Landscape Protection
Policy EcW13 – Minerals Safeguarding

Supplementary Planning Guidance Note 4: Sustainable Design (July 2013)
Supplementary Planning Guidance Note 5: Nature and Development (May 2015)

PLANNING CONSIDERATIONS

The key considerations in the determination of this application relate to the principle of development, background to the proposal, justification as a rural enterprise dwelling under TAN 6 and other material considerations including design, highways and ecology.

Principle of Development

Policy SW4 Settlement Boundaries states that to encourage development within urban areas, support the re-use of previously developed land and to protect and support the functioning of our rural economy and the countryside, settlement boundaries will be defined as Primary Growth Area and Other Growth Areas. Outside defined settlement boundaries, proposals will be regarded as 'countryside development' and will not be permitted unless the development is for (amongst other things)

- 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.

Where 'countryside development' is acceptable in principle, the proposal must also satisfy other relevant plan policies.

The proposed development has been put forward as 'erection of a rural enterprise dwelling' and has been supported by a Planning Statement and Business Plan/Planning Justification, so in principle it could be considered as an exception to the policy of not permitting development in the countryside subject to the requirements of TAN 6 and other relevant policies of the LDP.

Background to the proposal

Pendducae Fawr Farm, owned by Mr Bernard Llewellyn and let to Mr Keogh, is a 202 hectare (500 acres) holding. The let is a short-term lease (6 months) and is due to be taken back in hand. From responses to queries posed to the agent, it is clear that Mr Keogh farms the land as part of his wider enterprise. This arrangement will cease when his tenancy ends and the farm will then be run as a separate enterprise by the applicant.

The tenant's livestock is stated as comprising of a herd of 105 suckler cows (plus calves) and 500 hill sheep (plus lambs). The submitted information states that the animals currently graze the land for six months of the year and are taken back to the grazier's holding, presumably at the end of the grass keep period, as they cannot be properly housed/cared for at Pendducae Fawr Farm during lambing and calving due to the lack of a farmhouse.

There is currently no residential dwelling on the farm and the applicant is seeking to construct a new dwelling on the site of an existing fire-damaged property. The dwelling would allow a stock person to live on site all year round to manage the livestock.

The submission also states that an agricultural building has also been rebuilt, following fire damage.

No business accounts have been provided for consideration. The agent has confirmed that the applicant does not operate a farm business on the site as it is currently let to a grazier. Proposed livestock numbers replicate the livestock numbers owned by the tenant.

Rural Enterprise Justification

The application has been put forward on the basis that it is an application for a new permanent dwelling on an existing enterprise. Paragraph 4.4.1 of TAN 6 states that dwellings on well-established agricultural units will be granted where it can be established 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.*

In this instance, however, it appears from the information submitted that the applicant's farm business is not yet established and there are no business accounts (despite a request being made to the applicant for this information).

The holding is let on a six-month grass keep basis to a grazier with suckler cows and sheep. It is therefore considered that the proposal would be more appropriately considered under section 4.6 of TAN 6, new dwellings on new enterprises. Paragraph 4.6.1 states that such dwellings 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.

Paragraph 4.6.2 TAN 6 is clear that where the case is not completely proven for a dwelling, permission should not be granted for it, but it may be appropriate 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 4.4.1 (detailed above) are met.

Intention

This application has been assessed on the grounds that the dwelling will serve a new enterprise. Paragraph 4.6.1 a) of TAN 6 requires that there should be evidence of a firm intention and ability to develop the rural enterprise concerned.

The applicant has recently constructed a replacement agricultural building. This demonstrates a commitment to develop the enterprise in line with paragraph 4.6.1.

Functional Need

The primary test set out in TAN 6 is an assessment as to whether it is essential for a rural worker to live at, or near, their place of work.

In this case, the applicant does not appear to own any livestock – the grazed livestock is managed and owned by the existing tenant and all calving and lambing is carried out elsewhere. The farm is due to be taken back in hand, presumably through cessation of the annual grass keep arrangement. The submitted farm budgets are based on the current livestock levels and therefore indicate that the intention is keep a similar number of animals on the land to those stated in the assessment.

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.

In order to provide appropriate supervision for the enterprise, the applicant considers it essential that a farm worker lives on site at Pendducae Fawr in order to supervise the herd of cows and sheep flock to ensure their welfare needs are not compromised.

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 of 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 and such risks can often only be adequately managed with on-

site supervision, but this is rarely considered as a justification for a dwelling in its own right.

The overall responsibility for Duty of Care for animal welfare currently lies entirely with the existing tenant. The submission indicates that a stockperson will occupy the proposed dwelling, although no further details have been provided.

There is no doubt that livestock, at the stated levels, will require a degree of out-of-hours care with associated emergency requirements during calving/lambing and related metabolic disorders and possible physical injuries which may need rapid intervention on grounds of animal welfare. However, currently the animals are kept elsewhere during lambing and calving as there is no dwelling at Pendducae Fawr, albeit there is one recently constructed agricultural building of an unstated size, so it is difficult to know whether it is adequate for purpose.

It is clear that there is no established functional need to live on the site as all livestock are owned by the tenant and calved/lambled remote from the site. Given that the land is due to be taken back in hand with potentially no livestock, at least to begin with, then it is considered that there is no established existing functional need to live on the site and it has not been adequately demonstrated that there is a requirement for a full-time worker on the site.

However, the quoted number of suckler cows and ewes would generally be anticipated to generate a need for a competent worker to live on-site to provide for the welfare needs, particularly around the lambing and calving periods. Paragraph 4.6.2 of TAN 6 allows the LPA to grant permission for a temporary dwelling in instances where the case is not completely proven, on the basis of a submitted business plan. On this basis the test is not met by an application for a permanent dwelling but could be considered met as part of an application for a temporary dwelling.

Time Test

The submitted Planning Justification document calculates labour requirements using the stock levels for the existing enterprise. These replicate the numbers for the proposed enterprise. Advice received by the LPA concurs with the labour calculations provided by the Farm Consultancy Group in their Planning Justification. This states that labour requirements amount to 2,666 hours, where one labour unit provides 2,200 hours per annum, which equates to 1.2 full-time workers. However, this only accounts for livestock labour. It is stated that 120 acres (48.6ha) of land is cut for hay, which at 3.6 hours/ha is another 175 hours of labour plus an indeterminate amount of labour for maintenance of the SSSI land stated in the Planning Statement conclusion. Therefore, labour requirement for the proposed business would range between 1.3 and 1.5 full-time workers.

These calculations indicate that the submitted aspirational stocking levels would require a full-time worker.

Should future livestock numbers reach current levels, then there would clearly be a functional need for a full-time worker. In this instance, insufficient information has been submitted to demonstrate whether the new enterprise would generate the same functional requirement. As such the test under 4.6.1 (d) is failed. However, as previously referred to the evidence could be tested by granting permission for temporary accommodation in the case of new dwellings on new enterprises.

Financial Sustainability

Limited information was submitted with the application, and despite a request for further information no detailed accounts have been submitted. From the information submitted it is considered that the applicant's business is not yet established, despite the submission saying it is. It is considered that it is more appropriate to assess the application as a new dwelling on a new enterprise. In such cases, the test of financial sustainability requires only that there should be clear evidence that the proposed enterprise has been planned on a sound financial basis, along with evidence of intent and ability to develop that business.

The extent of the financial evidence in this instance is provided entirely within the aspirational Farm Budget developed by The Farm Consultancy Group, covering a three-year period, however, the figures seem optimistic and RAC would question the basis for such assertions.

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."

The Farm Budgets submitted are based on anticipated margins generated by the beef, lambs and grass as well as the income from the Rural Payment Scheme, and overheads which include additional labour, machinery and the cost of the proposed dwelling. A profit is shown each year which is able to cover the cost of a full-time rural enterprise worker and provide a worthwhile return for the enterprise.

The farm budget is not endorsed by either a grant aiding body, bank or chartered accountant and its weight is therefore limited. Furthermore, additional clarification is required as to the source of the data within the Farm Budget. As such, the information as submitted is insufficiently detailed in order to meet the financial test and to allow a conclusion that the business is planned on a sound financial basis.

Whilst the size of the proposed dwelling is considered appropriate for a rural enterprise worker, it is considered that the proposal is premature as there is no established business on the site. Ordinarily such proposals would be suited for a temporary dwelling which can be removed from the site after three years.

Other dwellings

The submission states that there are no other dwellings available for occupation on the holding. However, no information has been provided with regard to what other buildings may be available for conversion, and further information is required for proper assessment of this test.

The applicant has not carried out a search of other available dwellings in the area on the basis that, despite the proximity of many dwellings, the local topography would undermine access to the site. Given the distance from the proposed site to the highway and then the nearest dwellings, it is agreed that it is unlikely that the required full-time worker would be able to respond to any animal welfare issues within a reasonable time-frame. However,

insufficient information has been submitted in order to assess this test appropriately as it is not clear what other buildings are available on the holding or whether they are capable of conversion.

Design and Siting

LDP Policy SW11 states that where appropriate new development will be required to 'be appropriate to its local context in terms of scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density' (criterion 1) and 'integrate effectively with adjacent spaces, the public realm and historic environment to enhance general street scene and create good quality townscape' (criterion 2).

The proposed dwelling would be sited in the location of the previous fire damaged dwelling, utilising an existing access and within proximity to the rebuilt farm building, which does not raise any concerns.

The size of the dwelling is also considered to be largely appropriate to its local context and does not raise any concerns.

The design of the dwelling is relatively simple, with four main elevations and a defined front and rear. However, the pattern of fenestration particularly on the front elevation is considered to be unbalanced and has a negative impact on the overall appearance of the dwelling.

The main materials (stone walls and slate roof) are considered acceptable in principle, subject to further details of the stone work and slate to be used to ensure it is appropriate for a rural setting. However, a more appropriate alternative to the white upvc windows would be timber framed windows.

Overall, the size and siting of the dwelling is considered to comply with requirements of policy SW11 but the proposed dwelling is not acceptable with regards its design and choice of materials.

Special Landscape Area

LDP Policy EnW5 seeks to protect Special Landscape Areas (SLAs). It states that development proposals will be permitted where it can be satisfactorily demonstrated that: a) It would not cause unacceptable harm to the character and quality of the landscape setting of the County Borough; b) Development within Special Landscape Areas are sensitive to their special characteristics; c) Development respects the local distinctiveness and historic character of the landscape.

The application site is located within SLA 5: Gelligaer and Taf Bargoed. Whilst the principle of a rural enterprise dwelling is not acceptable based on the information submitted, the proposed dwelling would be sited in the same location as a previous dwelling associated with Pendducae Fawr Farm. Subject to an appropriate design and materials then it is considered that a dwelling in this location would not result in any greater harm the Special Landscape Area.

Highways and Access

LDP Policy SW11 states that where appropriate, new development will be required to 'allow access for the widest range of people possible, and demonstrate that any traffic movements will not have an unacceptable impact on local amenity or highway safety and satisfy the Council's parking standards' (criterion 5)

The proposed dwelling would be served via an existing access off Parish Road which currently serves the existing farmyard. Whilst the use of Parish Road gives cause for concern, given it is substandard to current highway standards, it is acknowledged that it is an existing access to the farmyard and buildings. Furthermore, due to the nature of the proposal, it is arguable that vehicular trips to and from the farm by a rural worker would be reduced if there was a dwelling on site. In addition there is adequate space available within the site to allow vehicles to enter and exit in a forward gear.

The proposal is for a 3-bedroom dwelling. In accordance with Wales Parking Standards 2008 residential dwelling have an off-street parking requirement of 1 space per bedroom (up to a maximum requirement of 3 dwellings). Although the submitted information does not indicate any specific offstreet parking provision there is ample space within the applicants control to accommodate the required 3 spaces. Furthermore, the proposal is located far enough away from the highway network to discourage on-street parking.

The Head of Engineering and Highways is satisfied that the proposal gives no undue cause for concern with regards to either access, circulation or parking.

Ecological Impact

Policy EnW1 requires development proposal to promote the resilience of ecosystems. In particular, proposals will be required to maintain and enhance biodiversity interests.

The application has been accompanied by a Bat Survey Report (Little Wing Ecology, Version 2, 11/10/23). This identified the fire damaged former dwelling as Building A and found evidence of use by bats. A series of recommendations were made including a method statement for any works and confirmed that a licence application would be required to NRW.

The Planning Ecologist reviewed the submitted report and raised several areas where further information was required or an amendment to the report prior to the determination of the application. This included a request for the positions of the proposed modification/replacement of existing roosts and the creation of new roosts to be marked on all relevant drawings in addition the general area that the four bat boxes and two bird boxes will be installed.

A lighting plan was also requested, preferably prior to determination although it could form a request via an appropriately worded condition.

The additional requests from the Planning Ecologist are noted but have not been requested at this time because the principle of the development is not acceptable. It is concluded that subject to the receipt of the requested amendments / additional information the application could be acceptable with regards any ecological impact in compliance with policy EnW1 but currently insufficient information has been submitted.

CONCLUSIONS

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Having considered the proposed development against the requirements of TAN 6 and more specifically section 4.6.1 the application fails to provide a justifiable need for a new rural enterprise dwelling. Consequently, the development would be considered inappropriate development outside defined settlement limits, contrary to Policy SW4 of the LDP, Planning Policy Wales and Technical Advice Note 6. Furthermore, insufficient information has been submitted to satisfy the requirements of policy EnW1 with regards the ecological impact of the development.

Accordingly the following recommendation is made:

RECOMMENDATION: BE REFUSED for the following REASONS

1. Insufficient justification has been submitted to demonstrate the need for a new permanent rural enterprise dwelling in the countryside, in that the submission does not adequately demonstrate the functional, time, financial sustainability or other dwelling tests of paragraph 4.7.1 of TAN 6. As such, the development is contrary to policy SW4 'Settlement Boundaries' of the Merthyr Tydfil Replacement Local Development Plan 2016-2031, paragraph 4.7.1 of Technical Advice Note 6: Planning for Sustainable Rural Communities, July 2010 and paragraph 4.2.37 of Planning Policy Wales (Edition 11) February 2021.
2. The proposed dwelling by virtue of its design and choice of materials would be inappropriate to its local context resulting in an unacceptable impact on the rural character and appearance of the surrounding landscape. As such, the development is contrary to policy SW11 'Sustainable Design and Placemaking' (criterion 1) of the Merthyr Tydfil Replacement Local Development Plan 2016-2031.
3. Insufficient information has been submitted to enable the local planning authority to fully assess the ecological impact of the proposed development. As such, the proposed development is contrary to Policy EnW1 'Nature Conservation and Ecosystem Resilience' of the adopted Merthyr Tydfil Replacement Local Development Plan 2016 - 2031.

RECOMMENDATION ENDORSED


Director of Neighbourhood Services

DATE: 11.12.2023