

Appendix A – Summary of Previous Application and Appeal

Application Ref. 22/1222

- 1.1. A review of online planning database and associated Officer's Report for Application ref. 22/1222 demonstrates that several consultee responses were received as part of the application. These responses have been extracted from the Officer's Report and detailed within the below table for reference.

Consultee	Response
Consultations	
Newport Access Group	"No response"
Glamorgan Gwent Archaeological Trust	"Site located in area which has high archaeological potential. Recommend planning condition attached to submit a written scheme of investigation for a programme of archaeological work"
CADW	"No response"
NRW	"We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome if the document identified below is included in the approved plans and documents condition on the decision notice: - Flood Consequences Assessment – Greenmoor Farm, Version 3, prepared by JBA Consulting, dated February 2023."
Dwr Cymru	"Septic tank proposed – if public sewer connection required, please reconsult. Advise seek advice from NRW."
Reading Agricultural Consultants:	<p>"Ms Helen Thomas is seeking planning permission to construct a principal rural enterprise worker's dwelling at Home and Away Kennels to enable her effectively manage the business. She currently lives with her parents in the nearby farmhouse but this arrangement is unable to continue as she desires an independent form of accommodation which is in close proximity to the kennels.</p> <p>The functional need to live on site is met due to the need to provide close care and attention of customers' pets. This need persists throughout the year.</p> <p>The dwelling would be occupied by a full-time worker.</p> <p>On financial viability it has determined that:</p> <ul style="list-style-type: none"> the business has been established for over three years; it has been profitable in each and every year of operation; the business is capable of paying a wage equivalent to the principal and meeting notional mortgage payments; it is considered that the business has long-term financial stability. On the availability of any other suitable accommodation: there are no other dwellings or buildings suitable for conversion on the business; there are no other suitable and available dwellings on the market which sufficiently close to meet the identified essential needs and ensure that animal welfare is not compromised; the needs have been met by the applicant living in the main farmhouse and could continue to be so. However, it would be reasonable to expect the applicant to reside in her own home rather than be reliant upon her parents; the Applicant is part-owner of a let dwelling adjacent to the family nursery. This dwelling is adequately close to meet the functional needs of the business. RAC advises NCC to seek legal advice as to whether the Applicant is able to utilise this dwelling to meet the identified functional needs of the kennels. However, if 75% of the ownership refuse to let the dwelling to the Applicant, it is unlikely that any legal action could 'force' the occupancy – particularly since it's an approved, open market dwelling. <p>All criteria in the appropriate TAN 6 Policy need to be met. All are considered to be met subject to legal interpretation of the availability of Holly House to the Applicant."</p>
Internal Council Advice	
Head of Environment & Public Protection (Ecology Officer)	"No response"

Head of Environment & Public Protection (Landscape Officer)	<i>"Insufficient information submitted"</i>
Head of City Services (Drainage Manager)	<i>"No response"</i>
Head of Education (Education Information Manager)	<i>"No response"</i>
Head of Housing & Communities (Housing Development Manager)	<i>"No response"</i>
Head of Environment & Public Protection (Leisure)	<i>"No response"</i>
Head of Regeneration & Economic Development (Planning Contributions Manager)	<i>"S106 required"</i>
Head of Regeneration & Economic Development (Planning Policy)	<p><i>"Permission is being sought for a two-bed dwelling associated with a rural business, situated in the open countryside. The site is situated in the Wentlooge Levels which is both a Special Landscape Area and a Landscape of Outstanding Historical Interest. It also falls within the Newport-Cardiff Green Wedge. The site is within Flood Zone C1.</i></p> <ul style="list-style-type: none"> <i>Key consideration is whether the development directly relates to the rural business/enterprise. Page 4 of TAN23 provides the relevant definition of economic development. LDP Policy SP5 is relevant here.</i> <i>Policy 5 of Future Wales and Policy 5.6 of Planning Policy Wales Edition 12 (PPW12) state that LPAs should support local enterprise and the expansion of existing businesses located in the open countryside provided there are no unacceptable impacts on the landscape. Landscape impacts are therefore a key consideration for this proposal and LDP policies SP8 and SP9 are relevant.</i> <i>Consideration of SP7 Green Wedge and page 41 of Planning Policy Wales.</i> <i>Flood risk is also a key consideration for this proposal. Policy SP3 and TAN15 relate to this.</i> <p><i>While a full assessment hasn't been provided here, it is considered that if relevant constraints can be addressed, policy is broadly supportive of the proposed development as a result of its benefits to the rural economy"</i></p>
Head of Environment & Public Protection (Public Protection)	<i>"No objection"</i>
Head of City Services (SAB)	<i>"No response"</i>
Head of City Services (Waste Manager)	<i>"We would anticipate the development requires trade waste and recycling services."</i>
Head of City Services (Highways)	<p><i>"The property is located well within the confines of the existing boundary of the land around the nearby businesses. No vehicle access arrangement has been provided however, the assumption is that the property will access the public highway using an existing access that serves the nearby businesses.</i></p> <p><i>Subject to the access to the proposed dwelling being confirmed as from an existing current access onto the public highway, Highways will not offer an objection."</i></p>
Representations	
Neighbours	<i>"None received"</i>
Community Council	<p><i>"We take the protection of our environment very seriously especially due to the details below and the area being close to Green Belt and is in the Green Wedge.</i></p> <p><i>The area of the Wentlooge Levels is open countryside, a designated Site of Special Scientific Interest (SSSI), a Cadw/ICOMOS UK Registered Landscape of Outstanding Historic Interest, an Archaeologically Sensitive Area, adjacent to the new Wales Coastal Path and to the internationally important RAMSAR site of the Severn Estuary.</i></p> <p><i>The Levels are a Special Landscape Area (SLA) and are recognised nationally and internationally (NCC LDP Policies SP5 and 8).</i></p> <p><i>Planning Policy Wales (PPW) 10 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide</i></p>

	<p><i>a net benefit for biodiversity” (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 10 respond to the Section 6 Duty of the Environment (Wales) Act 2016*.</i></p> <p><i>It is important that biodiversity and ecosystem resilience considerations are considered at an early stage in development plan preparation and when proposing or considering development proposals. Planning authorities should be proactive and embed appropriate policies into local development plans to protect against biodiversity loss and secure enhancement.</i></p> <p><i>The attributes of ecosystem resilience (PPW para 6.4.9 refers) should be used to assess the current resilience of a site, and this must be maintained and enhanced post development. If this cannot be achieved, permission for the development should be refused.</i></p> <p><i>The area of the Wentlooge Levels has seen a revival in species of recent years which has been helped by the Living Levels project. An example of which has been an increase in the sightings of one of the U.K’s rarest bees the Shril Carder Bee, a significant rise in the swan population together with many other nesting and migrating birds, water vole, otter and dive beetle just to list a few. The fear is that the wildlife and its habitat will be greatly affected with the loss of environment on such a large scale.</i></p> <p><i>There is some concern that the current access and egress onto the B4239 in this locality is already congested. The access to the proposed dwelling would need to be completely separate to the existing garden centre as there is mention of a future sale. We would also request that the proposed dwelling be tied to the business.</i></p> <p><i>Taking the above points into consideration we would support the above application.”</i></p>
--	--

1.2. The recommendations and requests set out within the above responses have been addressed within the supporting information submitted alongside this application, and have been discussed in detail within the Planning Statement.

1.3. The Officer’s Report also sets out the Officer’s analysis of the proposal. As such, this is summarised in detail below.

Background

1.4. A previous planning application 12/1058 was granted for the erection of a dog kennels business within the agricultural unit. This consent contained the following condition:

“08 The kennels shall be operated by Greenmoor Nurseries and at no point should it become a separate enterprise from the nurseries.

REASON: To prevent potential pressure to provide a workers dwelling in the countryside and in the interests of residential amenity.”

1.5. The Officer’s Report sets out the previous consent (ref. 12/1058) contained a condition preventing the kennels from becoming a rural enterprise in its own right. Given the existing relationship of the kennels within the wider agricultural unit, and the applicants continued involvement in the nursery business, the Officer considered that this condition has not been breached and remains necessary, enforceable and reasonable in all respects.

1.6. Taking into account the above, the proposed development for a rural enterprise dwelling in association with the existing kennels as stated within the description of development, would be in breach of a previous planning condition contained in 12/1058 as the kennels could not be considered as a rural enterprise in its own right.

1.7. Notwithstanding the above, the Officer noted that since the 98/0646 planning application, the ownership of the agricultural unit has changed to varying division amongst other family members, and as such, this raised the questions of whether the subdivision of the ownership has removed what was considered as the

agricultural unit and therefore altered the planning unit. Within Burdle V Secretary of State (1972) the following three separate broad categories for planning units is set out.

1. A single unit of occupation with a single primary use with ancillary and incidental activities;
2. A single unit of occupation with two or more separate primary uses that are not incidental to one another (mixed use); and
3. A unit of occupation where two or more physically separate areas which are occupied for different and unrelated purposes. Each area in scenario (3) forms a separate planning unit.

1.8. The Officer continues by stating that when taking into account that the existing kennels was only justified through it being ancillary to the primary use of the nursery and there being an enforceable condition to ensure this, coupled with the onsite relationship between the existing dwelling and occupation of these dwellings reliant upon the operation of the nursery, it is considered that the site would represent as a single primary use with ancillary and incidental activities.

1.9. In light of the above, the Officer set out that they turn to consider the proposed dwelling in association within the wider agricultural unit. As such, the proposed dwelling would represent as a fourth dwelling within this agricultural and planning unit.

TAN 6

1.10. The Officer's report continues by stating that the application site forms part of the wider Greenmoor Nurseries holding. Accordingly, the recognised rural enterprise for policy purposes remains the overall nursery site, which also includes the existing farmhouse, Oakmeadow House, and the park home.

1.11. The report continues by stating that paragraph 4.3.1 emphasises that isolated new dwellings in the countryside are only justified where essential for workers to live at or near their rural enterprise, and that this must be demonstrated through clear, robust evidence relating to the needs of the enterprise rather than the personal circumstances of the applicant. As the Newport Local Development Plan does not define a rural enterprise, the report relies on TAN6's definition at paragraph 4.3.2, which limits qualifying enterprises to land-related activities deriving their primary inputs from the site—such as agriculture, forestry, mineral processing, land management, and certain tourism or leisure uses.

1.12. The Officer noted that the Rural Enterprise Dwelling Appraisal did not address whether the dog kennels meet this definition. Unlike the examples listed in TAN6, the kennels do not depend on land-based inputs, instead offering a service not inherently tied to the site's land resources. On this basis alone, the kennels would not naturally qualify as a rural enterprise requiring a countryside location.

1.13. However, the Officer did acknowledge that Practice Guidance for Rural Enterprise Dwellings and previous decisions in neighbouring authorities where kennels have been treated as rural enterprises, largely because such facilities are generally unsuitable in urban or residential settings. As such, the report concludes that the dog kennels can be regarded as a rural enterprise in principle.

1.14. That said, as the restrictive condition on permission 12/1058 prevents the kennels from functioning as a standalone enterprise separate from the wider nursery, the kennels are considered an associated use within a mixed agricultural and kennels operation rather than a distinct rural enterprise capable of justifying a new dwelling in its own right.

TAN 6 Tests

1.15. First and foremost, it should be noted that a Rural Enterprise Dwelling Appraisal has been prepared by Landsker Business Solutions, and has been submitted in support of this application. This appraisal addresses all concerns that were raised previously, and confirms that all tests and requirements of TAN 6 have been met.

Functional Test

- 1.16. In terms of the function test, the Officer's report sets out that whilst the dog kennels could be considered as a rural enterprise, the kennels form part of the wider rural enterprise which has a primary use as a nursery for the growing and retail sale of plans. Therefore, a functional need for accommodation onsite is established, however, the rural enterprise does not require additional works above and beyond those already serving the business. Therefore, it was considered that the proposals arise from personal preference and/or circumstances rather than essential need. Accordingly, it was considered that the functional test was not met.
- 1.17. As stated above, these concerns have been addressed within the Rural Enterprise Dwelling Appraisal submitted in support of this application. The relevant tests for TAN 6 are also discussed in detail within Section 5 (Material Considerations) of the Planning Statement accordingly.

Time Test

- 1.18. In terms of the time test, the Officer's Report sets out that it was not demonstrated that the current occupation of all the accommodation on site is currently fulfilled by existing full-time workers serving the function need of the rural enterprises.
- 1.19. This has been addressed and demonstrated within the Rural Enterprise Dwelling Appraisal submitted in support of this application.

Financial Test

- 1.20. As for the financial test, the Officer's Report sets out that it was considered that based on the account information received and the figures shown, the amount of profit generated by the business is not sufficient in order to directly fund the build within a reasonable amount of time, or to borrow the required amount through a lender.
- 1.21. The Officer also noted that no evidence was submitted to demonstrate the economic sustainability of the business having a reasonable prospect of providing a market return for all operators for a period of 5 years post completion of the proposed dwelling.
- 1.22. These concerns have been addressed and demonstrated within the Rural Enterprise Dwelling Appraisal submitted in support of this application, whereby it is demonstrated that all tests of TAN 6 have been sufficiently met.

Other Dwelling Test

- 1.23. In regard to the other dwelling test, the Officer's Report sets out that the information submitted did not demonstrate through any robust evidence as to why the applicant cannot continue to reside at the relevant section of the extended farmhouse which appears independent from the applicant's parents accommodation, or that arrangements could not be made to make Holly House available for occupation either.
- 1.24. As stated above, the REDA submitted in support of this application demonstrates that all relevant tests of TAN 6 have been met. Accordingly, these concerns have been addressed within the submitted appraisal.

Flooding

- 1.25. In terms of flooding, the Officer's Report outlines flooding can be managed on site, subject to appropriate conditions being imposed, however, *"the development, as a starting point, needs to demonstrate that the*

proposed development is justified in this location under national policy – Planning Policy Wales (Ed.12) and Technical Advice Note 6 – Planning for Sustainable Rural Communities. The assessment within section 5.2 of this report has clearly identified that the proposed dwelling is not justified against the criteria and guidance found within Technical Advice Note 6. Therefore, the proposed dwelling is not justified to be sited within the floodplain. As such, the further tests contained within 6.2 of Technical Advice Note 15 – Development and Flood Risk are not triggered.”

Green Wedge

- 1.26. In respect to Green Wedge, as the introduction of a new dwelling in the countryside has not been justified in line with the relevant tests set out within TAN6, the development was considered as an inappropriate development within the Green Wedge.

Special Landscape Area

- 1.27. In terms of the sites location within SLA, the Officer’s Report sets out that proposals did not successfully integrate into the wider landscape, and as such, resulted in a contrived appearance when viewed in the context of the Wentlooge Levels.
- 1.28. The proposals put forward as part of this application represent a significantly drawn back proposal from the previous application. These concerns are considered to have been addressed, and are discussed in more detail within Section 5 (Material Considerations) of the Planning Statement.

Amenity

- 1.29. As for amenity, it was considered that the proposed dwelling would not have an adverse impact on local amenity in terms of noise, disturbance, privacy, overbearing, light, odours or air quality.

Highways and Parking

- 1.30. In terms of highways and parking, it was considered that whilst the appropriate number of parking spaces had not been provided, nor was there any cycle storage proposed, the proposed site plan demonstrated that there was sufficient land available in order to overcome these concerns.

Ecology

- 1.31. Whilst there was no response provided by the Council’s Ecology Officer, concerns were raised by NRW, where it was set out that *“the re-en buffer zones proposed with the Ecology Assessment are not sufficient and should be increased to protect the SSSI.”*
- 1.32. These concerns were not considered to be fundamental, with the Officer’s Report setting out that *“this could be suitably addressed by altering the proposed curtilage moving it toward the west and south. The siting of the proposed dwelling may not have to be altered.”*

Design

- 1.33. Although the footprint of the dwelling was considered to be modest, it was considered that it sat within a comparatively extensive curtilage. The arrangement of parking and turning space to the front and private garden to the rear was considered to be logical, but the lack of any detailed boundary treatment, was considered unusual, as the gates would serve little purpose without corresponding enclosure around the remainder of the plot. The proposed materials, including stone and standing-seam metal cladding, were acknowledged as being typical of rural barn-style architecture, with the selected brick or stone detailing adding some visual interest.

- 1.34. Further concerns were raised in relation to the proportions and composition of the building. The ground floor extended wider than the first floor due to the kitchen/dining extension and an adjacent boundary wall projecting into the parking area. Due to these design features, the Officer considered the proposals to result in an unbalanced and bottom-heavy appearance.
- 1.35. The Officer also noted that the fenestration did not provide for symmetry and coherent spacing, giving the impression that the dwelling has been designed from the inside out rather than responding to good external design principles. The chimney was viewed as an ill-fitting element with no clear design relationship to the wider form of the building. As the site is visible from Hawes Lane, these design proposals were considered to cause harm to the visual amenities of the area.
- 1.36. These design comments have been taken on board as part of the proposal put forward in this application. The proposals are considered to appropriately respond to all concerns raised, and are considered to be acceptable accordingly. The proposed development is detailed within Section 3 (Proposed Development) of the Planning Statement, and further detail and analysis is provided within Section 5 (Material Considerations)

Archaeology

- 1.37. The site is located within an area which has high probability of encountering archaeological deposit. As such, the Officer notes that should the application be acceptable in all other regards, a condition for an Archaeological Watching Brief would be attached to any permission granted.

Waste

- 1.38. Whilst the siting of the waste storage area was considered to not be ideal, it was considered that it is typical of this property type. As such, it was considered that the proposals accord with the Waste Storage and Collection SPG and Policy W3.

Appeal Ref. CAS-03729-H9CON5

- 1.39. The Inspector's Report for Appeal ref. CAS-03729-H9CON5 sets out that the appeal concerned the following main issues:
- *“Whether there is an essential need for a dwelling to accommodate a rural enterprise worker;*
 - *Whether the proposal is inappropriate development in the green wedge and its effect on openness;*
 - *Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very exceptional circumstances necessary to justify the development;*
 - *The effect on the character and appearance of the area;*
 - *Whether the location of the proposal would be acceptable having regard to planning policies relating to flood risk; and*
 - *Whether the proposed means of foul drainage is acceptable, having regard to the site's location within the Gwent Levels – St Brides Site of Special Scientific Interest (SSSI).”*

TAN 6

- 1.40. The Inspector notes that national and local policy restricts new dwellings in the open countryside, with rural enterprise dwellings being one of the few potential exceptions. The proposal is therefore assessed against TAN 6, including the Functional, Time, Financial and Other Dwelling Tests.

- 1.41. While the Inspector accepts there is a functional need for a worker to be present at the kennels most of the time, sufficient evidence to demonstrate this was not provided. This evidence included labour calculations or standard man-day assessments, which would have the purpose of demonstrating that this need requires a new dwelling.
- 1.42. The Inspector also found that existing dwellings within the wider enterprise had not been convincingly ruled out. In particular, parts of the existing farmhouse appeared suitable for conversion, and information was not provided to demonstrate why the existing accommodation could not be reorganised to meet the enterprise's needs. As a result, it was considered the proposals did not meet the other dwelling test.
- 1.43. In terms of the financial test, although the kennels show improved profitability, the Inspector was not satisfied that the business could sustainably fund the construction of a new dwelling while maintaining sound operations, partly due to unclear staffing cost provisions. Consequently, the Time and Financial Tests were also not met.
- 1.44. Overall, it was considered that the essential need for a rural enterprise dwelling was not demonstrated as sufficient information was not provided. These concerns have been addressed as part of this application, and have been given sufficient consideration as part of the REDA submitted in support of this application.

Other Planning Requirements

- 1.45. First and foremost, as set out throughout this appendix, this application is supported by both a REDA and Planning Statement, both of which set out that the concerns previously addressed have been appropriately addressed. Notwithstanding this,
Green Wedge
- 1.46. The site lies within a designated green wedge intended to prevent coalescence between Newport and Cardiff. As the proposals were considered to not meet the criteria for a justified rural enterprise dwelling, the Inspector considered the proposals formed an inappropriate development within the green wedge. The Inspector considered that the dwelling would encroach upon and harm the openness of this area, conflicting with PPW and LDP Policy SP7. In the absence of very exceptional circumstances, this harm could not be outweighed.

Character and Appearance

- 1.47. Although the dwelling employs rural materials, it was considered that the form of the proposals, including the extended stone wall and contemporary design elements, would appear visually intrusive and out of keeping with the surrounding landscape. It was also considered that given the location of the proposed development, at the northern edge of the enterprise, it would be perceived as a sizeable and isolated domestic structure within an area characterised by agricultural buildings and open fields, including a Special Landscape Area. The proposal was therefore considered to have failed to respond positively to local character, contrary to Policies GP2, GP6 and SP8.

Flooding

- 1.48. The site lies within high-risk flood zones (C1, Zone 3 and Zone 2). Under TAN 15, residential development in such areas must first satisfy strict justification tests. As the proposal was considered to not be essential for supporting a rural enterprise nor part of a regeneration or employment strategy, it fails these primary tests. Consequently, the location was considered to be unacceptable for new residential development, conflicting with TAN 15 and LDP Policy SP3.

Foul Drainage

- 1.49. The proposal included a septic tank, however, it was considered that no adequate assessment was provided to demonstrate that it would not harm the nearby SSSI, which relies on protected hydrological conditions. Given the site's location and the absence of detailed drainage impact analysis, the Inspector could not be satisfied that unacceptable environmental harm would be avoided. The proposals were therefore considered to conflict with LDP Policies SP4 and GP7.