

Updated Comments on the Policy Review of the REDA for P/2023/0583: Outline Application for a Rural Enterprise Dwelling, Garage, Formation of Vehicular Access and all Associated Works

Tyn Twll, Lane From C314 Pentre Farm to Blaen Cwm, Llanarmon Dyffryn Ceiriog, Llangollen, LL20 7LH.

TAN 6: Planning for Sustainable Rural Communities

Paragraph 4.4.1 of TAN 6 defines the criteria (tests) that are required to be met to allow new permanent dwellings to support established rural enterprises. The assessments of the Functional Test, the Time Test, the Financial Test and the Other Dwelling Test are set out below.

Functional Test

TAN6, Paragraph 4.8.1 states: *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.*

The REDA, page 11 states: *...it is absolutely vital to have a full time worker present on the farm every hour of each day and night throughout the year, both within and out of normal working hours, and to attend to the never ending care of the livestock at short notice, including livestock emergencies that would otherwise cause serious mortality...*

The applicants have made a case why intensive, round the clock care is required during the lambing season (*Lambing over 3 ½ months. Intensive activities required 24 hours per day...*). The applicants have also stated in a summary of some of the managerial requirements which are carried out by the applicant over a 12 month period, that *Calves all year round. Numerous occasions calves need constant help 4 times (day and night) to aid the milk consumption from their mothers.*

The applicants have not provided exact information demonstrating the exact scale of the lambing and calving. This is required to be submitted to understand how frequently urgent care is required to be provided (when 1 or more workers are required to be readily available)

Information has been submitted that shows:

- The approximate number of lambs and calves born:

REA, pg 8 extract: *On this holding there is a flock of 1200 commercial/breeding ewes and finishes 1450 head of lambs each year. The ewes lamb throughout January, February, March and April and need constant supervision both day and night. The lamb finishing enterprises also requires constant supervision.*

REA pg 8 extract: *They also have 90 suckler cattle that often calve all year round, 60 calves for rearing up until 4/5 months. This enterprise requires constant supervision to ensure action can be taken in a medical emergency or if calves fall ill.*

...It is the intention to calve the cows in the spring and autumn, but in practice it leads to all year round calving

Information has not been submitted that shows:

- The frequency of issues needing urgent assistance, other than births (how many approximately, per year)
- What the financial consequences to the business are where lambs, calves die during birth or, where sheep or cows die during giving birth – what the cost of the loss of lamb, calf, sheep or cow would be per year and how this would affect the viability of the business.
- What the financial consequences of other incidences requiring urgent care (sudden illness, injury etc.) would be (where close monitoring, prompt action and intervention is required).

WG Practice Guidance, Paragraph 4.1 states:

...It must also be demonstrated that the worker(s) will be employed on the enterprise full-time or, in the case of the exception set out under section 4.5 TAN 6 (that is applicable in the assessment of this application), for 50% or more of a full-time role

The REA section 4 Labour states:

...the standard labour requirement for the whole business is 8.03 full time workers.

As the farm presently operates with 3 members of staff, and the stated standard labour requirement is 8.03, on this basis, it is clearly demonstrated that the worker will be employed for 50% or more of a full-time role.

Paragraph 4.5.1 of TAN 6 states: *The Assembly Government wishes to encourage younger people to manage farm businesses and promote the diversification of established farms. To support this policy objective it may be appropriate to allow a second dwelling on established farms that are financially sustainable where the criteria set out in paragraph 4.4.1 cannot be fully satisfied. The two exceptions to the policy are:*

1. • 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,
2. • 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.

RDA Section 6: The Proposal extract:

...The dwelling will help to facilitate the transfer of the management control from Mr and Mrs Edwards to the next generation of younger farmers...

The letter from the NFU Office extract, submitted as a part of the application:

....He is the next generation wanting to move forward in the farming business...

...There application is therefore proposing a property to be built within the curtilage of the farm, where Robin and Jan can move into. Thus, providing Richard with the family home, whilst his parents are close enough to continue assisting the thriving family business they have.

REA pg 19 extract:

The dwelling is required for a farm manager who is required to live on site to provide essential functional care for the livestock at all hours of the day.

In terms of the first exception in paragraph 4.5.1 of TAN 6, as quoted above, a legal agreement between the father and son could be made in the form of an S106 agreement. The S106 agreement could be worded to give the son majority control of the farm business. This obligation would ensure that ownership had been transferred. It would be therefore be possible to meet the requirement of the first exception if full planning permission was subsequently granted, with an appropriate S106 agreement attached (if the family has reached the stage where a legal transfer is wanted).

It has not been made clear, (has not been explicitly stated in the application documents) if the applicants would want the transfer of ownership at this time. Section 9 of the REA quotes states: *one of these exceptions which may be relevant in this case is:..* (referring to the first exception in Paragraph 4.5.1 of TAN 6)

A letter of support from the Farming and Wildlife Advisory Group submitted as a part of the application documents states: *...There needs to be a long transition period as Richard becomes more and more involved in the farming business taking more responsibility for the paperwork involved with agriculture, the finances, the negotiations and the management of both farm staff and contractors.*

Further information is required to be submitted to demonstrate what the intention of the family is with regard to the timing of an ownership transfer, to establish if the family would potentially want an S106 attached to a planning permission - to establish if the first exception in Paragraph 4.5.1 of TAN 6 exception could apply.

TAN 6, paragraph 4.5.2 stipulates that, *in these circumstances* (i.e. where one of the exceptional circumstances in paragraph 4.5.1 of TAN 6 has/ can be met) *a rural enterprise dwelling may be considered favourably provided the criteria set out above and in paragraph 4.4.1 c - e are met.* (These criteria are the financial test, the other dwelling test and the other planning requirements test).

The assessment of criteria c and d in paragraph 4.4.1 of TAN 6 will be made in the next sections of this report, the assessment of criteria e (the other planning requirements) is made by Development Management.

In order for one of the exceptions to apply in paragraph 4.5.1 of TAN 6 above, the stipulation outlined in paragraph 4.5.3 of TAN 6 must also be met.

Paragraph 4.5.3 of TAN 6 states:

It must also be demonstrated that the management successor or part time worker is critical to the continued success of the farm business, and that the need cannot be met in any other reasonable way, e.g. through the re-organisation of labour responsibilities...

The applicants make the case that the dwelling will help to facilitate the transfer of the management control from Mr and Mrs Edwards to the next generation and that Richard, (the son), according to a letter of support from the Farming and Wildlife Advisory Group, *has spent his childhood and young adult life learning the array of farming skills required at Ty'n Twll, from his father and mother...*

It is reasonable to assume that a management successor cannot be met in any other reasonable way, as per the requirement in paragraph 4.5.3 of TAN 6, due farming skills and knowledge of the land acquired by the son over several years that relate to this particular farming operation.

This should be considered in the context of the intent of the policy that is to allow a younger family member to take over the running of the farm while the current farmer transitions into retirement, with a secured home for both.

In terms of this TAN 6 test outlined in paragraph 4.5, a succession dwelling is acceptable if the applicants comply with the requirements of paragraph 4.5 (i.e. meet one of the exceptions in paragraph 4.5.1), meet the criteria in paragraph 4.4.1 c – e and, paragraph 4.5.3: demonstrate that the management successor is critical to the continued success of the farm business.

The requirement in TAN 6 paragraph 4.4.1 criteria 'a' (there is a clearly established existing functional need) and criteria 'b' (the need relates to a full-time worker, and does not relate to a part-time requirement) are therefore not required to be met.

As a result, the Functional Test requirement, outlined in paragraph 4.8.1 of TAN 6, that has been assessed in the first part of this report and determined as not being met due to the lack of information submitted, would not be relevant and therefore not be required to be passed – the Functional Test does not require to be passed **if** the applicants could confirm the desire for a transfer of management via a S106 agreement to be attached to a planning permission at this time.

Further information is required to be submitted to demonstrate what the intention of the family is with regard to the timing of an ownership transfer, to establish if the family would potentially want an S106 attached to a planning permission - to establish if the first exception in Paragraph 4.5.1 of TAN 6 exception could apply.

The result of Functional Test cannot be determined due to the lack of information submitted.

Time Test

Paragraph 4.7.1 of TAN6 states ...*The appraisal should address the following tests: ...The time test to provide evidence of the labour requirement for the worker who is working on the justifying enterprise. (See paragraphs 4.9.1)*

Paragraph 4.9.1 of TAN 6 states: *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.... 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.*

In terms of the requirements outlined in paragraphs 4.7.1 and 4.9.1 of TAN 6 above, it is necessary to:

- Provide evidence of the labour requirement for the worker who is working on the justifying enterprise
- Consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant

The Further Justification Document, paragraph 4.2 states: *All labour is provided from within the business; either by the Applicants or their Son, who (the son) would reside within the proposed dwelling. All workers undertake all duties... such as calving, lambing, general health checks, worming, vaccinating, mucking out feeding and crop production.*

The intention is for the existing 3 workers to continue to provide all of the labour and for the son to reside within the proposed dwelling, whilst the parents remain in the existing dwelling. Therefore, there would be no conflict with paragraph 4.9.1 of TAN 6 in regard to the requirement for the existing dwelling to be occupied by full time workers, should the functional requirement be established in the future.

It is stated that *the standard labour requirement for the whole business is 8.03 full time workers... Standard labour data has been taken from the Farm Management Pocketbook by John Nix in The REA, section 4.*

Paragraph 4.10 of the Practice Guidance for Rural Enterprise Dwellings – TAN 6 states the different circumstances to which a time test is applied in the Rural Enterprise Dwelling policy. As no additional workers are proposed, the circumstance relevant to this application is:

a second or further dwelling on an established farm (where there is an existing dwelling/s) – there must be a transfer of the majority control of the enterprise to the next generation and the worker must be critical to the successful operation of the farm.

In terms of the circumstance quoted above, further information is required to be submitted to demonstrate what the intention of the family is with regard to the timing of an ownership transfer, to establish if the family would potentially want an S106 attached to a planning permission - to establish if the relevant exception in

Paragraph 4.5.1 of TAN 6 exception could apply (*that transfer of management is only conditional upon grant of planning permission for the dwelling*).

The Time Test cannot be assessed unless further information is submitted, as detailed above

Financial Test

Paragraph 4.10.1 of TAN 6 states: *The rural enterprise and the activity concerned should be financially sound and should have good prospects of remaining economically sustainable for a reasonable period of time, usually at least 5 years.*

Paragraph 4.10.2 of TAN 6 states: *...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.*

TAN 6 Practice Guidance, paragraph 5.3 states: To be viable or sustainable any business enterprise must be:

- profitable - income must exceed expenditure on a regular basis;
- feasible - have sufficient funds to support on-going trading operations; and
- worthwhile - provide a reasonable return on the resources used in it.

In terms of the profits generated by the business, the following figures are stated in the financial statements submitted:

a net profit of £818 for the financial year ending 31st March 2021

a net loss of £8,348 for the financial year ending 31st March 2022

a net profit of £11,495 for the financial year ending 31st of March 2023

These figures indicate that income has exceeded expenditure for 2 of the 3 financial periods submitted generating a modest profit.

If the profit and loss information submitted is considered in isolation/ viewed in tandem with the accountant's statement below, it is questionable if the present enterprise would be viewed as sustainable given the successive low levels of profit and the losses that have occurred in recent years. In a letter from Morgan Griffiths, (the accountants who act for the family business) dated 22nd of January 2024, it is stated that *The business is profitable in one of the last three years as defined by TAN 6*

The financial information submitted lacks the required level of detail to make an assessment, as is required by TAN6. Specifically:

- It is not possible to determine whether the operation is feasible as incomplete information has been submitted re the balance of assets and liabilities. Most

of the assets and liabilities information has been submitted in The Trading and Profit and Loss Accounts for the financial years ending March 2021, 2022 and 2023. However, the son's explicit salary figures (that are required) have not been provided (only those quoted below that have been submitted in the Further Justification Statement for the year ending 2023). Salaries are considered a current liability.

- It is not possible to determine if the business is worthwhile. Paragraph 5.16 of the Practice Guidance for TAN 6 states: *All labour required must be adequately remunerated either as a wage or a return, with an explicit entry in the financial appraisal showing 'drawings' in the form of money or kind.*

Paragraph 2.9 of the Further Justification Statement states:... *The submitted accounts do show drawings to the two Partners in the business, however they do not show any wages for the Applicant's Son...Regarding the accounts for the year ended March 2023, the amounts paid to Richard Edwards would be:*

£5,200 included within contract work

£2,760 within motor expenses for fuel, insurance and licences

In addition, board and lodging are provided for Richard Edwards with no charges ...

According to *WG Guidance: Agricultural wages: minimum rates of pay*, a category B3 Agricultural Worker (21 years +) is £11.79 per hour and an Agricultural Manager is £14.77 per hour.

The wages paid to Richard Edwards would appear to conflict with paragraph 5.16 of the practice guidance for TAN 6. Paragraph 5.16 states:

It will not be realistic for a worker providing in excess of a standard day's work to be costed and assessed on the basis of the basic daily rate. Furthermore, the labour cost must relate realistically to the skills of the individuals concerned. The absolute lowest threshold of remuneration will be the statutory minimum wage but, in the majority of cases, higher levels of remuneration will be appropriate.... Evidence on this aspect will be an essential aspect of the Rural Enterprise Dwelling Appraisal.

The Further Justification Document, Section 4 Labour Requirements, paragraph 4.2 states:

All labour is provided from within the business; either by the Applicants or their Son, who (the son) would reside within the proposed dwelling. All workers undertake all duties

The REA states:

Standard labour data has been taken from the Farm Management Pocketbook by John Nix.

It is generally accepted that 275 standard man days are provided by agricultural workers. Therefore, the standard labour requirement for the whole business is 8.03 full time workers.

If the standard labour requirement is for 8.03 full time workers, at a minimum rate of pay of £11.79 per hour, this has a labour value of £208,447.2, if calculated at 8 hours work per day. (excluding employers NI/Pensions etc. and not reflective of the role/risk). (i.e. $11.79 \times 8 \times 2,210$ (the total standard man days stated in section 5 of the REA). This labour value is not reflected in the last 3 years of the accounts submitted. This factor would, in turn, reduce the profit figures submitted.

The figures stated appear to conflict with the requirements of TAN 6, paragraph 5.16 in terms of the requirement to *adequately remunerate wages* as workers appear to providing an excess of a standard day rate. For example, the *Drawings* in the 2022 financial statements indicate that Mr and Mrs Edwards receive a wage of £12,152 each. Also, wage figures have not been provided for Richard Edwards (the son) for the financial periods ending 2021 and 2022.

- The accounts submitted include *Contract work/ Contracting income* is included in both the expenditure and the income. Apart from the £5,200 that is stated as being paid to Richard Edwards *that is included within contract work* in the Further Justification Statement it has not been made clear how this is income to the business and expenditure from the business. Further information is required to be submitted to clarify if the business hires him out, if the business receives an income and pays him, or, if the *contract work* comprises workers that are contracted out independent of the business or, if the business pays contractors to carry out farm work (and what that work is).

The application documents appear to give conflicting information about contracting work. In section 4 of the REA, it is states: *No contracting work is used on the farm.*

As a result of the factors above regarding the lack of financial information submitted, the uncertainty around whether the business can provide a reasonable return on the resources used in it (particularly the labour requirements), and the clarity needed for the contract work income and expenditure - the level of profit generated by the business is not entirely clear.

Consequently, it is not possible to determine if the business could support the running costs and maintenance of the proposed dwelling as is required by WG TAN 6 Practice Guidance, Paragraph 5.

Paragraph 4.10.2 of TAN 6 states: *A financial test is also necessary to assess the size of dwelling which the enterprise can afford to build and maintain*

The letter from the accountants suggests that savings can be used to build the proposed dwelling, - ...*there are savings that can be used to build the proposed dwelling to enable the continuation of the farm to the next generation.*

Further information is required to be submitted to indicate the proposed level of funding required to build the new dwelling would not negatively affect the viability of the business.

As a result of the factors outlined above, the proposal fails to meet the requirements of the Financial Test

The Other Dwelling Test

In relation to other, alternative dwellings, TAN 6, paragraph 4.4.1 states:

“...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”

The Further Justification Statement notes that:

- There are no redundant farm buildings which are capable of conversion on the holding that would be within sight and sound of the farm complex to meet the functional needs.
- Properties located further than a one mile from the holding at Tyn Twll would not meet the functional need.
- A search of Rightmove on 23rd July 2024 showed there were no properties for sale or rent within a 1 mile radius of the farm holding.

(A brief internet search I did confirmed that all relatively nearby properties for rent are not within a close proximity and those for sale are large to very large, unsuitably priced and also not located within a close proximity).

- The scale of a potential extension to the existing dwelling at Tyn Twll would conflict with stipulation iii of Policy H7.
- Remodelling and extending the farmhouse to meet the required need would likely be significantly more expensive than building a modestly scaled new detached dwelling.
- The applicant's son would like to start his own family, *and it is unreasonable to expect the family to grow up in cramped conditions, which would almost inevitably lead to future generations of the family contributing towards the 'brain drain' and leaving the local rural community*

The case the applicants make for a potential (very large scale) extension conflicting with (one of the) stipulations (and being *contrary to the requirements of the policy*) is not accurate in policy terms - as one of the other exceptional circumstances outlined in Policy H7 - where housing development outside defined settlement limits could be permitted (subject to other policy requirements) - is where: (i) *It is for the purposes of agriculture, forestry or other rural enterprise as defined in TAN6*. This (i) would form the relevant exceptional circumstance in Policy H7, rather than exception (iii).

In terms of sub-dividing or extending the existing farmhouse to provide additional accommodation stated as being *more expensive than building a modestly scaled new detached dwelling*, the applicants have provided no information to justify this argument, nor have the anticipated costs of such works been provided.

The requirements of the Other Dwelling Test have not been met.