

TOWN AND COUNTRY PLANNING ACT 1990

MS. DAVEY

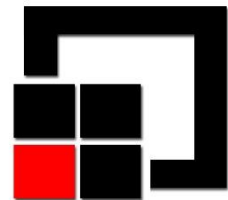
LPA REFERENCE: 2019/01246/FUL

**'PLANNING PERMISSION TO CONVERT EXISTING
HOLIDAY LET TO A RESIDENTIAL ANNEXE
AT HEOL LAS FARM, LLANGAN'**

**HEOL LAS FARM, LLANGAN, VALE OF GLAMORGAN
CF35 5DN**

WRITTEN STATEMENT ON BEHALF OF THE APPELLANT

APRIL 2020



Geraint John Planning

CONTENTS

- Chapter 1** Introduction
- Chapter 2** Site and Surroundings
- Chapter 3** Planning Policy Context
- Chapter 4** Consideration of The Reasons for Refusal
- Chapter 5** The Appellant's Case
- Chapter 6** Summary & Conclusions

APPENDICES

- Appendix A:** Decision Notice
- Appendix B:** Delegated Officer Report

1.0 INTRODUCTION

Background

1.1 This appeal relates to a proposal which has been brought forward to enable an existing family unit to continue residing at Heol Las Farm now and into the future as their accommodation needs change over time. It is on this basis that an initial application was put forward in 2017 to enable flexible use of the holiday by varying / removing conditions that restricted the use of the holiday let. Following a protracted determination period this application was eventually withdrawn, partially on the basis of informal advice issued by the Local Planning Authority (LPA) indicating that:

".....it would be more appropriate for the application to be for the removal/variation of conditions 3/4 and indeed it may be more appropriate for the application to turn the property into an annex to the main house which would overcome possible policy issues"

1.2 Following this withdrawn application a revised submission was made under application ref. 2019/00811/FUL which sought permission to convert the existing holiday let to a residential annexe.. During the course of this application it became evident that the LPA were not minded to support the application – principally due to an unsubstantiated perception that the proposed annexe was not capable of remaining ancillary to the host dwelling, in addition to parallel concerns over an alleged conflict with policies that seek marketing evidence to support a change of use to create a new residential unit.

1.3 Following the withdrawal of application ref. 2019/00811/FUL, and whilst remaining cognisant of the previous informal advice issued by the LPA that encouraged such an application, a revised application was prepared that both provided a robust case to obviate any concerns of the ancillary nature of the annexe and reiterate the case in support of the proposals overall compliance with the development plan, including the position that the marketing requirements of policies MD11 and MD13 are not intended to apply to such a scheme.

1.4 With particular regard to the question over what constitutes an ancillary use it is considered particularly pertinent to note that throughout the process the Appellant has proffered all manner of restrictions (both through planning conditions and legal agreements) and supporting physical works (such as removal of fence, independent entrance blocked off, removal of a washing line, removal of washing machine and indeed the potential removal of a bedroom) in order to enable the LPA to accept the use on the basis of the application as submitted. In response to such attempts to reach an agreed position on this matter the LPA has offered limited response and engagement and primarily requested a series of extensions of time without using such additional time to positively and proactively engage with the appellants. This is evidenced by the case officer resisting the offer to meet the appointed agent on site to enable a full assessment and discussion in relation to such matters.

1.5 Notwithstanding the sequence of events set out above, not least the previous informal advice given by the LPA and the concerted effort made within the revised submission to address the initial concerns raised by the LPA under application ref. 2019/00811/FUL, the subsequent application which is the subject of this appeal was ultimately refused for what the Appellant considers is an arbitrary and mechanistic position taken by the LPA. It is respectfully contended that this position does not take into account the unique material considerations that apply to this case, and indeed the complete lack of harm that would arise from a proposal that simply seeks to make use of an existing lawful and habitable building to respond to the changing needs of a family whom are longstanding residents within the Vale of Glamorgan administrative area.

Scope and Purpose of Statement

- 1.6 This appeal is lodged under Section 78 of the Town and Country Planning Act 1990 (the Act) against The Vale of Glamorgan Council's (the Local Planning Authority) refusal of an application for Full Planning Permission for:

"Planning permission to convert existing holiday let to a residential annexe at Heol Las Farm, Llangan"

- 1.7 Planning permission was refused by delegated powers on 31st of January 2020. The Local Planning Authority (LPA) reference for the application is 2019/01246/FUL.

- 1.8 Planning Permission was refused for the following reasons:

1. *The applicant has failed to demonstrate that the proposed building has been appropriately marketed for other alternative non-residential uses such as farm diversification, business, community, recreational uses; and has failed to show that the current tourism use is not economically viable. Consequently, the proposal would, without justification, would result in the loss of an existing rural tourism site, contrary to the policy presumption in favour of the retention of such uses, and it would, therefore, adversely impact upon the supply of tourist accommodation within the Vale of Glamorgan and consequently, the rural economy. The development is, therefore, contrary to Policy MD13 – Tourism and Leisure as well as Criterion 3 of Policy MD11 of the Adopted Local Development Plan 2011-2026.*
2. *By reason of its size and location, and the insufficient physical and functional link to the house, the proposal represents a new dwelling as opposed to an annexe. Consequently and by virtue of the distance to any defined settlement, the absence of adequate pedestrian/alternative modal links to the nearest settlement, and the relative absence of services within close proximity to the site, the proposed development is considered to be an unsustainable dwelling where occupiers would be remote from day to day amenities/services and over-reliant on the private car. The proposal is consequently contrary to Policies SP1, MD1, MD2 and MD11 of the LDP and the advice within Planning Policy Wales (10th edition).*

- 1.9 On the basis of the reasons for refusal contained within the Decision Notice, (which is appended as **Appendix A** to this Statement) it is considered that the principal issues are as follows:

- The principle of development in this location – having regard to whether the proposed use as a residential annexe is ancillary to the host dwelling and whether the marketing requirements of Policy MD 11 and MD13 should apply;
- In addition, and in connection with the above, whether the Local Planning Authority's (LPA) assertion that the proposal represents a new dwelling as opposed to an annexe, and in turn is not compliant with Policies SP1, MD1, MD2 and MD11 of the LDP and the advice within Planning Policy Wales (10th edition), is correct and appropriate from either a procedural or substantive perspective.

- 1.10 This Statement refers to the LPA's Delegated Report, which is appended at **Appendix B** of this Statement.

Executive Summary

Grounds of Appeal/Appellants Overall Case in Summary

- 1.11 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In addition to the need to determine applications in accordance with the development plan, it is also the case that it is incumbent on LPA's to determine applications based on the proposals before them, and not based on what the LPA may perceive the proposal to either be, or be a precursor to.
- 1.12 As demonstrated through this appeal statement, it is respectfully contended that the proposal is indeed in accordance with the development plan, when its associated policies are applied to the specific nature and scale of the proposal and considered as a whole. In addition to this, and as demonstrated through this statement, there are no material considerations that outweigh against this compliance.
- 1.13 Moreover, and when considering the matter of whether the appeal proposal remains ancillary to the main dwelling it is evident that the LPA have previously considered what constitutes 'ancillary' through previous planning decisions taken by the LPA that relate to residential annexes. Three such decisions are the approvals under application ref. 2017/00646/FUL in relation to 'Lane End', application ref. 2017/00015/FUL in relation to Ashleigh, Llangan and application ref. 2019/00386/FUL at The Herberts Farmhouse, St. Mary Church. Whilst the Appellant remains cognisant of the need for each and every planning decision to be based on its own individual merits, these cases demonstrate that the LPA has previously accepted annexes which provide either a similar or greater amount of floorspace when compared to the host dwelling, and in these cases the LPA was satisfied that these annexes were indeed ancillary to the normal use and enjoyment of the host dwelling. In the interest of consistent application of the development plan policies and in turn proper planning is respectfully considered that the same conclusions should be drawn when considering this appeal.
- 1.14 Further to the above, and as previously indicated to the LPA on multiple occasions throughout the application process, the Appellant is willing to have the annexe subjected to a suitable suite of restrictions that can be secured through appropriately worded planning conditions.
- 1.15 This statement provides further detailed analysis of the reasons for refusal, and sets out the Appellant's justification for why the unique factors related to this specific proposal support the conclusion that the proposed development does indeed accord with the Development Plan.

Structure of this Submission

- 1.13 This Statement sets out the Appellant's Statement of Case. The Statement is structured as follows:
- **Section 2:** Provides a description of the site and overview of the proposed development, and considers the surrounding area / local context;
 - **Section 3:** Sets out the planning policy context and the key planning policies of relevance to the determination of the appeal;
 - **Section 4:** Considers the reasons for refusal / principal matters, i.e. provides the Appellant's response on the key issues; and
 - **Section 5:** provides a summary of the key issues set out in the Statement and draws together the Appellant's conclusions.

2 SITE AND SURROUNDINGS

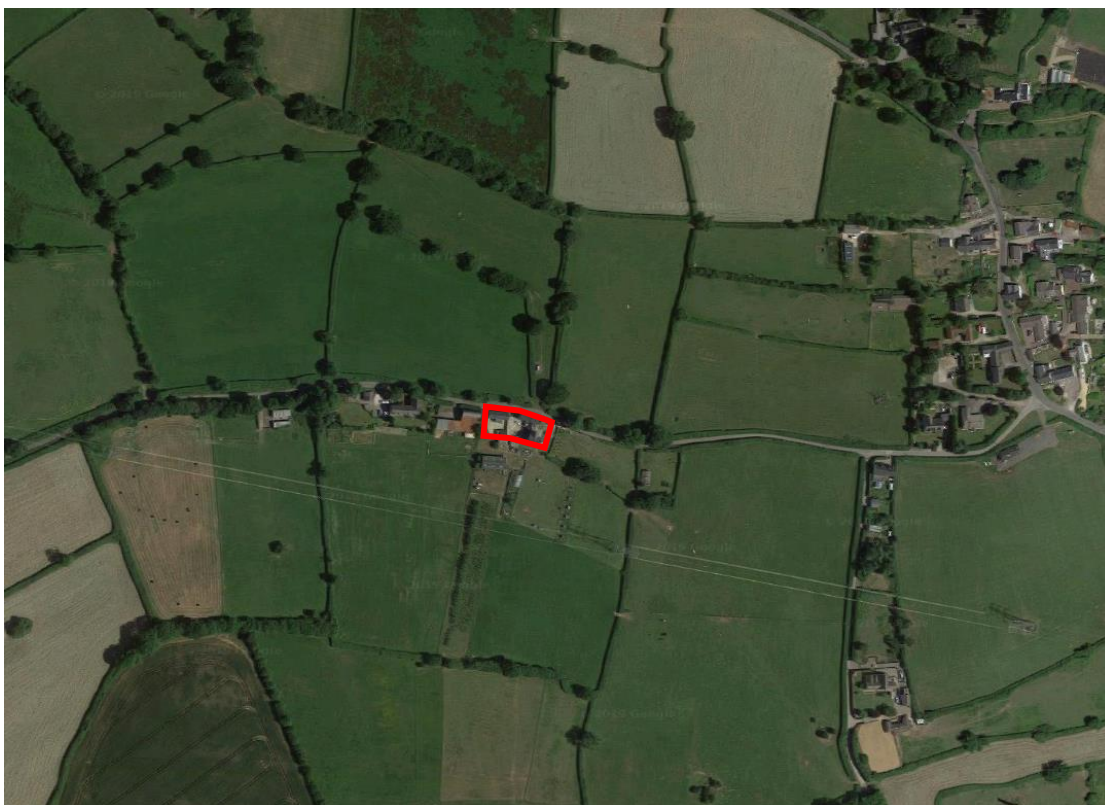
The Site

- 2.1 The site is situated just to the West of the small village of Llangan and sits off a small road running between Llangan and Treos, another village located in close proximity to Bridgend which is approximately 1.5km to the North West of the site. The site is immediately surrounded by a mixture of open countryside, agricultural land and small villages/hamlets. Beyond these surroundings lie the aforementioned town of Bridgend, Cowbridge to the South East (4.8km), Llantwit Major to the South (8.3km) and the M4 3.2km to the North.
- 2.2 The following images (below and overleaf) show the site's location and layout:



Aerial Photograph of Site Area

- 2.3 The existing holiday let is located within a single storey building that was previously converted from an agricultural use. This building lies within a cluster of buildings that forms part of a yard area that is surrounded by a barn to the West and a residential dwelling complete with a courtyard to the East. The holiday let cottage benefits from both its own dedicated vehicle access in addition to being accessible via the principal access to the central yard area that serves the main dwelling, holiday let, and associated outbuildings which serve both an agricultural and domestic function.



Zoomed Aerial View of Site Location



View looking East



View looking West

The Proposals

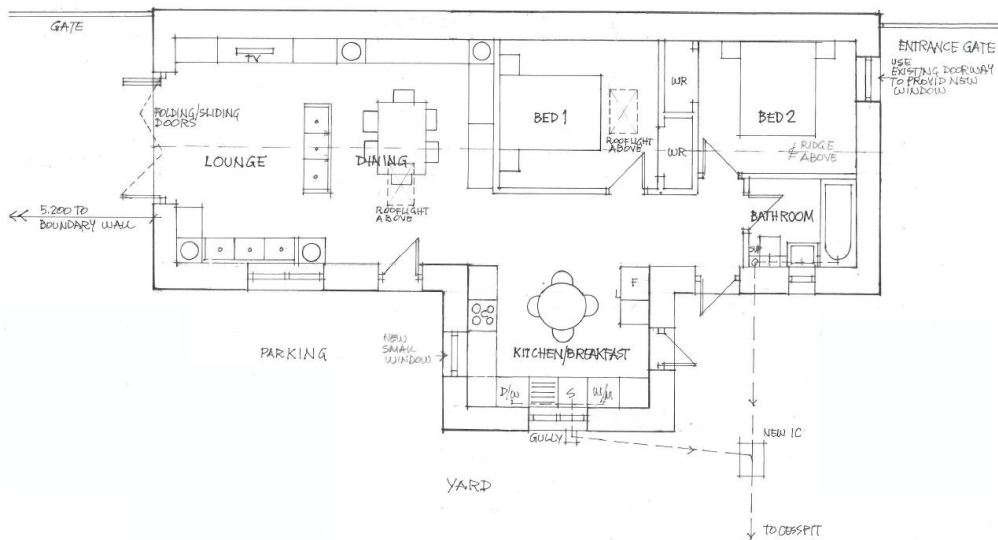
2.8 The application sought the approval of a Full Planning Application for the following:

"convert existing holiday let to a residential annexe"

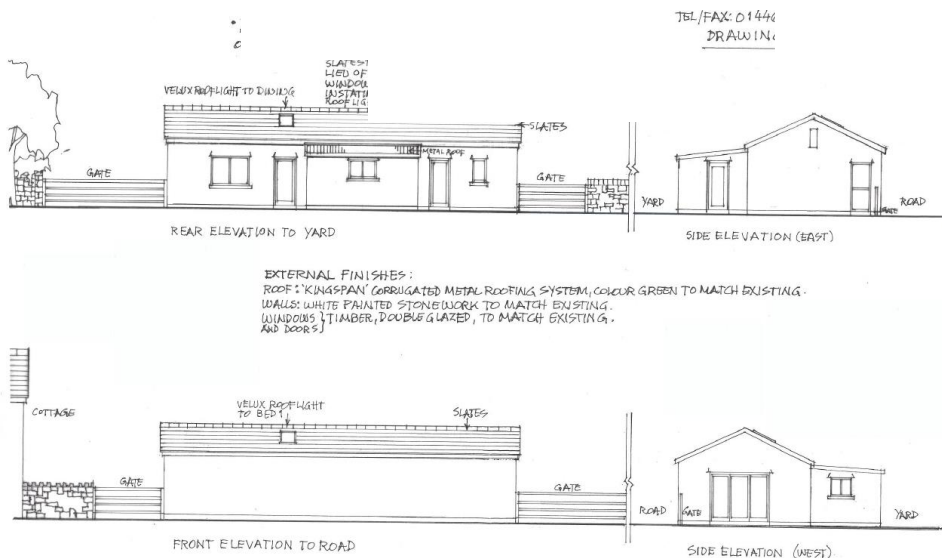
2.9 In summary, the development proposals comprise the following key elements:

- Change of use of holiday let to a residential annexe associated with the existing residential dwelling on-site; and
- Removal of secondary vehicle access to holiday let.

2.10 There will be no physical changes to the existing structure either internally or externally. The drawing extracts below show the floor plan and elevations of the building for which the change of use is sought.



Existing and Proposed Floor Plan (No changes proposed)



Existing and Proposed Elevations (No changes proposed)

Planning History

- 2.11 A review of the planning history available to view on-line, indicates that the site itself has been subject to various previous applications, as identified below.

Reference No.	Proposal	Decision	Date
2008/01544/PNA	New building for fodder storage	Approved	28/01/2009
2010/00251/FUL	First floor extension and new vehicular access	Approved	06/05/2010
2010/00973/FUL	Conversion to tourist accommodation of existing disused barn. Substitute metal roof with slate roof and the small rear projection will be also re-roofed and the height slightly increased.	Approved with conditions	02/11/2010
2017/00909/FUL	Variation of Conditions 3 and 4 of Planning Permission	Withdrawn	27/07/2018
2019/00811/FUL	Planning permission to convert existing holiday let to a residential annexe.	Withdrawn	16/09/2019

3 PLANNING POLICY CONTEXT

- 3.1 A review of the planning policy context associated with the site and proposed development (at the national and local level) is provided within this section of the Statement.
- 3.2 The key planning policies of relevance to the determination of the appeal are outlined. A detailed assessment of the accordancy of the proposed development with these policies is provided in Section 6 (Material Considerations) of this Statement.

National Planning Policy

- 3.3 The following policy / guidance documents prepared at the national (Welsh Government) level are of relevance to the determination of the application.

Planning Policy Wales (10th Edition, December 2018)

- 3.4 Planning Policy Wales (PPW) forms the overarching national planning policy document within Wales, providing guidance to Local Planning Authorities (LPAs) for the preparation of development plans and the determination of planning applications through their development management functions.

Sustainability

- 3.5 There are a number of key planning principles indicated within Figure 3 of Planning Policy Wales (PPW) to achieve the right development in the right place.
- 3.6 These key planning principles are set out with a view to achieve a number of national sustainable placemaking outcomes, as explained in paragraphs 2.15-2.20 and outlined in Figure 4. The national sustainable placemaking outcomes are;

People and Places: Achieving Well-being Through Placemaking

- *"Growing our economy in a sustainable manner"*
 - *Enables the Welsh Language to thrive*
 - *Appropriate development densities*

- *Homes and jobs to meet society's needs*
- *A mix of uses*
- *Offers cultural experiences*
- *Community based facilities and services*
- *Making best use of resources*
 - *Makes best use of natural resources*
 - *Prevents waste*
 - *Prioritises the use of previously developed land and existing buildings*
 - *Unlocks potential and regenerates*
 - *High quality and built to last*
- *Maximising environmental protection and limiting environmental impact*
 - *Resilient biodiversity and ecosystems*
 - *Distinctive and special landscapes*
 - *Integrated green infrastructure*
 - *Appropriate soundscapes*
 - *Reduces environmental risks*
 - *Manages water resources naturally*
 - *Clean air*
 - *Reduces overall pollution*
 - *Resilient to climate change*
 - *Distinctive and special historic environments*
- *Creating and sustaining communities*
 - *Fosters economic activity*
 - *Enables easy communication*
 - *Generates its own renewable energy*
 - *Vibrant and dynamic*
 - *Adaptive to change*
 - *Embraces smart and innovative technology*
- *Facilitating accessible and healthy environments*
 - *Accessible and high-quality green space*
 - *Accessible by means of active travel and public transport*
 - *Not car dependent*
 - *Minimises the need to travel*
 - *Provides equality of access*
 - *Feels safe and inclusive*
 - *Supports a diverse population*
 - *Good connections*
 - *Convenient access to goods and services*
 - *Promotes physical and mental health and well-being*

3.7 Figure 5 of PPW sets out themes that collectively contribute to placemaking which include; strategic and spatial choices, productive and enterprising places; distinctive and natural places and active and social places. Para. 2.19 states that "*These themes draw together the linkages between planning policies to make it clear how individual components contribute to placemaking.*"

- 3.8 Para 2.21 sets out that sustainable benefits of development should be considered in the decision-making process, assessing social, economic, cultural and environmental considerations.

Design

- 3.9 Para. 3.3 states: *"Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area."*

Development in the Countryside

- 3.10 Paragraph 3.56 sets out 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. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area."*

- 3.11 Paragraph 5.6.5 states: *"Local authorities should encourage the growth of self-employment and micro businesses in rural areas by adopting a supportive and flexible approach to home working and associated change of use applications."*

Housing

- 3.12 Paragraph 4.2.15 of PPW makes clear that local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.

Technical Advice Notes

- 3.13 Technical Advice Notes (TANs) supplement the policy principles of PPW and add further detail on issues which might affect development potential of the site. TANs which are considered relevant to the proposal and should therefore be given weight are:

TAN	Title
TAN 6	Planning for Sustainable Rural Communities (2010)
TAN 12	Design (2016)

- 3.14 Key provisions of these are outlined below:

Technical Advice Note 6: Planning for Sustainable Rural Communities (2010)

The following paragraphs of the above document are of relevance:

- Paragraph 3.2.1 states *"When assessing planning applications for the re-use or adaptation of a rural building, the primary consideration should be whether the nature and extent of*

the new use proposed for the building is acceptable in planning terms. It should not normally be necessary to consider whether a building is no longer needed for its present agricultural or other purposes (although in the case of a tenanted agricultural building, the value in planning terms of the existing use should be taken into consideration) ...”

- Additionally, paragraph 3.2.3 advises *“If a planning application is submitted for the re-use of a building which the planning authority considers has a significant adverse effect on the landscape in terms of visual amenity, it may be appropriate in connection with any proposed structural changes to impose conditions to secure an improvement in the external appearance of the building.”*
- Paragraph 3.5.1 states *“The conversion of buildings which are currently in industrial or commercial use to dwellings may have an adverse impact on the local economy. Where residential conversion is part of a scheme for the re-use of a building or complex of buildings for employment purposes, planning authorities should consider whether to impose a condition requiring the works necessary for the establishment of the enterprise to have been completed before the dwelling is occupied, so as to ensure that the scheme materialises. This may be particularly appropriate in the open countryside. They may also wish to consider whether to impose a condition to tie occupation of the dwelling to the operation of the enterprise, in order to prevent it being sold separately without further application to the authority. Alternatively, they may seek a planning obligation to tie the dwelling to the rest of the building re-use.”*

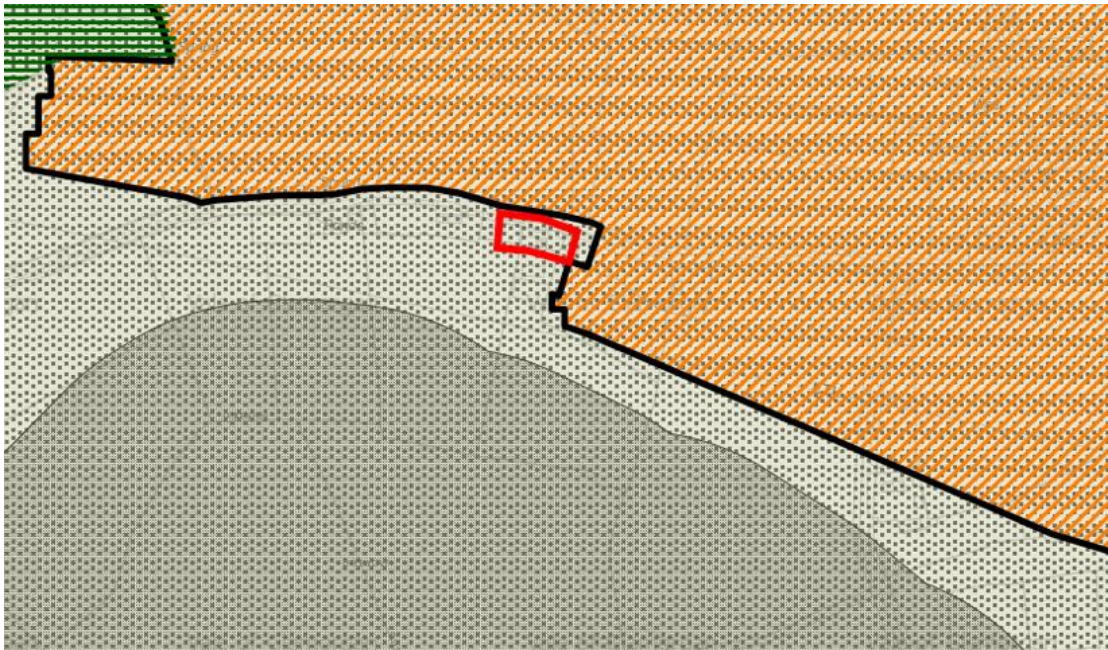
Technical Advice Note 12: Design (2016)

3.15 Detailed guidance on achieving good design is set out within TAN 12. The objectives of good design are set out under the following categories:

- *Access*
 - Ensuring ease of access for all
- *Movement*
 - Promoting sustainable means of travel
- *Character*
 - Promoting legible development
 - Sustaining or enhancing local character
 - Promoting a successful relationship between public and private space
 - Promoting quality, choice and variety
 - Promoting innovative design
- *Community Safety*
 - Ensuring attractive, safe public spaces
 - Security through natural surveillance
- *Environmental Sustainability*
 - Achieving efficient use and protection of natural resources
 - Enhancing biodiversity
 - Designing for change

Local Policy Context

- 3.11 At the time of the submission and determination of this application, the adopted Development Plan for the area consisted of the following:
- The Vale of Glamorgan Local Development Plan 2011-2026 (adopted by the Council on the 28th June 2017).
- 3.12 The following is a map extract from the adopted LDP:



LDP Proposals Map Extract

Key:

Limestone Category 2	
Special Landscape Area	
Solar Search Area	
Sites of Importance for Nature Conservation	
Limestone Category 1	
Site	



- 3.13 The LDP proposals map confirms the site is:
- Located within a Special Landscape Area;
 - Located within a Limestone Category 2 designation; and

- Located in close proximity to a Solar Search Area.



LDP Constraints map extract

Key:

Conservation Areas	
Site	

3.14 The LDP Constraints map confirms the site is:

- Under no constraints

3.15 In summary, the LDP Proposals map and LDP Constraints map show the site is contained within a Limestone Category 2 designation, a Special Landscape Area and is outside settlement boundaries.

3.16 Considering the above - along with taking into account other material considerations, the sites planning history, and the proposal itself - it is considered that the following LDP policies are relevant to the proposal:

- **Policy SP1:** Delivering the Strategy;
- **Policy SP10:** Built and Natural Environment;
- **Policy MG17:** Special Landscape Areas;
- **Policy MG22:** Development in Mineral Safeguarding Areas;
- **Policy MD1:** Location of New Development;
- **Policy MD2:** Design of New Development;
- **Policy MD11:** Conversion and Renovation of Rural Buildings;

4 CONSIDERATION OF KEY ISSUES

- 4.1 Each of the Council's reasons for refusal are considered in detail in this section, in the following structure:
- The LPA's reasons for refusal (as specified on Decision Notice, dated 17th May 2019) and consideration of the policies cited;
 - The Appellant's response to each reason; and
 - Conclusions on each reason.
- 4.2 As previously outlined, planning permission was refused under delegated powers on the 31st of January 2020. The Local Planning Authority (LPA) reference for the application is 2019/01246/FUL. As set out in paragraph 1.3, the reasons for refusal are as follows:
1. *The applicant has failed to demonstrate that the proposed building has been appropriately marketed for other alternative non-residential uses such as farm diversification, business, community, recreational uses; and has failed to show that the current tourism use is not economically viable. Consequently, the proposal would, without justification, would result in the loss of an existing rural tourism site, contrary to the policy presumption in favour of the retention of such uses, and it would, therefore, adversely impact upon the supply of tourist accommodation within the Vale of Glamorgan and consequently, the rural economy. The development is, therefore, contrary to Policy MD13 – Tourism and Leisure as well as Criterion 3 of Policy MD11 of the Adopted Local Development Plan 2011-2026.*
 2. *By reason of its size and location, and the insufficient physical and functional link to the house, the proposal represents a new dwelling as opposed to an annexe. Consequently and by virtue of the distance to any defined settlement, the absence of adequate pedestrian/alternative modal links to the nearest settlement, and the relative absence of services within close proximity to the site, the proposed development is considered to be an unsustainable dwelling where occupiers would be remote from day to day amenities/services and over-reliant on the private car. The proposal is consequently contrary to Policies SP1, MD1, MD2 and MD11 of the LDP and the advice within Planning Policy Wales (10th edition).*
- 4.3 The aforementioned headlined points are considered to be interlinked, and although reflected in two separate reasons for refusal it is evident that the key issues are as follows:
- The principle of development in this location – having regard to whether the proposed use as a residential annexe is ancillary to the host dwelling and whether the marketing requirements of Policy MD11 and MD13 should apply; and
 - In addition, and in connection with the above, whether the Local Planning Authority's (LPA) assertion that the proposal represents a new dwelling as opposed to an annexe, and in turn is not compliant with Policies SP1, MD1, MD2 and MD11 of the LDP and the advice within Planning Policy Wales (10th edition), is correct and appropriate from either a procedural or substantive perspective.
- 4.4 Further to the above it is noteworthy that the LPA's 2nd reason for refusal reflects a position adopted that the proposal cannot be considered an annexe. Whilst this position is itself strongly disputed by the appellant it is evident that the 1st reason for refusal is linked to this position – as the LPA have effectively applied policies MD11 and MD13 on the basis that the proposal is for a new residential dwelling, which of course does not reflect the application as submitted.
- 4.5 In light of the above, and before analysing the LPA's Delegated Officer Report and associated reasons for refusal in further detail, it is important to fully understand the underlying policy

objectives of policies SP1, MD1, MD2, MD11 and MD13 – as by understanding the underlying objectives a full assessment, including the required balancing exercise between the various policy objectives, can be undertaken. Accordingly, the core objectives of each of these policies is considered below.

Policy SP1

- 4.6 Policy SP1 is a strategic level policy which seeks for development to provide a range and choice of housing to meet the needs of all sectors of the community, reinforce the role of settlements promote sustainable transport in addition to protecting and enhancing the built, natural and coastal environment.

Policy MD1

- 4.7 Policy MD1 seeks to direct and control the location of new development on unallocated sites to ensure that such development accords with a range of detailed criteria that relate to various forms of development. It is evident that the objectives of this policies are principally related to the need to ensure new residential and commercial developemnt accords with spatial planning and sustainable development based policy objectives. As such, it is considered that the policy does not strictly apply to small scale 'householder' development such as the appeal proposal. Notwithstanding this, it is noteworthy that policy includes a criterion that encourages development to make beneficial use of previously developed land and buildings – which is of course exactly what the appeal proposal seeks to do.

Policy MD2

- 4.8 Policy MD2 is an overarching placemaking and design-based policy which seeks for development to enhance the quality of places and ensure that spaces accord with relevant placemaking principles. The policy also seeks to ensure proposals have no unacceptable impact in relation to a range of material considerations, including but not limited to highways, residential amenity and ecology.

Policy MD11

- 4.9 Policy MD11 seeks to control proposals for the conversion or renovation of existing rural buildings for rural enterprise, tourism, community or residential use and sets out a range of scenarios for which such proposals will be considered acceptable. It is worthy of note that the policy does not account for the appeal proposal scenario, whereby it is proposed to use a previously converted building as an annexe that would remain ancillary to an established residential dwelling.

Policy MD13

- 4.9.1 Policy MD13 relates solely and specifically to proposals that either seek to introduce or replace existing tourism and leisure facilities. The policy states that proposals that would result in the loss of existing tourism and leisure facilities will be resisted unless it can be demonstrated that there is a sufficient supply of facilities within the area to satisfy demand and/or the facility has been marketed and proven to be no longer economically viable
- 4.10 In addition to the above, and prior to considering each and all of the reasons for refusal , it is considered important to note what is not considered objectionable by the Council (i.e. what is agreed as being acceptable, and which does not form a reason for refusal). This includes, albeit is not necessarily limited to, the following:

- There would be no harm to residential amenity arising from the proposal;
- There would be no external alterations or extensions and as such no design or landscape issues would arise; and
- The proposal would not result in any highway safety related concerns.

LPA's Reason for Refusal 1

- 4.11 The LPAs first reason for refusal relates to a perceived failure to comply with Policy MD13 and MD11. For ease of reference the reason for refusal has been reproduced below:

"The applicant has failed to demonstrate that the proposed building has been appropriately marketed for other alternative non-residential uses such as farm diversification, business, community, recreational uses; and has failed to show that the current tourism use is not economically viable. Consequently, the proposal would, without justification, would result in the loss of an existing rural tourism site, contrary to the policy presumption in favour of the retention of such uses, and it would, therefore, adversely impact upon the supply of tourist accommodation within the Vale of Glamorgan and consequently, the rural economy. The development is, therefore, contrary to Policy MD13 – Tourism and Leisure as well as Criterion 3 of Policy MD11 of the Adopted Local Development Plan 2011-2026"

- 4.12 In support of the reason for refusal the LPA's Delegated Officer report includes additional assessment and justification including the following:

"The conversion of an agricultural barn to any residential use would ordinarily require planning permission and therefore be subject to Policy MD11. There are no exemptions and the supporting text of the policy states:

Criterion 3 requires proposals for residential use to be supported by appropriate marketing evidence to demonstrate that the building has been marketed for other alternative uses for at least 12 months. Information from the agent or applicant regarding demand for alternative uses could take the form of a marketing report or correspondence from the relevant property agent.

The type of information could include the following:

- *The length of time the rural building has not been used for agricultural purposes;*
- *The types of uses which the rural building has been marketed for, what the marketing strategy involved and its duration; and*
- *The amount of interest in the rural building during the marketing period – this should detail the number of queries, the type of uses sought, and if known, the reason for not pursuing any initial enquiries.*

Due to the lack of detail submitted with the application, the applicant has failed to adequately demonstrate that the current use is not viable, that any marketing has been carried out to indicate that more appropriate commercial uses are not possible, or that the proposed residential use is the only viable option. It should be emphasised (as above) that the fact the building has been converted does not infer this criterion is not applicable."

The Appellant's Response

- 4.13 As detailed through the Appellants response to reason for refusal number 2 contained below, it is considered that the application is clearly and unequivocally for a residential annexe – which would remain ancillary to the normal use and enjoyment of the existing dwelling at Heol Las Farm. Both the floorspace ratio of the proposed annexe compared to the host dwelling, and the restrictions on use proffered by the Appellant demonstrate that no independent residential

use would be established. As such, the proposal should fall to be considered, and any assessment against policy MD11 should be made, within this specific context as detailed through the paragraphs below.

- 4.14 Policy MD11 of the Vale of Glamorgan Local Development Plan (LDP) controls the conversion and renovation of rural buildings. It states that:

"Proposals for the conversion or renovation of existing rural buildings for rural enterprise, tourism, community or residential use will be acceptable where:

- 1. Conversion of an existing rural building would **not give rise to the need for a replacement building**; and*
- 2. Reuse can be achieved **without substantial reconstruction, extension or alteration** that unacceptably affects the appearance and rural character of the building or its setting;*

Proposals for conversions to residential use will only be permitted where it is demonstrated that;

- 3. The building has been appropriately marketed for other alternative uses such as farm diversification, business, community, tourism, or recreational uses and it has been demonstrated that such alternative uses are not viable; and*
- 4. The location of the building is sustainable in terms of access to local services, public transport and community facilities" (GJP Emphasis)*

- 4.15 As can be seen above, Policy MD 11 sets out a range of criteria that apply to any proposals that seeks to convert a rural building to a rural enterprise, tourism, community or residential use. In this respect whilst the underlying objectives of Policy MD11 remain relevant, it is evident that the policy does not expressly apply to schemes which seek to change the use of a previously converted rural building from a tourism use to a residential annexe. Whilst the policy text does not specifically recognise such a scenario, it is considered that the key underlying objectives of Policy MD 11, that remain relevant to this proposal, can be summarised as follows:

- The policy seeks to ensure the conversion of a rural building does not result in a need for a replacement dwelling;
- Any required extension or alteration does not affect the appearance and rural character of the building or its setting; and
- Conversion to a residential dwelling is only supported where it has been demonstrated that alternative uses are not viable and the building is in a sustainable location.

- 4.16 With respect to the objectives of Policy MD11 outlined above, it is evident that the proposal would not result in the need for a replacement agricultural building (as it is already in non agricultural use). Furthermore, the proposal comprises no physical changes to the external and internal structure of the existing building, and only minimal changes to the outside area through the blocking off of the secondary vehicle access – with these changes not objected to / opposed by the LPA. As such, it is a matter of agreement between the appeal parties that the proposal retains the appearance and rural character of the building and setting.

- 4.17 Additionally, the proposal does not seek to create a new residential dwelling, but simply seeks to respond to the changing needs of the occupiers of the existing dwelling, and therefore there should not be a requirement to demonstrate that alternative uses are not viable, and the building is in a sustainable location. Notwithstanding this, it is indeed the case that tourism use has already been implemented, and has ultimately proven unviable. Moreover, and notwithstanding the fact that no new dwelling would be created (as evidenced by the applicants

commitment to block off the existing independent access to the building, and acceptance of a suitably worded planning condition), when considered in sustainability terms the proposals represents a significant net gain – as the use of the building ancillary to the existing main dwelling (as opposed to a holiday let) would result in a significant material reduction in vehicle trips to and from the site.

- 4.18 Further to the above, consideration has been given to the supporting text to Policy MD11, as this further articulates the underlying objectives to the policy. With respect to the subject proposals the following extract of the supporting text is considered particularly pertinent:

*"the most common proposals in the Vale of Glamorgan are for the conversion of traditional rural buildings to residential use. **Such proposals can lead to a dispersed pattern of dwellings which generates new and longer trips to settlements and services and also places additional pressure on the Council to provide essential services and facilities often in isolated locations.** Criterion 4 therefore states that residential use will only be acceptable in locations which are sustainable and would not result in the occupiers being overly reliant on the private motor vehicle."* (GJP Emphasis)

- 4.19 The supporting text included above, and in particular the emboldened text, serves to demonstrate that the underlying reasoning behind the opposition to the creation of new residential dwellings through rural conversion (unless specific policy tests are met) is due to the impacts in relation to undermining spatial planning objectives, additional vehicle movements/ longer trips, and pressure on essential services. In response to these objectives, and as demonstrated throughout this statement, the proposal would not give rise any of the impacts policy MD11 seeks to safeguard against. As such, it remains the appellants view that no harm can be considered to arise from the proposals in relation to land use based sustainability considerations that apply to development within the countryside at both a national and local level.

- 4.20 Given the above factors, it is considered that the proposed does not conflict with the objectives of policy MD11 in any way. Moreover, and when considered on a 'first principles' basis, it should be acknowledged that the appeal proposal would actually result in a significant 'de-intensification' of the existing use, with this resulting in significant sustainability gains, and a net reduction in any potential noise, highways, and infrastructure capacity related impacts compared to the existing consented position. Whilst such holistic benefits of the proposals do not appear to have been recognised or indeed apportioned appropriate weight within the delegated officer report, this position appears to have been previously accepted by the LPA through email correspondence from a senior LPA officer to the Appellants previous agent which stated:

".....it would be more appropriate for the application to be for the removal/variation of conditions 3/4 and indeed it may be more appropriate for the application to turn the property into an annex to the main house which would overcome possible policy issues"

- 4.21 In addition to the acceptability of the proposals when considered against the criteria of Policy MD11, the development is also deemed to abide by policy MD1, criterion 7 – given it proposes the re-use of an existing building (rather than the erection of an entirely new dwelling). For reference this policy states that development on unallocated site should "*where possible promote sustainable construction and make beneficial use of previously developed land and buildings*". In response to this, the appellant respectfully contents that the very essence this scheme represents the approach to sustainable development sought at both a National and Local Policy Level, whereby the planning system has an obligation to facilitate and support the

adaption and re use of existing buildings where this enables more efficient use of previously developed land and buildings. Again, it is respectfully contended that the LPA have failed to recognise and in turn failed to apportion appropriate weight to the proposals alignment with policies that seek to enable previously developed land and buildings to be used flexibly adapted to ensure they can remain in beneficial use.

- 4.22 In addition to policy MD11 the first reason for refusal also cites policy MD13 yet there is no detailed assessment made in relation to this policy within the delegated officers report except for the following extract:

"Furthermore, Policy MD13- Tourism and Leisure sets out that proposals that would result in the loss of existing tourism and leisure facilities will be resisted unless it can be demonstrated that there is a sufficient supply of facilities within the area to satisfy demand and/or the facility has been marketed and proven to be no longer economically viable. No such information has been submitted, therefore the proposal would be contrary to Policy MD13"

- 4.23 In response to the above, and as with the appellant's position in relation to policy MD11, it is respectfully contended that policy MD13 is not intended to apply to a scheme such as this – which simply seeks to make efficient use of a redundant holiday let as a residential annexe. The policies supporting text further supports this position insofar as the type of leisure / tourism facility, and indeed the location of such facilities, the policy seeks to safeguard as per the following extracts:

*Evidence suggests that **the tourism industry in Barry and Penarth has been in decline for a number of years, with many facilities being lost to alternative uses**. Proposals for the redevelopment of existing tourism facilities for alternative uses will only be permitted where it is demonstrated that the facility is no longer economically viable, or there is surplus supply of the same type of use within Vale of Glamorgan. (GJP Emphasis)*

- 4.24 Further to the above, it should be noted that the appeal site of course is a very small scale holiday let within the rural vale which has an abundance of existing holiday lets in what are arguably much more attractive locations for such use – such as those in close proximity to the Glamorgan Heritage Coast. As such, and notwithstanding the appellants position that policy MD13 should not strictly apply to the appeal proposal, there would remain a sufficient supply of facilities within the area to satisfy demand.
- 4.25 For the reasons detailed above it is respectfully considered that the LPA's incorrect classification of the proposals as a new residential unit through reason for refusal 2 has in turn resulted in an incorrect and mechanistic application of policy MD11 and MD13 as articulated through reason for refusal number 1. As such, it is respectfully considered that the LPA's refusal fails to take account of the unique set of material considerations that apply to the appeal proposal. Accordingly, it is considered that this reason for refusal is flawed and should not apply in this instance.

LPA's Reason for Refusal 2

- 4.26 The LPAs second reason for refusal relates to a perceived failure to comply with Policy MD13 and MD11. For ease of reference the reason for refusal has been reproduced below:

By reason of its size and location, and the insufficient physical and functional link to the house, the proposal represents a new dwelling as opposed to an annexe. Consequently and by virtue of the distance to any defined settlement, the absence of adequate pedestrian/alternative modal links to the nearest settlement, and the relative absence of services within close

proximity to the site, the proposed development is considered to be an unsustainable dwelling where occupiers would be remote from day to day amenities/services and over-reliant on the private car. The proposal is consequently contrary to Policies SP1, MD1, MD2 and MD11 of the LDP and the advice within Planning Policy Wales (10th edition).

- 4.27 In support of the reason for refusal the LPA's Delegated Officer report includes additional assessment and justification including the following:

" the LPA consider that the proposal would not fall within the definition of an annexe which could be regarded as ancillary to the main dwellinghouse, but rather a separate residential unit. It is considered that ancillary accommodation or a residential annexe should, by definition, be subordinate to its host dwelling in terms of its scale and design, but also have a reliant functional link to it.

In this case, the annexe would be clearly smaller in scale, but it would nevertheless be of a size that could comfortably function as an independent dwelling. The relative percentage compared to the house is not a determining factor alone, given that very large dwellings would, by that reasoning, justify significant size annexes

The building is clearly physically separated from the main property and outside its curtilage, and it does not have a close physical or functional relationship to the house. Furthermore, the unit whilst sharing an access off the adopted highway would have separate parking and garden areas. The barn benefits from washing facilities (including a washing machine) and therefore any functional link based on carrying out laundry is not enforceable and arguably unlikely to occur.

Furthermore, whilst the floorspace of the barn is 27% of the main farmhouse, the floorspace (100sqm), the layout (which includes 2 bedrooms) and facilities of the barn would be of a nature typically found in a self-contained residential unit. The barn also lies outside the curtilage of the main dwelling and, historically, has had a separate amenity area and access.

Having regard to the nature of the physical detachment, the size (100 sqm) and self-contained nature of the barn, the unit would not have the function of an annexe but rather would be akin to a self-contained dwelling"

The Appellant's Response

- 1.16 In the first instance, and as a point of clarification it is unclear as to why the Delegated Officers Report repeatedly refers to the building as a 'barn' when the proposal clearly relates to an existing holiday let. Whilst the appellant accepts that this may be a simple error on the LPA's part it raises the question as to whether the assessment has been made, and conclusions reached, bespoke to this unique application, or has this been carried across / reproduced from some other case the LPA has dealt with for which the existing building was a barn.
- 1.17 Turning to the planning merits of this reason for refusal, and as set out in the preceding section of this statement, the proposal seeks permission for the existing holiday cottage to be used as a residential annexe. The reason for the proposal being put forward is to enable the appellant to continue residing at the property whilst also enabling her son to continue to do so in the host dwelling. The intention is for both the applicant and her son to benefit from some independence while still relying on the main house for day to day residential functions. The existing cottage is all on one level and this should make life a lot easier as the applicant ages and stairs become more difficult to navigate.

- 1.18 In support of the applicant’s intentions for the annexe to remain wholly ancillary to the main dwelling a suitably worded condition (or conditions) would be welcomed – further demonstrating the intention for the annexe to remain ancillary to the main dwelling.
- 1.19 Further to the appellant welcoming appropriate restrictions on the use of the annexe it is pertinent to note that the overall floorspace of the annexe, when compared to that of the host dwelling, remains ancillary as it equates to approximately 27% of the floorspace of the host dwelling. Whilst floorspace ratios are of course not the only ‘test’ to be applied as to whether a proposals remains ancillary or not, it is considered to further demonstrate the genuine nature of this proposal, especially when combined with the appellants willingness to be subject to any restrictions that remain reasonable, necessary and proportionate to a development of this nature. For ease of reference a visual representation of the ‘ancillary’ nature of the annexe when its floorspace is compared to the host dwelling is provided below.



- 1.20 In addition to the annexe representing only marginally over a quarter of the floorspace of the host dwelling, the ancillary nature of its use would be further supported by the fact that the existing access to the holiday let will be removed, and the internal boundary fence between the annexe and the main dwelling will be removed, so the main dwelling can access the garden to the rear of the annexe, which demonstrates the intrinsic connection between the two buildings.
- 1.21 Further to the above, and whilst it is acknowledged that the Inspector must consider each appeal on its individual merits it is pertinent to note that a review has been taken of previous planning decisions taken by the LPA that relate to residential annexes. Two such decisions are the approvals under application ref. 2017/00646/FUL in relation to ‘Lane End’ and application ref. 2017/00015/FUL in relation to Ashleigh, Llangan. Whilst these cases have slightly different circumstances they both demonstrate that the LPA has previously accepted annexes which provide either a similar or greater amount of floorspace when compared to the host dwelling, yet the LPA was satisfied that these annexes were indeed ancillary to the normal use and enjoyment of the host dwelling. It is respectfully considered that the same conclusions should have been drawn when considering this application and given the LPA’s failure to do so they have failed to apply their own policies correctly and consistently when refusing the proposal that is now subject to this appeal.

- 1.22 In addition to the above mentioned examples, the Appellant is aware of a recent approval under application ref. 2019/00386/FUL for *Proposed alterations and extensions to existing farmhouse to provide attached granny annexe* at The Herberts Farmhouse, St. Mary Church. This proposal relates to a site outside of settlement boundaries and approval was given by the LPA for an annexe that was significantly larger in relation to the host property than the Appeal Proposal is. Whilst this was the case the LPA did not raise any concerns in this respect and found as follows:

*Whilst the proposal relates to an annex, the level of accommodation proposed is extensive in relation to the existing dwelling. However, it is being considered as a domestic extension to the dwelling, whilst providing all the facilities for independent living. However the extension is shown to link into the existing house at ground floor level, via the utility room. **In order to ensure that it remains as an annex any planning permission should be conditioned.** (GJP Emphasis)*

- 1.23 As can be seen above the LPA accepted that these previous proposals must be considered on the basis of what permission was being sought i.e the proposal was for an annexe and should be considered as such with a condition used to restrict it's use. It is considered that the same conclusions should be reached in relation to the subject appeal, as although the annexe is physically separate to the main dwelling it would remain intrinsically linked. Moreover the decisions taken in relation to 2017/00646/FUL and 2017/00015/FUL both related to physically separate annexes and as such this in itself should not prove a barrier to the annexe remaining ancillary. Furthermore, the appellant would be agreeable to even more onerous conditions should the Inspector require such mechanisms to be put in place.

- 1.24 In light of the justification set out above it is respectfully considered the proposal would indeed remain ancillary to the normal residential use and enjoyment of the existing host dwelling and it is on this basis that the appeal should be considered, whereby an application for planning permission, or indeed an appeal, must be considered on its own individual merits. This consideration of course does not oversail the need to maintain consistency in terms of policy application – which again supports the conclusion that the use of the existing holiday let as a residential annexe remains acceptable and policy compliant.

5 SUMMARY & CONCLUSIONS

Reasons for Refusal

- 5.1 The application the subject of this appeal (i.e. Planning Application Reference No. 2019/01246/FUL) was refused for the following reasons:

- 1. The applicant has failed to demonstrate that the proposed building has been appropriately marketed for other alternative non-residential uses such as farm diversification, business, community, recreational uses; and has failed to show that the current tourism use is not economically viable. Consequently, the proposal would, without justification, would result in the loss of an existing rural tourism site, contrary to the policy presumption in favour of the retention of such uses, and it would, therefore, adversely impact upon the supply of tourist accommodation within the Vale of Glamorgan and consequently, the rural economy. The development is, therefore, contrary to Policy MD13 – Tourism and Leisure as well as Criterion 3 of Policy MD11 of the Adopted Local Development Plan 2011-2026.*
- 2. By reason of its size and location, and the insufficient physical and functional link to the house, the proposal represents a new dwelling as opposed to an annexe.*

Consequently and by virtue of the distance to any defined settlement, the absence of adequate pedestrian/alternative modal links to the nearest settlement, and the relative absence of services within close proximity to the site, the proposed development is considered to be an unsustainable dwelling where occupiers would be remote from day to day amenities/services and over-reliant on the private car. The proposal is consequently contrary to Policies SP1, MD1, MD2 and MD11 of the LDP and the advice within Planning Policy Wales (10th edition).

- 5.2 The reasons for refusal have been considered in this statement in detail - against national and local policy, as well as other material considerations which are of relevance to the appeal site and proposal.
- 5.3 It is considered that the case set out in this Statement has demonstrated that the proposed development accords with the terms of the Development Plan, and indeed relevant national policy and other material considerations.

Summary of Appellant's Case

- 5.4 The Appellant applied for planning permission to enable an existing holiday yet to be used as a residential annexe to respond to the changing needs of the existing occupiers.
- 5.5 The appeal proposals for the change of use from a holiday let to a residential annexe would result in no material harm in terms of design, amenity and highways considerations, and would remain demonstrably subordinate and ancillary to the existing dwelling.
- 5.6 The proposals would not give rise to any harm to spatial planning objectives, and would not conflict with policy MD11 of the Adopted LDP; and
- 5.7 At its very essence the proposal represents the efficient use of an existing building to respond to the needs of the existing occupiers of the main dwelling. Such form of development fully aligns with sustainable development objectives conveyed at both a National and Local policy level.

Conclusion

- 5.8 The Appellant considers that the LPA have misapplied planning policy guidance, and have failed to appropriately consider how this particular unique proposal accords with the LDP. To this end the LPA appear to have mechanically concluded that the proposal is not a form of development explicitly anticipated by any particular LDP policy therefore by default conflicts with the LDP. In contrast, and as evidenced throughout this statement, the Appellant respectfully suggests that when considered in the correct holistic and sequential manner, the proposal would not generate any material conflict with the LDP.
- 5.9 In light of the above, and for the above reasons outlined in this statement, the Appellant respectfully considers that the appeal should be allowed, and planning permission is granted.