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Sean Ernsting
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

7 March 2022

Appeal Reference: APP/D0840/W/21/3283175

Dear Mr Ernsting,

Appeal Against Planning Application Refusal for a Rabbit Farm – Land North of Tregunwith Wood, Tregunwith, Mylor Bridge, TR11 5SU

On the 19 March 2021, Cornwall Council refused the appellant's (Mr Phil Kerry's) planning application ([PA20/08566](#)) for a proposed rabbit farm development at the referenced address.

The appellant has since submitted an application for appeal and the appellant's agent (Willis & Co. of Chippenham, Wiltshire) has submitted a prepared "[Grounds for Appeal and Statement of Case on Behalf of the Appellant](#)," dated September 2021.

Please find attached, International Wildlife Bond's written representation to The Planning Inspectorate with regard to the referenced appeal against the [refusal](#) of the appellant's planning application.

Yours sincerely,

Stephen Alan Wiggins

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**Appeal Against Planning Application Refusal for a Rabbit Farm - Land North
of Tregunwith Wood, Tregunwith, Mylor Bridge, TR11 5SU**

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1 Introduction

- 1.1 The appellant's (Mr Phil Kerry's) planning application ([PA20/08566](#)) for the proposed rabbit farm facility (rearing rabbits in a captive environment to exploit for meat, derivative products and the fur trade) upon Land North Of Tregunwith Wood, Tregunwith, Mylor Bridge, TR11 5SU was [refused](#) (19 March 2021) at the Local Planning Authority (LPA) stage.
- 1.2 The appellant has appealed the LPA refusal ("[Planning Appeal Reference: APP/D0840/W/21/3283175](#)"), where the appeal opened 1 February 2022 and will be determined on the basis of written representations to The Planning Inspectorate with a closing date of 8 March 2022.
- 1.3 The LPA's grounds for [refusal](#) (19 March 2021) were given (in summary) as:
 - 1.3.1 **Refusal 1** - The erection of the proposed buildings in the location would incur significant visual harm to the immediate setting and surrounding natural environment in the open countryside resulting in landscape and visual harm to the Area of Outstanding Natural Beauty (AONB). Plus, the traffic to and from the proposed site was not considered in keeping with the ethos of sustainable development.
 - 1.3.2 **Refusal 2** - The location of this site relies on access along a public right of way which includes narrow sections with no passing places. The proposed location of this development would encourage conflict between pedestrians and motorised traffic giving rise to increased danger for all users and creating an unacceptable highway safety impact.
 - 1.3.3 **Refusal 3** – The submitted information is insufficient to enable the Local Planning Authority to assess the impacts on protected species and does not provide any information in relation to biodiversity net gain.



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- 1.4 There are no exceptional *circumstances* given within the appellant's original planning application or within the subsequent "[Grounds for Appeal and Statement of Case on Behalf of the Appellant](#)" and supporting documentation that would logically be compatible with the appellant's desire to overturn [Refusal 1, 2 or 3](#) of the original planning application.
- 1.5 Therefore, I am against the appeal proposals and respectfully request that The Planning Inspectorate rejects the appeal and planning permission in entirety for the proposed development.



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2 Grounds for Refusal of Planning Application – Discussion

- 2.1 There have been a number of objections based upon the public's lack of acceptance of the proposed rabbit exploitative enterprise. Of the some 336 *"third-party"* public representations to the planning application ([PA20/08566](#)) made, without exception all of these representations were objections to the planned development (*"335 - Objections, Supporting – none"*) - granted, most representations were based on moral, ethical, disease risks etc that the proposed rabbit enterprise raises.
- 2.2 However, the need to assess these public objections is undermined to some extent because the proposed the *"rabbit farm enterprise"* is deemed *"agricultural use"* and therefore planning permission is not considered necessary, which begs the question why not?
- 2.3 The acceptance of a given proposal and the potential for negative impacts is a question of risk. What are the risks, have they been adequately assessed within the appellant's submission(s) – examples of such risks being visual, ecological, environmental, disease reservoir and spread of disease, potential human and animal health impacts etc. The LPA process (*"[Officer Report – Delegated](#)"*) does consider visual, ecological and environmental risks and the potential impacts, but also lists extensive public concerns regarding such a farm acting as a reservoir for disease, the potential spreading of disease into the vicinity, potential human and animal health impacts, animal welfare risks etc. The nature of these concerns can be correlated with the acceptance of any proposal (agricultural use or otherwise) and how this would negatively impact the vicinity of the proposed development, especially the negative impact upon the beauty of an AONB (Area of Outstanding Natural Beauty).



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- 2.4 The local planning acceptance of all *"agricultural use"* proposals as somehow equal, potentially dismisses the moral/ethical merits and public acceptance of a given development, which is clearly not the case, i.e., in terms of public acceptance and the inherent negative risks, a non-consumptive use such as a bee-hive enterprise to produce honey is far removed from breeding rabbits for slaughter for the meat, derivative products and fur trade. The LPA may not consider it has control over the *"agricultural use"* aspect of a given planning application, but that then begs the question why not? It would seem dismissive that a local planning approval process is immune to public opinion and concern of clearly inherent risks in a given proposal.
- 2.5 The [*"Officer Report – Delegated"*](#) and [*"Cornwall Council Decision Notice"*](#) (19 March 2021) grounds for refusal of the appellant's original planning application can be summarised as follows:
- 2.5.1 **Refusal 1** - The erection of the proposed buildings in the location would incur significant visual harm to the immediate setting and surrounding natural environment in the open countryside resulting in landscape and visual harm to the Area of Outstanding Natural Beauty (AONB). Plus, the traffic to and from the proposed site was not considered in keeping with the ethos of sustainable development.
- 2.5.1.1 The appellant's proposed development site is within a Cornwall Area of Outstanding Natural Beauty (AONB) – where the [*Cornwall AONB Unit*](#) comments (9 February 2021) are duly noted:

"We do not consider that this proposal with its conspicuous and uncharacteristic appearance in this location addresses the AONB's sensitivity and capacity. It would not conserve and enhance the landscape character and natural beauty of the AONB or comply with the development plan policy and relevant material considerations related to it and we object to it on this basis."



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2.5.1.2 The "[National Planning Policy Framework](#)" (NPPF) makes clear that acceptance of any proposal located within these environs should be *"...sensitively located and designed to avoid or minimise adverse impacts on the designated areas"* (NPPF, Para 176). Furthermore, NPPF Para 176 recommends that within an AONB, then proposed developments should enhance *"cultural heritage."* Clearly, it can be argued that *"adverse impacts on the designated areas," "cultural heritage"* and *"sensitively located"* encompasses elements of the public's risk appetite, public acceptance, public sentiment and public opinion for any given proposed development.

2.5.1.3 The appellant's proposed development would clearly harm the Cornwall AONB and is therefore also contrary to Policies 1, 2, 3, 7, 21 and 23 of The Cornwall Local Plan (["Cornwall Local Plan Strategic Policies 2010-2030 \(CLP\)"](#) as amended and consolidated), and Policy MD9 of the ["Cornwall Area of Outstanding Natural Beauty Management Plan 2016-2021,"](#) namely:

"Any necessary development in or within the setting of the AONB will be high quality sustainable development that:

- is appropriately located, of an appropriate scale and addresses landscape sensitivity and capacity;*
- is compatible with the distinctive character of the location described by the Landscape Character Assessment, with particular regard to the setting of settlements and the rural landscape;*
- does not compromise the special qualities and characteristics of the AONB designation as outlined in the Statement of Significance for each local section and relevant character assessments;*
- maintains semi-natural corridors;*
- promotes the conservation of the historic environment as a whole and in particular those designated heritage assets and their setting; including the Conservation Areas and World Heritage Site;*
- is designed to respect quality of place in the use of distinctive local building styles and materials, dark skies and tranquillity; and*



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• *protects trees, other important landscape features and semi natural habitats in order that it can contribute to the conservation and enhancement of the natural beauty of the protected landscape. Particular care should be taken to ensure that development outside the AONB does not harm the natural beauty, character and special qualities of the AONB and/ or its setting or otherwise prejudice the achievement of the AONB purposes”*

- 2.5.1 **Refusal 2** - The location of this site relies on access along a public right of way which includes narrow sections with no passing places. The proposed location of this development would encourage conflict between pedestrians and motorised traffic giving rise to increased danger for all users and creating an unacceptable highway safety impact:

“Access to the site from the main highway is by way of permitted access along a privately owned narrow, and at places steep, unmade track about 1 km in length which currently serves two dwellings and provides access for the farmer to his surrounding fields. Without further work it is wholly unsuitable for any commercial traffic associated with the proposed development” - Restranguet Creek Society (Summarised comments), [“Officer Report - Delegated,”](#) listed 14 April 2021

- 2.5.1 **Refusal 3** – The submitted information is insufficient to enable the Local Planning Authority to assess the impacts on protected species and does not provide any information in relation to biodiversity net gain.

- 2.5.1.1 The [Cornwall Council Ecologist](#) (page 7) confirmed that the proposed site is adjacent to a County Wildlife Site, on Restranguet Creek which feeds into a Special Area of Conservation (SAC) and Special Protection Area (SPA), noting that the appellant would need to supply evidence to support an Habitat Research Assessment for the SAC and SPA, plus “we [Cornwall Council Ecologist] will require this development to deliver BNG [biodiversity net gain] at it hits the 1-hectare threshold.”



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2.5.1.2 The initial ecology report submitted by the appellant is a [desk based study by Ellendale Environmental](#) (document not dated, but post LPA refusal and an appendix to the appellant's "[Grounds for Appeal and Statement of Case on Behalf of the Appellant](#)," September 2021). This ecology appendix was submitted "*Following a review of aerial photography*" concluding "*Given the management of the grassland it is likely to be of low ecological value and species poor, providing limited habitat for protected species.*"

2.5.1.3 The appellant's agent belatedly (listed 16 February 2022) submitted "[Land North Of Tregunwith Wood, Mylor Bridge - Preliminary Ecological Assessment \(PEA\) for Willis & Co.](#)," Ellendale Environmental, 6 December 2021 (which begs the question why did Willis & Co. take two months to submit this PEA to Cornwall Council?). This PEA includes an on the ground survey (conducted 18 October 2021) of the proposed site, with the conclusion that:

- a) *"The grassland provides suitable habitat for reptile and amphibian species;*
- b) *The grassland may also provide suitable habitat for ground nesting birds;*
- c) *The tree and hedgerows present along the boundaries of the site provide suitable nesting habitat for a range of common birds;*
- d) *The mature trees present along the western boundary of the site provide low roost suitability for bat species;"*

2.5.1.4 Therefore, the ecological survey evidence remains in conflict with [representations and ecology comments made at the LPA stage](#) – The ecological risk is not limited to the appellant's proposed site's grassland and immediate vicinity, representations submitted at the LPA stage noted:

"The proposed area is a known home for protected wildlife, including nearby badger setts, as well as otters, brown log-eared, lesser horseshoe and common pipistrelle bats, ospreys, kingfishers, herons, egrets and countless wild birds and the noise and disruption is most likely to drive them away" -
[Representations Received at LPA stage](#)



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2.5.1.5 The appellant's proposal does not satisfy the "[National Planning Policy Framework](#)" (NPPF) which makes clear that inappropriate development is, by definition, harmful to AONB and should not be approved except in very special circumstances. The appellant's proposals do not exhibit any very special circumstances.

2.5.1.6 The appellant's submitted ecological appraisals remain in conflict with [observed representations](#) and do not fully satisfy the [Ecology stipulation](#) *"To fully review this application, the ecologist would require a Preliminary Ecological Appraisal and evidence to support a Habitat Regulation Assessment for the SAC and SPA."* The combined evidence remains ultimately inconclusive and there are no justifiable exemptions (*derogations*) applicable, hence:

"You must take a precautionary approach with your decisions at each stage of the HRA process.....For example, if you cannot rule out: all reasonable scientific doubt of an adverse effect on a site's integrity at stage 2: appropriate assessment, you must refuse the proposal unless an exemption (stage 3: derogation) is justified" - [Habitats Regulations Assessments](#)

2.5.1.7 There seems to be some debate/confusion over the actual size of the appellant's land holding and the relevant area that constitutes the development site for the purposes of establishing the threshold for the proposal's net biodiversity gain requirement:

- a) *"at it hits the 1-hectare [2.47 acres] threshold"* - [Cornwall Council Ecologist](#)
- b) *"The applicant owns approximately 2 acres [0.81 hectare] of land which gently slopes from a private access track on the west boundary to the river's edge on the east boundary"* - [Chief Land Agent and Valuer](#)
- c) *"The site area for the workers dwelling and agricultural building is approximately 0.2 hectares as well as an access track approximately 1km in length which is shared with a Gold status public right of way the applicants control extends to approximately 1 hectare of land which comprises agricultural field laid to rough grassland"* – [Proposed Development](#)
- d) *"Although the ownership area is in excess of 1 hectare, the application area only accounts for approximately 0.69 hectares [1.7 acres] and this includes the access*



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track that leads to the public highway" - ["Grounds for Appeal and Statement of Case on behalf of the Appellant,"](#) para 4.43

- e) *"The sites located to the north of Mylor Bridge on the shore of Restronguest Creek. It is approximately 0.98 acres [0.39 hectares] in size and broadly triangular in shape" - ["Land North Of Tregunwith Wood, Mylor Bridge - Preliminary Ecological Assessment \(PEA\) for Willis & Co.,"](#) Ellendale Environmental, 6 December 2021*
- f) At the ["Ecology"](#) section (page 16) of the *"Officer Report – Delegated,"* it states *"The Ecologist has also stated that as the development area is 1 hectare or larger than the application would need to be supported by appropriate Biodiversity Net Gain (BNG). Although the ownership area is in excess of 1 hectare, the application area only accounts for approximately 0.69 hectares and this includes the access track that leads to the public highway. As this is below the threshold for the need to achieve 10% BNG, there is still the need to ensure that the application can identify where the proposal would conserve, protect and where possible enhance biodiversity."*
- g) Clearly, the appellant's proposed development is not limited to potentially negatively impacting the ecology of the actual plot area the appellant proposes to develop into a rural dwelling and rabbit farm infrastructure. The development will potentially negatively impact the ecology of the whole land area the appellant owns (disturbance, noise etc.) where the appellant's agent agrees *"...the ownership area is in excess of 1 hectare* (["Grounds for Appeal and Statement of Case on behalf of the Appellant"](#) para 4.43), plus the access track (with increased site traffic with associated pollution and noise disturbance) and potential negative impact to the adjacent Restronguest Creek:

"The site is very close to the Creek edge and any polluted run-off from whatever drainage scheme is finally decided upon would be unacceptable. The inevitable run off from the surface soil on the site, contaminated with rabbit droppings, will end up in the waters of the Creek. Soil runoff from farmland into it is already a problem of some magnitude. Contaminated soil and water will be even worse" - [Restranguet Creek Society \(Summarised comments\)](#)



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- h) The proposed development's ecological impact therefore clearly exceeds the 1 hectare threshold for non-residential development regardless of the actual plot size developed (["Cornwall Planning for Biodiversity and Net Gain SPD"](#) Table 1 covers developments adjacent to "ponds" "rivers, streams, canals, lakes, or other aquatic habitats," where creeks are not specifically included, but there is clearly read-across under other aquatic habitats). Therefore, the proposed development's impact indeed "hits the 1-hectare [2.47 acres] threshold" ([Cornwall Council Ecologist](#)) whereby the proposed development should be required (["Environment Act 2021, Schedule 14, Biodiversity Gain as Condition of Planning Permission"](#)) to provide a minimum 10% net biodiversity gain as illustrated by the [Planning Advisory Service](#):

"The [National Planning Policy Framework \(NPPF\)](#) states [our emphasis]

*174: Planning policies and decisions should **contribute to and enhance the natural and local environment** by: [...]*

*d. minimising impacts on and **providing net gains for biodiversity**, including by establishing coherent ecological networks that are more resilient to current and future pressures*

179: Plans should: [...]

*b. promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and **identify and pursue opportunities for securing measurable net gains for biodiversity** and development whose primary objective is to conserve or enhance biodiversity should be supported; while **opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.***

180: When determining planning applications, local planning authorities should apply the following principles: [...]

*d. development whose primary objective is to conserve or **enhance biodiversity** should be supported; while opportunities to **improve biodiversity in and around developments** should be integrated as part of their design, especially*



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*where this can secure **measurable net gains for biodiversity** or enhance public access to nature where this is appropriate.”*

- 2.5.1.8 There is no net biodiversity gain for the proposed site illustrated within the appellant’s proposals and/or supporting ecological surveys – other than for “[modest post-construction ecological enhancements](#)” (which some might consider a token gesture) encompassed within the proposed development for bird nesting boxes, bat boxes and appropriate dark corridors, plus the offer of the appellant agreeing to a Landscape and Ecological Management Plan (LEMP) ([para 4.43](#)). None of these mitigations are guaranteed to offset the disturbance to such species already present at the undeveloped site (but have failed to be observed within the appellant’s agent’s commissioned [PEA](#)) and/or any detrimental impacts to other species negatively affected in the development site and surrounding vicinity but not adequately mitigated within the “*modest post-construction ecological enhancements*” offered by the appellant. The consequences of accepting potentially unforeseen negative biodiversity impacts was commented upon at the LPA stage:

“The mortality rate of farmed rabbits is usually quite high and carcasses will remain on the soil until removed. The rabbits will be visible by several species of birds of prey resident in the Creek and attract natural predators on the ground. The latter will consist of members of the local small mammal populations. The rabbits will attract them, and these small mammals will then also then be slaughtered by way of bait boxes, being regarded as 'pests'. At present they are regarded and loved as part of the natural ecosystem of the County Wildlife Site and its immediate surroundings. These small mammals also form part of the local natural predator/prey food web, and thus the mere presence of the farm will disrupt, in an unknown way, the natural ecological balance that already obtains” - [Restronquet Creek Society \(Summarised comments\)](#)



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2.5.1.9 Based upon the precautionary principle and the default assumption this principle demands, the conclusion must be that there remains a potential likelihood of protected species (and non-protected species) being adversely affected by the appellant's proposed development with no obvious net biodiversity gain offered by the appellant's proposed development (even if there is some debate over the proposed site affected being \leq 1 hectare, ref para 2.5.1.7). Therefore, Refusal 3 should clearly be upheld.

2.6 Questions and Concerns Raised

2.6.1 How can any planned *"use of this land for rabbit farming"* be dismissed as purely *"an agricultural use and does not need planning permission"* if the planned *"agricultural use"* is of itself detrimental to protecting the reputation of the Cornwall area and its status as an AONB?

2.6.2 Accepting the proposed rabbit exploitative enterprise as *"agricultural use"* is tacitly condoning expanded exploitation of sentient animals and negatively impacts the *"scenic beauty"* of the Cornwall AONB, where it could be argued that *"beauty"* is not purely a visual stimulus.

2.6.3 'Beauty' is also dependent on cognitive cues evident within any given landscape - such as the siting of controversial commercial animal exploitation enterprises within a given landscape. For example, some see 'beauty' in wind turbines and their sustainable development of renewable energy. Others see wind turbines as hideous structures that spoil the scenic beauty wherever they are located. However, I doubt anyone sees 'beauty' in rabbits kept in captive conditions to be slaughtered for profit as enhancing a given location, particularly an AONB.

2.6.4 [Paragraphs 176 and 177](#) of the NPPF clearly states:

"176 - Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which



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have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

177 - When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*

(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

(b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

(c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

** For the purposes of [para 177](#), whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined."*

- 2.6.5 The appellant's development is proposed for siting within the Cornwall AONB, with the proposed site adjacent to a County Wildlife Site, on Restrouquet Creek which feeds into a Special Area of Conservation (SAC) and Special Protection Area (SPA). Thus, it can be argued that:

The proposed development meets the definition of a 'major development' – not just in terms of the proposed erection of buildings/dwelling, fences and infrastructure etc., but because of the "nature" of the proposed rabbit exploitation business being sited within the Cornwall AONB setting and adjacent to SAC and SPA. However, it is noted



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that within the "[Questionnaire \(s78\) and \(s20\) Planning and Listed Building Consent](#)" Part 2, 8., the "development type" is cited as "Minor Developments" even though the proposed development will effect an area of 1 hectare or more (ref para 2.5.1.7) – but the designation as a major, or minor development is subjective (*"For the purposes of [NPPF para 177](#), whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined"*). The case officer at Buckinghamshire Council LPA for an identical application by the appellant [listed the same proposals](#) as "Major Developments" which is considered more appropriate in the circumstances evident within the appellant's Cornwall application;

- a. Locating a controversial animal exploitation business in the Cornwall AONB could indeed have *"significant adverse impact on the purposes for which the area has been designated or defined"* and would not be *"sensitively located and designed to avoid or minimise adverse impacts on the designated areas"* – namely, the risk of disease (reference Para 4 *"Risk of Disease"*) and the public's negative opinion of the appellant's proposed exploitation of rabbits (reference Para 5, *"Animal Welfare"* and in particular 5.9) which would undoubtedly negatively impair Cornwall's AONB's reputation;
- b. The appellant's proposed development is clearly not being proffered in the *"public interest"* (i.a.w. Para 177, NPPF). The proposed development is unequivocally in the appellant's own self-serving business interests and therefore, does not qualify for treatment as being submitted in *"exceptional circumstances, and where it can be demonstrated that the development is in the public interest."* Playing devil's advocate, the counter could be that the appellant's proposed rabbit meat production provides food, so it is by default in the *"public interest."* However, there are plenty of alternative sources of food available (including meats) to the public to serve their interests in this regard, hence there is not an overwhelming case proved for *"public interest"* in the appellant's proposals when this hypothetical counter argument is taken to conclusion;
- c. The appellant's proposed development could indeed have a *"detrimental effect on the environment"* (Para 177 (c), NPPF), with the potential impact on local wildlife and human health (reference Para 4 *"Risk of Disease"*), where the ability to



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moderate the risk of disease and its spread will be incumbent upon the appellant's self-monitoring operations to a significant extent. There is past evidence, where the appellant has not categorically identified and mitigated such risks at one of the appellant's pre-existing rabbit farm sites, with such bio-security risks clearly identified within the appellant's own submitted documentation (reference Para 4 *"Risk of Disease,"* 4.4 and 4.5);

- d. The appellant's proposed development will introduce infrastructure clutter ([*"Officer Report - Delegated"*](#)) which will have a detrimental aesthetic impact on the Cornwall AONB when viewed in proximity to the appellant's proposed site. There is a public right of way along the proposed site's western boundary, therefore the proposed buildings and infrastructure would have a detrimental aesthetic impact, as the site will not be naturally shielded from the public's enjoyment of this area of the Cornwall AONB. It is duly noted that the appellant's agent suggests ([*"Grounds for Appeal and Statement of Case on Behalf of the Appellant,"*](#) para 4.28) *"The existing trees along the bank of the creek would help to screen the development from the northern bank,"* but this clearly refers to a different site boundary and does not make clear if the screen so provided is only available when the existing trees are in full leaf, or not;

2.6.6 The proposed rabbit farm has no conservation purpose, so its 'conservation' merits to enhance the image of any landscape within an AONB is absent.

2.6.7 In conclusion, any arguments given by the appellant based upon 'sustainable development' as an overriding criterion for acceptance of a proposal is no guarantee that a given proposal does not distract from a given area's *"beauty"* or in the absence of conclusive science does not impact protected species, when the proposal's only objective is the appellant's profiteering from animal exploitation.

2.6.8 In addition, the appellant's agents refer within submissions to working on behalf of *"T&S Rabbit Farms"* and references *"T&S Nurseries,"* e.g.:



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"Reading Agricultural Consultants Ltd () has been instructed by T & S Nurseries (owned by Mr P Kerry) to prepare an appraisal to review the need for a rural worker's dwelling at a site at Mylor, Cornwall to enable the establishment of an agricultural business engaged in free-range rabbit breeding and rearing" - ["T & S Rabbit Farms, Mylor, Cornwall,"](#) Reading Agricultural Consultants).

2.6.9 The appellant also markets [fur products for sale under a "T&S Rabbits"](#) brand stating on its website that *"T&S rabbits is a family business based at various locations throughout the UK."*

2.6.10 It should be noted that [T&S Nurseries](#) as a company entity was dissolved 21 September 2010. In addition, there is no entity listed within Companies House registered as *"T&S Rabbits"* or *"T&S Rabbit Farms"* (all used within the [appellant's submission\(s\)](#)). The appellant's financial reports ([2018](#) and [2019](#)) refer to *"P A Kerry Trading as T & S Granby - Rabbit Farm"* (a trading name, not a registered company entity). Therefore, this raises question as to the business vehicle the appellant is actually representing (and at [other sites the appellant has](#) (*"Granby (in Nottinghamshire) – and replicated at Atlow (Derbyshire), East Bridgford (Nottinghamshire) and Lyndon Top (Rutland)"*) and how third-party consultants' documents can be submitted referencing any 'T&S' entity in relation to the planning application and subsequent appeal, when it appears 'T&S' is purely a trading name, not a registered company. It is duly noted that land held by [B.C.H UK Ltd.](#) (a company where the appellant Mr Phil Kerry is listed as Director) is [reported to own the land \(para 2.1\)](#) for the proposed rabbit breeding facility in Mylor, Cornwall *"The land at Mylor was purchased in 2012 and is jointly owned by Mr Kerry and his two sons."*



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3 Sustainable Development and Ecological Risk

- 3.1 In the submission on behalf of the appellant, Willis & Co ([para 3.5](#)) quotes the NPPF, para 11 *"Plans and decisions should apply a presumption in favour of sustainable development."* Willis & Co. misconstrues and promotes a biased interpretation as overriding grounds to accept the appellant's proposed development:

*"It suggests that planning permission should be granted unless any adverse impacts would be so significant as to outweigh the benefits of the development. This paragraph requires a presumption in favour of sustainable development. It is considered that **the proposed development accords with this paragraph**" – ["Grounds for Appeal and Statement of Case on Behalf of the Appellant,"](#) para 3.5, September 2021*

- 3.2 The referenced proposal clearly has adverse impacts, not just in terms of buildings and infrastructure that erodes openness, introducing clutter that does not conserve or enhance the landscape of Cornwall's protected (AONB) area. But the appellant's proposals will inevitably have an adverse reputational impact on the area and its ability to maintain an image that activities within that area only enhance or are in keeping with that environment. The appellant's rabbit fur production proposals (currently permitted by a loop-hole which permits fur trading as a by-product of rabbit meat production) is unlikely to conjure favourable AONB images in the public's mind's eye – I would suggest it is more likely to conjure up images of [animal torture commonly associated with the rabbit fur farming industry](#). Dismissing such an association as permissible because it's veiled behind *"agricultural use"* and/or *"sustainable development"* could be described as indirectly undermining the very essence of an AONB. The counter argument, that farming is present in the same area and also practices animal confinement etc. to some extent is not a reason to burden the area with even more examples of species suffering the same fate – i.e., *"Agricultural use"* or *"sustainable development"* is not somehow above moral, ethical analysis and the potential for negative reputational damage to result.



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- 3.3 The only *"benefits of the development"* evident in the proposal are minimal employment opportunities, with profiteering concentrated to an individual (or individuals unknown - reference para 2.6.8 – 2.6.10) based upon insensitive animal exploitation. In comparison, the adverse 'image' (association with the appellant's rabbit fur trade for example) created could potentially impact the wider interests of the local community/region in the vicinity of the appellant's proposed site as the reputational damage permeates. The planning application itself clearly created a great deal of public interest – it is duly noted, of the some 336 *"third-party"* public representations to the planning application ([PA20/08566](#)) made, without exception all of these representations were objections to the planned development (*"335 - Objections, Supporting – none"*). A sample of the negative press coverage of the issues raised by the appellant's application is given to substantiate and provide context:

The Falmouth Packet, 9 February 2022, "[Mylor Bridge rabbit farm - appeal launched against refusal](#)"

The Guardian, 31 May 2021, "[People in Great Britain being asked for views on fur trade ban](#)"

The Mirror, 21 March 2021, "[Ricky Gervais slams rabbit farm plans that could see 30,000 slaughtered each year](#)"

The Falmouth Packet, 21 March 2021, "[Tregunwith Wood, Mylor rabbit farm application refused](#)"

County Gazette, 16 March 2021, "[Rabbit farm proposed for site near Mylor, Cornwall](#)"

Mail Online, 21 December 2017, "[Sickening undercover footage shows the horrific cramped conditions rabbits bred for their fur are kept in before being skinned and used for luxury clothing in France](#)"

Daily Mail, 16 October 2014, "[Suddenly it's Britain's trendiest food. But read on and you may never want to eat rabbit again](#)," 16 October 2014

The Guardian, 29 April 2011, "[Rabbit battery farms could return to UK](#)"

The Independent, 23 October 2011, "[Hugh's Recipes turn sour as battery rabbits farms return](#)"



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- 3.4 NPPF paragraph 174 states *"Planning policies and decisions should contribute to and enhance the natural and local environment by"* for example by *"recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem service."* How does the commercial breeding of rabbits in questionable welfare conditions for their meat (and fur as a convenient by-product loop-hole for the exploiting business) *"enhance the natural and local environment,"* recognise *"the intrinsic character and beauty of the countryside"* or provide *"the wider benefits from natural capital and ecosystem service"*?
- 3.5 The proposed rabbit farm is not based on benefitting from 'natural' resources (but a synthetic, captive, exploitative environment) and could potentially negatively impact the surrounding ecosystem (see para 4, *"Risk of Disease"*).
- 3.6 It is duly noted that Willis & Co have stated the *"essential"* ([para 4.10](#) of its *"Grounds for Appeal and Statement of Case on Behalf of the Appellant"* (October 2021)) need for a new agricultural dwelling for the proposed enterprise. Regardless of the self-declared 'essential' need for a new agricultural dwelling, the harm to the AONB and impact on the ecology and wildlife has not been fully addressed within the Willis & Co submission where [para 5.12](#) states:



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"The appeal is accompanied by a desk based ecological assessment and a Preliminary Ecological Appraisal (PEA) has been instructed and is being carried out. Once completed a copy will be submitted to the Inspectorate and Cornwall Council for consideration."

- 3.7 The appellant's agent belatedly submitted (16 February 2022) an updated ecological assessment, by Ellendale Environmental, "[Land North Of Tregunwith Wood, Mylor Bridge - Preliminary Ecological Assessment \(PEA\) for Willis & Co.](#)" This addendum covers a site survey undertaken 19 October 2021 by Ellendale Environmental on behalf of the appellant's agent, Willis & Co.

- 3.8 The referenced "[Ecology Letter](#)" Ellendale (uploaded as appendix 5, 23 September 2021), submitted by the appellant with the planning application concludes:

"Following a review of aerial photography, the site appears to be agricultural grassland under some level of management. A mature broadleaf treeline separates the site from the creek and is likely to provide habitat for nesting birds, foraging birds and bat species and potentially provide roosting habitat for bats species."

- 3.9 Cornwall Council ("[Officer Report - Delegated](#)") recommendations concluded that the appellant has yet to provide sufficient ecological information:

"The submitted information is insufficient to enable the Local Planning Authority to assess the impacts on protected species and does not provide any information in relation to Biodiversity Net Gain. The proposal thus conflicts with CLP policy 23 and paragraphs 172 and 175 of the NPPF"



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- 3.10 The potential ecological impact risk is not just to protected species and whether such species are present, or not – the ecological impact has much wider potential wildlife (protected or otherwise) and potential human health risks/impacts to consider (see para 4 *"Risk of Disease"* below).
- 3.11 The Planning Inspectorate, [*"Guide to taking part in planning and listed building consent appeals proceeding by written representations – England"*](#) (19 April 2021) states at para 17 *"The appeal statement of case must make up their full case"* – therefore, it would seem debatable if the appellant complied to the word if the (ecology) appendix/addendum referenced within the appellant's actual statement of case was missing/withheld at the *"appeal received"* stage (1 February 2022) and *"new evidence"* subsequently submitted 16 February 2022.



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4 Risk of Disease

4.1 COVID- 19 (SARS-CoV-2) is a zoonotic disease, where the virus source is the direct result of exploitation of wildlife/animal stock for commercial purposes (Ref: "[WHO Points To Wildlife Farms In Southern China As Likely Source Of Pandemic](#)," NPR, 15 March 2021). What risk assessment has been done to ensure the proposed intensive rabbit farming facilities do not pose a human health risk in the handling, slaughter (including local run-off of waste in the immediate environment) and consumption (human and/or [pet food](#)) of the rabbit derivative products from such a facility?

4.2 Mink farming is thankfully being shut down because of the concerns raised regarding zoonotic diseases and human health risks ("[After Coronavirus-outbreak, Dutch Parliament votes to shut down mink farms](#)," Four Paws, 18 September 2020). However, it should be noted that the fur industry in this instance had no insurance cover for this shut down. This leaves the potential for tax-payer exposure to finance any fur industry shut down that manifest and the potential burden of countering the spread of disease(s) into the surrounding vicinity, with both wildlife and human health consequences:

".....One of the things that these culls have in common is that farmers have no insurance to cover these disruptions to trade, because, in the main, insurance companies won't cover animal production" ([Nature Needs More, January 2021](#)) where it is reported that in Denmark alone, the government was obligated to give mink famers up to US\$4 billion in compensation ([ABC News, 26 January 2021](#)) "after a nationwide cull was undertaken, amid coronavirus fears."



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- 4.3 So, it seems an inexplicable risk at this time to then blindly accept proposals to expand rabbit farming in the UK when the risks of zoonotic diseases within such intensive breeding facilities and their potential, devastating impact have been made so obvious across the globe. There is also no mention of vaccinating the proposed rabbit stock against the fatal, incurable diseases Myxomatosis, viral haemorrhagic disease (VHD and VHD2, or Rabbit haemorrhagic disease virus ([RHDV](#))) with the potential for these current viruses (and mutations) of known rabbit diseases to infect wild/captive bred populations and potentially impact human health [Note: currently known strains do not represent a risk to human health, but that is no guarantee that the disease will not mutate and become infectious to humans in the future]:

"The virus [RHVD] is believed to have jumped from domestic rabbits or farms into wild populations.." - "[The deadly plaque that could devastate the US rabbit population](#),"
The Guardian, 15 July 2020

- 4.4 The risk of disease spreading within commercial rabbit breeding facilities is clearly acknowledged within the appellant's own submission documentation ("[Rural Worker's Temporary Dwelling Appraisal](#)," Reading Agricultural Consultants on behalf of T&S Nurseries, September 2020) for example:

*Para 2.2 - "One of the limitations of rearing free-range rabbits commercially **is the risk of bio-security breakdowns** as there are several diseases that can destroy a flock over a very short time period"*

Para 4.30 - "Turnover was down during the [2018] year, as we were struggling with a genetic breeding problem where many of the progeny were dying at around the 12 week mark. This problem continued into the following year, it may have been rabbit viral Haemorrhagic disease but on balance it was more likely to be a genetic problem from one of the bucks"



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- 4.5 An interesting point to note in this last quote (attributed to the appellant, Mr Phil Kerry), is that Mr Kerry does not seem to know what disease (or genetic defect?) was present in his pre-existing captive bred rabbits in 2018, causing the inevitable suffering of breeding stock dying at 12 weeks old. It is not clear if the noted disease was [reported to the Animal and Plant Health Agency as per legal obligations](#) – it is assumed that the APHA was not informed, otherwise the appellant would presumably have the knowledge to state the actual disease/cause (Note: haemorrhagic disease is a World Organisation for Animal Health ([OIE](#)) listed reportable disease (reference para 4.10, d.), so it can be assumed to be a 'Notifiable' disease to the APHA).
- 4.6 What if such a 'genetic defect' had been present and through poor bio-security had been allowed to escape and manifest in wild populations? What if the disease had been a new strain of coronavirus (or a mutation of COVID- 19 (SARS-CoV-2)) and the same casual approach been taken by the appellant – thus potentially turning Cornwall's AONB into a Covid hot-spot as the disease spreads through poor bio-security (by human and/or animal onward transmission) into the surrounding vicinity and beyond? There is no such thing as a 100% secure captive animal/wildlife breeding facility, for example:



[APHA is well placed to examine the potential role of wildlife in the epidemiology of SARS-CoV-2](#)

"A recent report of SARS-CoV-2 infection in free-living mink in the vicinity of a mink farm in the USA is a case in point, as escaped animals provide a potential pathway to the infection of wild mink in the area" - "[Assessing the risks of SARS-CoV-2 in wildlife](#)," APHA Science Blog, 12 March 2021



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- 4.7 It would be naïve to assume the risk of diseased captive rabbits on the appellant's farm development are unlikely to escape into the wild. In the past, the appellant has even shown that he thinks such potential escapes are a cause for humour, not concern:

"After that time, the felt roofs start to leak the floors rot through (some rabbits have actually escaped by falling through the rotten floor!)" - ([Rural Worker's Temporary Dwelling Appraisal](#)," para 2.7, Reading Agricultural Consultants on behalf of T&S Nurseries, September 2020)

- 4.8 Escapes of domestic rabbits have clearly already happened in the [United States](#), where [rabbit haemorrhagic disease \(RHD\) virus 2 \(RHDV2\)](#) was first noted in domestic rabbits in 2018, but has since spread infection into wild rabbit populations and the onward wildlife food chain, with RHD known to survive in a [rabbit carcass for up to three months](#). If the spread of the disease is not curtailed, it could be dire for rabbits and the entire US wildlife food chain that consumes wild rabbits for food:

"This is a pretty big deal from a wildlife management perspective," says Bryan Richards, Emerging Disease Coordinator, USGS National Wildlife Health Center. "The virus is in a pretty vast area, and we don't have any tools to use to mitigate the spread or stop it once it's out in free-ranging populations"

- 4.9 RHD was first identified in China in 1984, in the Jiangsu Province of the People's Republic of China within a group of commercially-bred Angora rabbits imported from Germany. In less than a year, RHD killed 140 million domestic rabbits in China and spread over an area of 50,000 km². Korea was the next country to report RHD outbreaks which were associated with rabbit fur importation from China. The disease then spread to Italy in 1988 and from there to the rest of Europe via the fur and meat trades ([Abrantes et al., 2012](#)).
- 4.10 Regardless of whether RHD is already present in wild United Kingdom rabbits and the onward wildlife food chain risk, the spread of such disease is more of a risk in captive stock because:



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- a. The transmission of RHD within live animals includes conjunctival secretions, oral and nasal secretions and parenterally (Abrantes *et al.*, 2012). This means that any bedding, food or water bowls and any items coming in contact with affected rabbits are a possible vector for spread ([Improve Veterinary Practice, October 2019](#)) – large captive populations in close proximity (despite any claims the population is “free-range” (sic)) undoubtedly presents many possible vectors for diseases such as RHD to rapidly spread through the whole captive population – this not only has economic impacts for the rabbit farm operator, but also presents an onward transmission risk for disease to spread;
 - b. The associated meat and fur trades present opportunities for disease (such as RHD) to spread ([Abrantes et al., 2012](#));
 - c. RHD originated within commercially-bred rabbits ([Abrantes et al., 2012](#)). How will the risk of new diseases be mitigated within the appellant’s proposed development and the onward spread of that risk mitigated within the proposed commercial meat and fur trade associated with the appellant’s proposals? Unless the risk is acknowledged, assessed and can be mitigated, then the Cornwall AONB risks being ground-zero for the next disease originating from commercial rabbit enterprises;
 - d. The World Organisation for Animal Health ([OIE](#)) lists “*Infection with epizootic haemorrhagic disease virus*” - meaning detected infection in all species ([including rabbits](#)) is a reportable issue;
- 4.11 The risk of captive rabbits acting as reservoirs for disease (including Covid) has been identified and the risk is clearly inherent in the appellant’s proposed rabbit farm development with rabbits susceptible to SARS-CoV-2 and potentially acting as a reservoir for the disease ([News Medical Life Sciences, 30 August 2020](#)):

"A new study by scientists in the Netherlands and published on the preprint server bioRxiv in August 2020 shows that the severe acute respiratory coronavirus-2 (SARS-CoV-2) can infect rabbits, which opens the door for possible circulation in rabbit farms and another potential source of animal to human SARS-CoV-2 infection. This finding calls for urgent research on the prevalence of the virus in farmed rabbits"



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- 4.12 The risk of onward human transmission, including such captive bred stock acting as a potential reservoir for COVID-19 (SARS-CoV-2), with the potential to pass the virus on during the handling and/or slaughtering process. In addition, it is reported that the appellant plans to sell some rabbits from proposed developments (and other rabbit farm locations in the appellant's business) as 'pets' (rather than slaughter), which provides another potential vector for onward transmission of diseases (including Covid) to humans:

".....700 would sell as pets or to breeders and home farmers" - ["Ricky Gervais slams rabbit farm plans that could see 30,000 slaughtered each year,"](#) The Mirror, 21 March 2021

- 4.13 The risk of disease being spread to/from the proposed captive rabbit facility, the potential negative impact on wildlife and human health is unlikely to enhance Cornwall's image as an AONB. The risks need to be fully assessed, regardless of the proposed development being based upon *"agricultural use"* and *"sustainable development"* and the risks seemingly dismissed at the Local Planning Approval (LPA) stage.
- 4.14 In light of the ongoing Coronavirus pandemic, such risks clearly should be principal considerations in any rational planning approvals process, and indeed the risk(s) considered grounds for refusing planning permission in the first place at the LPA level - reference Para 2, *"Grounds for Refusal of Planning Application – Discussion."*
- 4.15 If such risks are not deemed appropriate at the LPA level, then the question is why not? If the ongoing Coronavirus pandemic has taught the human species anything, it must be that it's time for a long-overdue, [critical review of how humans treat the animal kingdom](#) (including rabbits) and the overwhelming, self-inflicted and damaging impacts such animal based 'sustainable development' proposals can unleash upon the human species.



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4.16 Of course, the appellant might claim that there is no public record of any such disease outbreaks at other rabbit farming sites under the appellant's control, or franchise. History does not always keep repeating itself. However remote, or unlikely a given risk may seem, such events do happen – one only has to look at the ongoing coronavirus pandemic to understand that, even though [it was predictable](#).



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5 Animal Welfare, Sentience and Fur Trade

5.1 Of course, everybody should be concerned with animal welfare, regardless of whether the proposed development *"land for rabbit farming is an agricultural use and does not need planning permission."*

5.2 In terms of protecting the image of Cornwall's AONB, then animal welfare must also be a concern that could impact the area's perceived 'beauty' and reputation. Animal welfare standards likely to manifest within the appellant's proposed planning application should be risk assessed.

5.3 The government is progressing key areas of legislation that are relevant, where the ethos of the proposed legislation are summarised within the "[Action Plan for Animal Welfare](#)," Department for Environment, Food and Rural Affairs (DEFRA), 2021:

"At the heart of our reform programme is our commitment to recognise in law the sentience of animals. The UK has consistently led the way on sentience; indeed, the UK was one of the key members that lobbied for the recognition of animal sentience in Article 13 of the Lisbon Treaty in 2009. The UK's Animal Welfare Act (2006) recognised in law that animals can feel pain and suffering, and now we have left the EU and the transition period has finished, we can go further. Explicitly recognising and enshrining animals as sentient beings in law will be at the very heart of central government decision making going forward" – "[Action Plan for Animal Welfare](#)," page 8

5.4 This government's "[Animal Welfare \(Sentience\) Bill](#)" bill is now at the committee stage having passed through second reading in the House of Commons. Rabbits are included within the bill's definition of sentient beings. The bill recognises the sentience of animals and establishes a new committee to scrutinise Government policy to consider whether policies will have an adverse impact on the welfare of animals as sentient beings.



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- 5.5 The [DEFRA report](#) also reiterates: *"Fur farming has been banned on ethical grounds in England and Wales since 2000, and since 2002 in Scotland and Northern Ireland. Whilst there are existing import restrictions on seal, cat and dog fur, it is still possible to import other fur from abroad, so we will explore potential action in this area"* – *"[Action Plan for Animal Welfare](#),"* page 10
- 5.6 The appellant plans to use a loop-hole so the rabbits bred at the proposed site can be slaughtered on the pre-text as providing meat. At present, if rabbits are bred for meat in the UK, when the rabbits are slaughtered for meat and derivative products, then the [rabbit pelts \(fur products\) can also be sold](#) as a by-product. However, this is clearly an ambiguous grey area, where rabbits could potentially be bred for slaughter for their fur/derivative products (and not for meat as the main reason) - this 'grey area' is not regulated with any degree of transparency or public scrutiny [despite fur farming being banned \(in theory\) throughout the United Kingdom \(UK\)](#).
- 5.7 The UK Parliament produced a report titled *"[Fur trade in the UK](#),"* (DEFRA, 2018), which recommend a public consultation on the issues raised:
- "We recognise that the breeding and sale of fur is a very emotive subject. As well as presenting the moral arguments against fur farming, animal welfare campaigners highlight the conditions in which animals are reared, and their lack of natural behaviour. The fur industry, to counter these concerns, have established assurance schemes to ensure that animals are bred and raised to industry standards, although there are concerns as to whether these standards go far enough..... We recommend that the Government holds a public consultation to consider whether to ban fur. In looking at whether to ban the sale and import of fur post-Brexit, the Government will have to balance the needs of animal welfare against consumer choice"*
- 5.8 That consultation, *"[Call for evidence launched on fur trade](#)"* was launched 31 May 2021 (closing 21 June 2021). The [results of that consultation](#) could close the loop-holes the appellant plans to exploit - to produce rabbit fur for domestic trade and/or export as a by-product of meat production under the proposed *"agricultural use"* in the referenced planning application:



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*"Longer-term, **the Government will have the opportunity to decide whether to ban the sale of fur.** We understand that this is a subject that raises strong feelings. The Government must balance consumer choice against animal welfare considerations, and we expect Ministers to listen carefully to all sides in any consultation" - [Fur trade in the UK](#)," (DEFRA, 2018)*

- 5.9 Therefore, harbouring [a rabbit meat farm](#) (with potential cover as a pseudo rabbit fur producer) within Cornwall's AONB without reputational risk looks untenable:

*".....the Humane Society reporting that **72% of the British public would support a UK ban on the import and sale of animal fur**" - "[Fur Free Britain](#)," RSPCA/Humane Society International, March 2021*

- 5.10 The British Fur Alliance has [reportedly](#) argued that natural fur is an antidote to environmentally damaging fast fashion, and should not be banned if it is ethically sourced. However, "*ethically sourced*" lacks definition by the British Fur Alliance and therefore is meaningless in reality.



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6 "Free-range" and Rabbit Meat/Fur Production Proposals

- 6.1 The appeal submitted by Willis & Co. summarise ([para 1.5](#)) *"The proposal is to develop the free-range rabbit farm enterprise..."* as submitted in the appellant's planning application and documentation prepared by Reading Agricultural Consultants on behalf of the appellant (*"[Rural Worker's Temporary Dwelling Appraisal](#),"* Reading Agricultural Consultants on behalf of T&S Nurseries, September 2020).
- 6.2 The appellant's agent's appeal fails to define its criteria and use of "free-range" in context and therefore, the proposal to develop a "free-range" (sic) rabbit farm is therefore subjective – will the rabbits truly be free range, or caged for the majority of their commercial commodification?
- 6.3 Based upon past evidence, the appellant has clearly favoured cruel, factory rabbit farming for commercial gain, seemingly oblivious to animal welfare concerns. The descent into cruel and barbaric battery farming is a risk – a practice which the appellant (Mr Philip Kerry) has advocated in the past:

The appellant initially housed rabbits at his Granby rabbit farm in ex-military ammunition boxes - ([Rural Worker's Temporary Dwelling Appraisal](#)," para 2.6, figure 1, Reading Agricultural Consultants on behalf of T&S Nurseries, September 2020)

*"Planning applications for at least six rabbit battery farms have been lodged with local authorities across the UK. The intensive farms, which would be the first for rabbits in the country in 15 years, have been proposed at sites from Nottinghamshire to Cornwall. Each facility would house up to 1,100 animals **in wire cages stacked three high in windowless barns**. The rabbits would be sent to slaughter for their meat at 12 weeks old" - "[Rabbit battery farms could return to UK](#)," The Guardian, 29 April 2011*



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- 6.4 The welfare of the rabbits currently held at the appellant's Atlow Farm was covertly investigated 16 – 20 March 2021 and found to be lacking – "...our investigators found rabbits in barren individual hutches, unable to socialise and with no free access to the outside" - [Animal Aid](#) . This kind of inhumane treatment does not conform to general animal welfare as encapsulated within the "[Five Freedoms](#)" (Bramwell 1979) – a common reference point for minimal animal welfare considerations.
- 6.5 How will these freedoms (a moral/ethical obligation) be accommodated within the proposed facilities, [compliance](#) overseen and by whom ([Animal and Plant Health Agency](#) and the required local authority?) - when the business model suggests producing up to 10,000 rabbits per year for meat/fur industry when a given site is running at full capacity in three years plus from start-up?

"T&S owner Phil Kerry expects to sell 700 pelts and accessories a year at each new facility, plus 2,000 "oven ready" meat packs.

Some 2,800 rabbits would go live to wholesalers and 700 would sell as pets or to breeders and home farmers" - "[Ricky Gervais slams rabbit farm plans that could see 30,000 slaughtered each year](#)," The Mirror, 21 March 2021

Note: There are applicable food hygiene rules (i.e. [Food Standards Agency](#)) that need to be complied with; however, one of the exemptions is that small establishments that produce rabbit meat are exempt from various EU/FSA regulations provided that less than 10,000 packs of meat are produced per annum, and that sales are localised i.e. supplying meat within the county of origin and neighbouring counties. Hence, why the appellant proposes to 'only' slaughter 10,000 rabbits per year, per site and why, those rabbit meat sales (potentially for public consumption) will be exempt from 'onerous' food hygiene oversight.



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- 6.6 How are/will the rabbit stock be [slaughtered](#) - is it/will it be humane? With any slaughtering process there is not only the question of humane treatment of the victims, but also the control of inevitable waste products - how will waste be disposed of, both from every day accumulation of rabbit droppings etc., the 'left-overs' from natural attrition ('[fallen stock](#)' rabbit deaths) and the slaughtering process? How will any uncontrolled run off and/or ingress of wildlife into the facilities adversely affect the local ecology/biodiversity? What risk assessment has been done to ensure the proposed intensive rabbit farming/slaughtering facilities do not pose a human health risk in the handling, slaughter (including local run-off of waste in the immediate environment) and consumption (human and/or [pet food](#)) of the rabbit derivative products from such a facility?



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7 Conclusions

- 7.1 The appellant's agent's report (Willis & Co., "[Grounds for Appeal and Statement of Case on Behalf of the Appellant](#)," September 2021) does not make a conclusive case and does not provide any overwhelming new evidence to overturn the [grounds for refusal 1, 2 or 3](#).
- 7.2 Just because a proposed dwelling is self-declared by the appellant's agent as "*essential*" accompanied by [Willis & Co's implied assertion](#) that the overall proposal should be granted planning permission, because it is a "*sustainable development*" is not credible. Sustainable development is not the sole criteria on which planning permission is considered (reference the [NPPF](#) in entirety), disregarding any other aesthetic, siting, ethical, moral, environmental, ecological or other risk considerations.
- 7.3 The appellant's proposals are speculative, there is no proven, essential, public interest need for a rabbit meat and fur farm with associated agricultural worker dwelling and infrastructure in the proposed location. This is concurred by Buckinghamshire Council in response to a similar application and appeal by the same appellant:

"....no evidence has been put forward showing that there is a demand or requirement for a rabbit rearing enterprise in this location.....it cannot be adequately concluded that the enterprise will remain viable for the foreseeable future. Therefore, whilst a dwelling might be required in association with the proposed rabbit rearing enterprise, this does not mean that permission should be granted for one, particularly if there are concerns about the long-term viability of the business or current demand for its produce" - "[Written Statement](#)," para 2.13 & 2.14, Buckinghamshire Council, 25 February 2022



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- 7.4 Ignoring the impact of the proposed animal exploitation of rabbits for commercial gain (regardless of the appellant's submission self-declaring it as sustainable development as if that is all that matters) on the beauty and reputation of the proposed location (within vicinity of Cornwall's AONB) should be key to the acceptance of any planning application. The negative impact on the beauty of the region is not just a case of aesthetics, but also the 'beauty' based upon the moral/ethical acceptance of the facilities harboured within.
- 7.5 The appellant's proposal clearly has negative impacts – the ecological impacts are potentially numerous and currently inconclusive as risk free, the emphasis on threats to protected species being one consideration, but there are also wider potential implications. The risk of disease reservoirs being created by the proposed captive rabbit population and the potential onward transmission being the obvious concern for human and wildlife health in the vicinity and beyond.
- 7.5.1 The grounds for refusal 1 and 2 places emphasis on the aesthetics and siting of the appellant's proposed buildings, infrastructure and clutter within Cornwall's AONB. However, it seems that a planning permission waiver is given to any "*agricultural use*" proposal from consideration of public concern over the activities that are proposed to take place within the appellant's proposed buildings, infrastructure and clutter. In this case, Cornwall Council states "*Although the applicant is proposing an agricultural use of this site, there is no established and viable rural business at this stage and no evidence has been provided to state why the business must be located on this land other than it is currently owned by the applicant and available*" ("[Officer Report – Delegated](#)"). Therefore, whilst "*agricultural use*" is tacitly accepted it seems, it does not address the possibility that if the appellant's proposed buildings, infrastructure and clutter were somehow deemed more appropriate and acceptable, this would not change public acceptance (e.g., reference para 2.4, 3.3 and 5.9 of this submission) one iota of the animal exploitation proposed within, or mitigate the risks highlighted for the proposed site and its operations (e.g., see para 4, "*Risk of Disease*").



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- 7.5.2 To reiterate, how does the tacit condoning of expanded exploitation of sentient animals not impact the *"scenic beauty"* of Cornwall's AONB, where it could be argued that *"beauty"* is not purely a visual stimulus (i.a.w. [NPPF para 176 and 177](#) – also reference para 2.3 of *"Questions and Concerns Raised"* of this submission).
- 7.5.3 Clearly, it can be argued that *"adverse impacts on the designated areas," "cultural heritage"* and *"sensitively located"* encompasses elements of the public's risk appetite, acceptance, sentiment and opinion for any given proposed development.
- 7.6 **Refusal 1** - The erection of the proposed buildings in the location would incur significant visual harm to the immediate setting and surrounding natural environment in the open countryside resulting in landscape and visual harm to the Area of Outstanding Natural Beauty (AONB). Plus, the traffic to and from the proposed site was not considered in keeping with the ethos of sustainable development.
- 7.6.1 The proposed development meets the [NPPF definition](#) of a 'major development' – not just in terms of the proposed erection of buildings/dwelling, fences and infrastructure etc., but because of the nature of the proposed rabbit exploitation business being sited within Cornwall's AONB setting;
- 7.6.2 Locating a controversial animal exploitation business in Cornwall's AONB could indeed have *"significant adverse impact on the purposes for which the area has been designated or defined"* ([NPPF definition of a 'major development'](#)) and would not be *"sensitively located and designed to avoid or minimise adverse impacts on the designated areas"* ([NPPF para 176](#)) – namely, the risk of disease (reference Para 4 *"Risk of Disease"*) and the public's negative opinion of the appellant's proposed exploitation of rabbits (reference Para 5, *"Animal Welfare"* and in particular 5.9) which would undoubtedly negatively impair Cornwall's AONB's reputation;



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- 7.6.3 The appellant's proposed development is clearly not being proffered in the "*public interest*" ([NPPF para 176](#)). The proposed development is unequivocally in the appellant's own self-serving business interests and therefore, does not qualify for treatment as being submitted in "*exceptional circumstances, and where it can be demonstrated that the development is in the public interest.*" Playing devil's advocate, the counter could be that the appellant's proposed rabbit meat production provides food, so it is by default in the "*public interest.*" However, there are plenty of alternative sources of food available (including meats) to the public to serve their interests, hence there is not an overwhelming case proved for "*public interest*" in the appellant's proposals when this hypothetical counter argument is taken to conclusion;
- 7.6.4 The appellant's proposed development could indeed have a "*detrimental effect on the environment*" (Para 177 (c), NPPF), with the potential impact on local wildlife and human health (reference Para 4 "*Risk of Disease*"), where the ability to moderate the risk of disease and its spread will be incumbent upon the appellant's self-monitoring operations to a significant extent. There is past evidence, where the appellant has not categorically identified and mitigated such risks at the appellant's pre-existing ("[Rural Worker's Temporary Dwelling Appraisal](#)," para 4.30, Reading Agricultural Consultants on behalf of T&S Nurseries, September 2020), with such bio-security risks also clearly identified within the appellant's own submitted documentation (reference Para 4 "*Risk of Disease*," 4.4 and 4.5). However, The Panning Inspectorate (EIA and Land Rights Advisor) has not, or does not consider bio-security and disease risks to be worthy of an Environmental Impact Assessment (EIA) ("[Environment Impact Assessment](#)," The Planning Inspectorate, 18 February 2022).
- 7.6.5 The appellant's proposal is being proposed in an area where "*The development of new homes in the open countryside will only be permitted where there are special circumstances*" ("[Officer Report – Delegated](#)"). The appellant has not demonstrated any such "*special circumstances*," only a self-declared "*essential*" need for a dwelling on the proposed site ("[Grounds for Appeal and Statement of Case on Behalf of the Appellant](#)").



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7.6.6 The appellant's proposed development is also in contravention of Policies 1, 2, 3, 7, 21 and 23 of The Cornwall Local Plan (["Cornwall Local Plan Strategic Policies 2010-2030 \(CLP\)"](#) as amended and consolidated), where:

Policy 1 – *"Presumption in favour of sustainable development"* – Paragraph 11 of the NPPF also states; *"Plans and decisions should apply a presumption in favour of sustainable development."* However, *"sustainable development"* is not the sole criterion for acceptance, and Cornwall Council (["Officer Report – Delegated"](#)) interprets this as *"suggests that planning permission should be granted unless any adverse impacts would be so significant as to outweigh the benefits of the development. However, the proposed site is an undeveloped field within the AONB and there are no individual agricultural buildings in this immediate landscape"* and goes on to conclude *"The proposal does not amount to sustainable development....All other matters have been considered but none override the harm identified."*

Policy 2 – *"Spatial Strategy"* where *"New development should provide a sustainable approach to accommodating growth, providing a well balanced mix of economic, social and environmental benefits."* The appellant's proposals do not provide a well-balanced mix of economic, social or environmental benefits.

Policy 3 – *"Role and function of place"* where *"In order to maintain and enhance these places the Plan takes an approach to growth that encourages jobs and homes, where they best deliver our strategic priorities and allows for more organic development where it supports or enables the provision of appropriate services and facilities locally."* The appellant's proposals offer minimal local employment opportunities and will not contribute to the provision of any appropriate services or facilities locally.

Policy 7 – *"Housing in the countryside"* where *"Additional accommodation to meet housing needs in the open countryside will be permitted where it would utilise existing lawful residential or non-residential buildings ten years old or greater."* The appellant's proposals do not encompass utilising any existing lawful residential or non-residential buildings.

Policy 21 – *"Managing the provision of waste management facilities"* – The appellant's proposals does not meet the criteria for an energy recovery facility etc. However, the appellant's proposals do include *"The rabbit droppings are allowed to fertilise the underlying grass"* and *"Other waste such as used bedding is allowed to compost and*



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is used as a natural growing medium for potted trees and shrub" – which could lead to potential run-off of waste into the environment and the potential spread of disease(s) via such waste.

Policy 23 – *"Natural Environment"* where *"Development proposals should sustain local distinctiveness and character and protect and enhance Cornwall's natural environment and assets according to their international, national and local significance.."* The appellant's proposals do not enhance Cornwall's natural environment and assets, with an inevitable negative impact upon Cornwall's AONB (reference para 7.3).

7.6.7 The appellant's proposed development is also in contravention Policy MD9 ([*"Cornwall Area of Outstanding Natural Beauty Management Plan 2016-2021"*](#)), where it is deemed that any proposed development *"does not compromise the special qualities and characteristics of the AONB designation."* The appellant's rabbit exploitation enterprise is clearly inappropriate in the public's and the [*Cornwall AONB Unit's*](#) opinion and would compromise Cornwall's AONB (reference para 3.3 of this representation).

7.7 **Refusal 2** – The location of this site relies on access along a public right of way which includes narrow sections with no passing places. The proposed location of this development would encourage conflict between pedestrians and motorised traffic giving rise to increased danger for all users and creating an unacceptable highway safety impact.

7.7.1 The case officer noted ([*"Officer Report – Delegated"*](#)) that *"The access to the site is along a private track approximately 1km in length and shared for its full length with a Gold status Public Right of Way. The private track is narrow in sections with some tree lined high hedges and limited passing spaces, except (sic) [except] for one field where for approximately 300m the track is open to the field on the north western side. The track provides vehicular access to a number of agricultural fields and to residential properties at Halwyn and Tregunwith Wood. The public right of way is well used, and this was evident to the case officer during the site visits. The public right of way connects the public highway with the creek-side walk to the Pandora Inn and further along to the River Fal and back to the village of Mylor."*



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- 7.7.2 The appellant's agent's "[Grounds for Appeal and Statement of Case on Behalf of the Appellant](#)" (para 4.35) that the Countryside Access Team submitted comments (5 February 2021) to Cornwall Council ("[Officer Report – Delegated](#)") and that this team had no objections to the proposals, with the appellant's agent offering that *"The applicant would accept a condition requiring the preparation of Construction Management Plan, if considered to be appropriate."*
- 7.7.3 There would inevitably be traffic to and from the appellant's proposed site and business operations; deliveries and removal of 'product' to and from the site, the comings and goings of the proposed site manager, waste carcasses ('[fallen stock](#)') being disposed of by a licenced contractor *"on a regular basis"* and potentially other utility vehicle movements ("[Supporting Information](#)," Listed 12 January 2021). Therefore, it is not just a question of construction traffic being in potential conflict with the referenced public right of way, but ongoing increased traffic and usage to and from the proposed site during proposed operation.
- 7.7.4 The Countryside Access Team do not unilaterally decide such issues, but advise Cornwall Council upon any issues raised by a given proposal. The ultimate arbiter is the relevant case officer at Cornwall Council, whose conclusions still stand, namely *"it is considered that any significant intensification of vehicular use of this public right of way would not be considered acceptable and would be contrary to Policy 27 of the CLP"* (where Policy 27 states a proposed development must *"Provide safe and suitable access to the site for all people and not cause a significantly adversely impact on the local or strategic road network that cannot be managed or mitigated"*).
- 7.8 **Refusal 3** – The submitted information is insufficient to enable the Local Planning Authority to assess the impacts on protected species and does not provide any information in relation to biodiversity net gain.
- 7.8.1 No conclusive, unequivocal ecological survey or report has been presented by the appellant which categorically proves that protected species will not be negatively impacted by the appellant's proposals



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The [Cornwall Council Ecologist](#) confirmed that the proposed site is adjacent to a County Wildlife Site, on Restronguet Creek which feeds into a Special Area of Conservation (SAC) and Special Protection Area (SPA), noting that the appellant would need to supply evidence to support a Habitat Research Assessment for the SAC and SPA, plus *"we [Cornwall Council Ecologist] will require this development to deliver BNG [biodiversity net gain] at it hits the 1-hectare threshold."* There is no clear net biodiversity gain cited within the appellant's proposals.

- 7.8.2 The appellant's proposed post-development *"[modest post-construction ecological enhancements](#)"* incorporation of bird nesting boxes, bat boxes and appropriate dark corridors, does not guarantee to offset the disturbance to such species already present (but have failed to be observed within the appellant's agent's commissioned [PEA](#)) and/or any detrimental impacts to other species negatively affected but not adequately mitigated within the *"modest post-construction ecological enhancements"* offered by the appellant). The appellant's response implies a complete disregard for the precautionary principle, whereby in the absence of conclusive evidence then a risk averse approach should be adopted. Rather than dealing with potentially negative species' conservation consequences and proceeding with a given proposal regardless of conclusive supporting science, it should first be established beyond doubt that the proposal is unlikely to have negative consequences to deal with in the first place.
- 7.9 There are no *"special circumstances"* (*"[Officer Report – Delegated](#)"*) given with the appellant's original planning application or within the subsequent *"[Grounds for Appeal and Statement of Case on Behalf of the Appellant](#)"* and supporting documentation that would logically be compatible with the appellant's desire to overturn [Refusal 1, 2 or 3](#) of the original planning application, regardless of the appellant's offer of post development to accept *"a condition requiring the preparation, submission and approval of a Landscape Mitigation Plan and Landscape and Ecological Management Plan (LEMP), Construction Management Plan and Tree Protection Plan."*
- 7.10 Therefore, I am against the appeal proposals and respectfully request that The Planning Inspectorate rejects the appeal and planning permission in entirety for the proposed development.



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