

RHYBUDD O GYFARFOD / NOTICE OF MEETING



Awdurdod Parc Cenedlaethol Eryri

*Emyr Williams
Prif Weithredwr
Awdurdod Parc Cenedlaethol Eryri
Penrhyndeudraeth
Gwynedd LL48 6LF
Ffôn/Phone (01766) 770274
E.bost/E.mail : parc@eryri.llyw.cymru*

Snowdonia National Park Authority

*Emyr Williams
Chief Executive
Snowdonia National Park Authority
Penrhyndeudraeth
Gwynedd LL48 6LF
Ffacs/Fax (01766)771211
Gwefan/Website : : www.eryri.llyw.cymru*

Cyfarfod : Pwyllgor Cynllunio a Mynediad

Dyddiad: Dydd Mercher 2 Rhagfyr 2020

Amser 10.00 y.b.

Anfonir cyfarwyddiadau ymuno at yr Aelodau ar wahân

Meeting: Planning and Access Committee

Date: Wednesday 2 December 2020

Time: 10.00 a.m.

Joining instructions will be sent to Members separately

Aelodau wedi'u penodi gan Gyngor Gwynedd

Members appointed by Gwynedd Council

Y Cyngorydd / Councillor:

*Freya Hannah Bentham, Elwyn Edwards, Alwyn Gruffydd,
Annwen Hughes, Judith Mary Humphreys, Edgar Wyn Owen,
Elfed Powell Roberts, John Pughe Roberts, Gethin Glyn Williams;*

Aelodau wedi'u penodi gan Gyngor Bwrdeistref Sirol Conwy

Members appointed by Conwy County Borough Council

Y Cyngorydd / Councillor:

Philip Capper, Wyn Ellis-Jones, Ifor Glyn Lloyd;

Aelodau wedi'u penodi gan Llywodraeth Cymru

Members appointed by The Welsh Government

*Mr. Brian Angell, Ms. Tracey Evans, Mrs. Sarah Hattle,
Mr. Tim Jones, Mr. Neil Martinson, Mr Owain Wyn.*

A G E N D A

1. **Apologies for absence and Chairman's Announcements**
To receive any apologies for absence and Chairman's announcements.
2. **Declaration of Interest**
To receive any declaration of interest by any members or officers in respect of any item of business.
3. **Minutes**
The Chairman shall propose that the minutes of the meeting of this Committee held on 21st October 2020 be signed as a true record (copy herewith) and to receive matters arising, for information.
4. **Reports by the Director of Planning and Land Management**
To submit the reports by the Director of Planning and Land Management on applications received. (Copies herewith)
5. **Update Reports**
To submit update reports, for information. (Copies herewith)
6. **Delegated Decisions**
To submit the list of applications which have been determined in accordance with delegated authority, for information. (Copy herewith)
7. **Court of Appeal Decision**
To submit an oral report by the Director of Planning and Land Management on the Court of Appeal's decision to dismiss an appeal by Hillside Parks Ltd. against the Authority regarding whether a planning permission for 401 houses in Aberdyfi, granted and implemented in 1967, was capable of further implementation in light of various subsequent planning permissions granted, the resulting developments of which were physically incompatible with the original permission, Hillside, Aberdyfi. (A copy of the Court of Appeal's decision is enclosed - Copy herewith).

Planning and Access Committee 21.10.20

**SNOWDONIA NATIONAL PARK PLANNING AND ACCESS COMMITTEE
WEDNESDAY 21st OCTOBER 2020**

PRESENT:

Members appointed by Gwynedd Council

Councillors Elwyn Edwards, Alwyn Gruffydd, Annwen Hughes, Judith Humphreys, Edgar Wyn Owen, John Pughe Roberts;

Members appointed by Conwy County Borough Council

Councillors Philip Capper, Wyn Ellis Jones, Ifor Glyn Lloyd;

Members appointed by the Welsh Government

Mr. Brian Angell, Ms. Tracey Evans, Mrs. Sarah Hattle, Mr. Tim Jones, Mr. Owain Wyn;

Officers

Mr. G. Iwan Jones, Mrs. Jane Jones, Ms. Sara Thomas, Mr. Richard Thomas, Ms. Alys Tatum, Mrs. Anwen Gaffey.

Apologies

Councillors Freya Bentham, Elfed Powell Roberts, Gethin Glyn Williams; Mr. Neil Martinson. Mr. Jonathan Cawley, Director of Planning and Land Management.

1. **Chairman**
Councillor Elwyn Edwards was elected Chairman of the Planning and Access Committee.
The Chairman thanked Members for their support.
2. **Vice-Chairman**
Councillor Ifor Glyn Lloyd was elected Vice-Chairman of the Planning and Access Committee.
Arising thereon, Members congratulated Councillor Ifor Glyn Lloyd on his election as Vice Chairman of Conwy County Borough Council.
3. **Chairman's Announcements**
The Chairman welcomed the newly appointed Welsh Government Member, Mrs. Sarah Hattle, to her first meeting of the Planning and Access Committee.
4. **Declaration of Interest**
Councillor John Pughe Roberts declared a personal and prejudicial interest in Item 7.2 on the Agenda, under paragraphs 10 (2) (c) (i) and 12 (1) of the Code of Conduct for Members, and left the meeting whilst the matter was being discussed.
5. **Minutes**
Subject to noting that the minutes would be corrected to record that Councillor John Pughe Roberts had declared a personal "*and prejudicial*" interest in Item 4.6 on the Agenda, the minutes of the Planning and Access Committee meeting held on 2nd September 2020 were accepted and the Chairman signed them as a true record.

Arising thereon,

Item 3 – Minutes: Members agreed that it was reasonable to set a target of five days for the recording of the Planning and Access Committee meeting to be made available on the Authority's website.

6. **Appointment of Members to serve on the Planning and Access Committee Inspection Panels**

Submitted – A report by the Director of Planning and Land Management to appoint Members onto the Authority’s Inspection Panels.

RESOLVED to appoint Members as follows:-

Northern Area Inspection Panel
(9 Members)

- 1) Cllr. Philip Capper
- 2) Cllr. Alwyn Gruffydd
- 3) Cllr. Wyn Ellis Jones
- 4) Cllr. Ifor Glyn Lloyd
- 5) Cllr. Edgar Wyn Owen
- 6) Cllr. Judith Humphreys
- 7) Mr. Owain Wyn
- 8) Ms. Tracey Evans
- 9) Mr. Neil Martinson

Southern Area Inspection Panel
(9 Members)

- 1) Cllr. Freya Bentham
- 2) Cllr. Elwyn Edwards
- 3) Cllr. Annwen Hughes
- 4) Cllr. Elfed Powell Roberts
- 5) Cllr. John Pughe Roberts
- 6) Cllr. Gethin Glyn Williams
- 7) Mr. Brian Angell
- 8) Mrs. Sarah Hattle
- 9) Mr. Tim Jones

7. **Reports by the Director of Planning and Land Management**

Submitted – Reports by the Director of Planning and Land Management on planning applications and compliance matters.

Please see the Schedule of Planning Decisions attached.

8. **Update Reports**

Submitted – Update reports by the Director of Planning and Land Management on planning applications and compliance matters.

Please see the Schedule of Planning Decisions attached.

9.1 **Annual Monitoring Report – Update**

Submitted – An update report by the Principal Planning Officer (Policy) to advise Members that due to the coronavirus pandemic, the Welsh Government did not require Local Planning Authorities to submit an Annual Monitoring Report this year.

Reported – The Acting Planning Manager presented the update report and arising thereon, a Member asked, that in the light of the pandemic, whether some policies should be reviewed to address issues such as the use of shared facilities at caravan parks etc. The Acting Planning Manager advised that an Interim Report would be presented to the Members’ Working Group at the beginning of January 2021.

RESOLVED to note the report, for information.

9.2 **Update on the Annual Planning Performance Report**

Submitted – An update report by the Acting Planning Manager to advise Members that due to the coronavirus pandemic, the Welsh Government did not require Local Planning Authorities to submit the Annual Planning Performance Report this year.

Reported – The Acting Planning Manager presented the report and confirmed that the Planning Service continued to collate the quarterly data, and that the information was reported to the Performance and Resources Committee. The Acting Planning Manager took the opportunity to thank all the Planning Service staff for keeping the service going and for their work over the last few months under very difficult circumstances.

RESOLVED to note the report, for information.

9.3 Policy 29: Alternative Holiday Accommodation

Submitted – A report by the Director of Planning and Land Management seeking authority to revert to the standard officer scheme of delegation for applications relating to Policy 29: Alternative Holiday Accommodation.

Reported – The Acting Planning Manager presented the report, which Members considered in detail.

RESOLVED

- 1. that all applications relating to Development Policy 29: Alternative Holiday Accommodation be determined in accordance with the Authority's Planning Scheme of Delegation.**
- 2. that officers should present a report to the October 2021 Planning and Access Committee to provide an assessment of all the schemes that have been completed to date.**

10. Delegated Decisions

Submitted and Received – List of applications determined in accordance with delegated authority.

RESOLVED to note the report.

11. Planning Appeals

Submitted and Received – copies of the following appeal decisions:-

- (1) Appeal by Mr & Mrs O.M. Edwards against the Authority's decision to refuse planning permission for the renovation of dwelling and extension at Rhiw Goch Bach, Harlech. LL46 2TN (Appeal dismissed insofar as it relates to the extension, and allowed for the remainder of the application).
- (2) Appeal by Mr Mark Cook against the Authority's decision to refuse planning permission for the erection of new garage on land adjacent to Plas Gower, Llangower. LL23 7BY (Appeal dismissed)

The meeting ended at 11.45

SCHEDULE OF PLANNING DECISIONS – 21st OCTOBER 2020

Item No.

7. **Report by the Director of Planning and Land Management**

- (1) NP4/29/500 – Installation of 25m lattice mast to support 3 x antenna and 2 x 600 dishes with overall height of 26.30m, 1 x ground based foul weather enclosure housing 3 x equipment cabinets, 1 x metre cabinet, 1 x satellite dish, 1 x generator and ancillary development. All housed within a secure compound on land at Moel Llechwedd Hafod, Cwm Penmachno.

Reported – Case Officer presented the report and background and read out comments from the Home Office that were received after the report was written. Members discussed the importance of having the infrastructure in place for use by the emergency services and the local community. Members also considered the need to protect the biodiversity of the area, and agreed that a 10-year temporary permission would allow time to mitigate any possible future impact on the landscape. Arising thereon, a Member felt that Natural Resources Wales should be reminded of their duties under the Well-being of Future Generations Act.

Public Speaking

Mr. Paul Lapatrie, acting as agent for the Home Office, addressed the Planning and Access Committee and asked Members to consider the following:-

- the Home Office leads the critical infrastructure programme for the new Emergency Services Network (ESN) with primary customers including the police, fire and rescue, and ambulance services.
- ESN will deliver a much improved and cost-effective service and replace the outdated Airwave system currently used.
- the majority of ESN will be built by EE. However, for “not spot” areas like Cwm Penmachno with no coverage at all, the government will build additional ESN sites and these will also be made available for sharing with UK mobile operators to provide commercial coverage, should the operators wish to do so.
- a summary of the key points were provided:-
 - the site was in the optimum location and alternative discounted options would not have provided the necessary ESN coverage to the target area.
 - previous discussions with local stakeholders had resulted in the agreed withdrawal of a previous application for a site some 450m to the south.
 - the proposed 25m lattice tower was the lowest height and least intrusive design available to provide the required coverage. A smaller structure would lead to more than one site being required and mast proliferation.
 - the proposed installation was carefully sited to minimise any potential impact on the landscape and the ‘special qualities’ of the National Park.
 - the potential impact from 2022 onwards, when trees are to be removed, have been fully considered and while the Home Office does not agree with all NRW’s conclusions, in mitigation, the Home Office reluctantly agree to a 10 year permission, if so granted, and accept the other proposed conditions as set out in the Case Officer’s report.
 - in conclusion, the Home Office believes the significant public benefits ESN will provide, far outweigh any potential minor harm to the surrounding area of having no emergency service provision at all, and therefore, respectfully, asks for approval of the proposals.

RESOLVED to grant permission in accordance with recommendation.

- (2) NP5/74/482 – Construction of dwelling, land by The Cemetery, Dinas Mawddwy. **Reported** – Case Officer presented the report and background and confirmed that a further statement from the applicant had been circulated to Members. Case Officer advised that the application under consideration was for an open-market dwelling in the open countryside. Members were also advised that without an occupancy restriction, the Authority would be unable to ensure that the dwelling would be available as affordable housing in the community for the future.

Arising thereon, Members discussed concerns with regard to the effect of the coronavirus pandemic on the availability of finance. Officers were advised that Conwy County Borough Council had very recently dealt with a similar matter, and were in a position to provide officers with information on mortgage providers that were still willing to lend to customers tied to a legal obligation. The Acting Planning Manager advised that this matter would be brought to the attention of the Policy Section.

RESOLVED to refuse permission in accordance with the recommendation detailed in the committee report dated 02/09/2020 with an additional condition 3):-

- 1) the floor area of the proposed dwelling would exceed the maximum size of a two storey 3 bedroomed affordable unit as denoted in paragraph 8.8 of Supplementary Planning Guidance 4: Affordable Housing. The size of the dwelling therefore would be considered disproportionate with the needs of the intended household as required by Development Policy 11: Affordable Housing on Exception Sites of the adopted Eryri Local Development Plan 2016-31.
- 2) insufficient information has been provided to demonstrate that the applicants are in affordable housing need as required by Development Policy 11: Affordable Housing on Exception Sites of the adopted Eryri Local Development Plan 2016-2031.
- 3) by reason of the applicant being unwilling to enter into a Section 106 agreement to restrict the occupancy of the dwelling to a local person in need of housing as required by Development Policy 11: Affordable Housing on Exception Sites of the adopted Eryri Local Development Plan 2016-31.

8. **Update Reports**

- (1) Enforcement Notices, Listed Building Enforcement Notices served under delegated powers and List of Compliance Cases – **For Information**
Arising thereon, Members were advised that the Acting Planning Manager and the newly appointed Compliance Officer were working to progress the outstanding matters and were happy to amend the format of the report to provide Members with more detail.

RESOLVED to note the report.

- (2) Section 106 Agreements – **For Information**
RESOLVED to note the report.

- (3) Outstanding Applications where more than 13 weeks have elapsed – **For Information**
RESOLVED to note the report.

<u>Rhif Eitem / Item No.</u>	<u>Cyfeirnod / Reference No.</u>	<u>Disgrifiad / Description.</u>	<u>Swyddog Achos / Case Officer</u>
1	NP3/10/121	Codi dau dŷ-pâr deulawr gyda mynedfa cystylltiol a llefydd parcio ceir, Tir yn Cae'r Felin, Abergwyngregyn / Erection of a pair of semi-detached two storey dwellings with associated access and car parking, Land at Cae'r Felin, Abergwyngregyn.	Mr Richard Thomas
2	NP5/62/63G	Parhad â'r defnydd profedig o'r safle fel storfa stoc wedi cwmpo trwy ddymchwel adeiladau allanol presennol a chodi adeilad newydd yn mesur 13.5 x 9 metr (Ail gais), Cynelau Cwn, Pentre Gwynfryn, Llanbedr / Continuation of the established use of the site as a fallen stock store by the demolition of existing outbuildings and erection of new building measuring 13.5 x 9 metres (Repeat Application), Kennels, Pentre Gwynfryn, Llanbedr.	Mr Aled Lloyd
3	NP5/69/113H	Gosod 1 pod gweryslla a 2 cwt bugail fel llety gwyliau (Ail-gyflwyniad), Llanfendigaid Hall, Rhoslefain – ADRODDIAD ATODOL / Siting of 1 pod and 2 shepherd's huts for use as holiday accommodation (Re-submission), Llanfendigaid Hall, Rhoslefain – ADDENDUM REPORT.	Mrs Iona Roberts

Snowdonia National Park Authority Date: 02/12/2020
– Planning & Access Committee

Application Number: NP3/10/121

Date Application Registered: 30/01/20

Community: Aber

Grid Reference: 265766.9 372616.7

Case Officer: Mr Richard Thomas

Location:

Land at Cae'r Felin, Abergwyngregyn.

Applicant:

Mr. Huw Roberts
 1 Tre'r Ddol
 Rhyd-y-clafdy
 Pwllheli
 Gwynedd
 LL53 7YN

Description:

Erection of a pair of semi-detached two storey dwellings with associated access and car parking.

Summary of the Recommendation:

To **APPROVE** subject to a Section 106 agreement and to the following summarised conditions:

- Start work within 5 years
- Develop in accordance with approved plans
- Removal of Permitted Development Rights
- Appropriate slate roof
- Approval of Landscaping/Biodiversity Enhancement Plan
- Implementation and compliance of Landscaping/Biodiversity Enhancement Plan
- Archaeology watching brief
- Car parking in accordance with approved plan

**Reason Application Reported to Committee:
 Scheme of Delegation**

Concerns raised by Community Council

Land Designations / Constraints:

- Within housing development boundary
- Within conservation area
- Close proximity to Scheduled Ancient Monument (SAM)

Site Description:

This site, which falls within the housing development boundary for Abergwyngregyn, is a generally flat area of land. It forms a part of a larger field currently utilise for agricultural/grazing purposes.

It has existing dwellings immediately adjacent to the east and west boundaries and a narrow residential access road and other dwellings to the south. Existing stone and fencing define its southern, eastern and western boundaries.

The site currently has a gated agricultural/vehicular access to the adjacent residential road to the south.

This area of land falls within the Abergwyngregyn conservation area and is within very close proximity of the Pen y Mŵd (80m) and Pen y Bryn scheduled ancient monuments (120m) and three Listed Buildings (140m – 200m).

Proposed Development:

This Application proposes the erection two dwellings of two of storey semi-detached construction with associated vehicular access and off street parking and landscaping. In line with ELDP policy the applicant has indicated willingness to enter into a Section 106 Agreement to secure affordability of one of the proposed dwellings.

Relevant Planning Policies:

Eryri Local Development Plan 2016-2031

- SPC: Spatial Development Strategy
- SPFf: Historic Environment
- SPG: Housing
- DP1: General Development Principles
- DP2: Development and the Landscape
- DP6: Sustainable Design and Materials
- DP8: Protection of Non-Designated Sites
- DP30: Affordable Housing

Supplementary Planning Guidance

- SPG4: Affordable Housing
- SPG5: Planning Obligations

National Policy/Guidance

- Planning Policy Wales (PPW), Edition 10
- TAN 24: The Historic Environment, May 2017

Consultations:

Aber Community Council	Concerns raised
CADW	No objections
Heneb	No objections (archaeology), No notable impact (conservation area)
Highways Authority	No objections, subject to conditions
Natural Resources Wales	No objections
Dwr Cymru/Welsh Water	No objections, advice provided
SAB	Advice provided

Response to Publicity:

The application has been publicised by way of a site notices, neighbour notification letters and press notice.

Letters of objection have been received from 7 nearby residents and the Snowdonia society were received; their comments are summarised as:

- No need
- Loss of amenity to neighbouring residential dwellings – overlooking, noise, light
- Lack of details on boundary treatment
- Adverse effect on Scheduled Ancient Monument - setting should be protected
- Adverse effect on conservation area
- Adverse effect on Archaeology – investigations are required
- Adverse effect on wildlife and habitats
- Design is incongruous and out of character
- Inadequate access

The Community Council have commented raising concerns over:

- Overlooking
- Unsafe access
- Harm views of the Mŵd (SAM)
- Proximity to river
- Harm to Biodiversity
- Inappropriate materials

Assessment:

1. Background

1.1 There is no planning history for this site.

2. Principle of Development

- 2.1 Based on the policy context of Strategic Policy C and Development Policy 30, the principle of constructing a pair of semi-detached dwellings (one open market, one affordable/local occupancy) dwelling within the housing development boundary of a secondary settlement is considered to be in conformity with policy.

3. Planning Assessment

- 3.1 Abergwyngregyn is defined in the ELDP as a secondary settlement and has a housing development boundary within which new affordable and open market housing development can be regarded as acceptable.
- 3.2 Within secondary settlements the ELDP policy 30 states that proposed housing development sites of 2 or more dwellings should provide 50% affordable housing. In this case where one of the two proposed dwellings is to be affordable conformity with ELDP policy 30 is achieved.
- 3.3 As this site falls within a conservation area and is in close proximity to scheduled ancient monuments (SAM) greater care must be afforded to ensure no harm to the heritage assets and their setting.
- 3.4 In response to this sensitive site the applicants have produced a Heritage Impact Assessment (HIA) and undertaken an archaeological investigation of the site.

Heritage Assets

- 3.5 The HIA has been carried out on the basis of a four-stage assessment in accordance with the guidance as set out in Cadw's 'Setting of Historic Assets in Wales' and TAN 24. The HIA identified six historic assets that may be affected by this proposed development, these being:
- The Abergwyngregyn conservation area
 - The Pen y Mŵd SAM
 - The Enclosure and Associated Structures at Pen y Bryn SAM
 - The Pen y Bryn house Grade II* Listed Building
 - The Pen y Bryn Gatehouse/Barn Grade II Listed Building
 - Pen y Bryn Cottage Grade II Listed Building
- 3.6 At table 3.3 to the submitted HIA it has been concluded that the proposed development would have a negative but minor impact on the conservation area and Pen y Mŵd SAM, a negative but negligible impact on the Pen y Bryn SAM and Pen y Bryn Listed Building and neutral impact on the Pen y Bryn gatehouse/barn and cottage Listed Buildings.

3.7 The impacts are summarised as:

Historic Asset	Impact	Magnitude
Conservation Area	Negative	Minor
Pen y Mwd SAM	Negative	Minor
Pen y Bryn SAM	Negative	Negligible
Pen y Bryn LB	Negative	Negligible
Gatehouse/Barn LB	Neutral	Negligible
Pen y Bryn Cottage LB	Neutral	Negligible

3.8 In consideration of these likely impacts on the historic assets ELDP policy Ff states that:

'...historic assets...will be conserved and enhanced, due to their contribution to the character and 'special qualities' of the National Park'

'Development will not be permitted that will adversely affect in any way the following Heritage Assets, or where appropriate their setting and significant views:

i. Conservation Areas

iv. Scheduled Monuments and other sites of archaeological importance

vi. Listed Buildings'

3.9 As the HIA demonstrates that if approved this proposed development would result in a negative impact on the setting of the conservation area and SAM's and would therefore place it in conflict with Policy Ff. However, Cadw have at section 4.4 of their 2017 document *'Setting of Historic Assets in Wales'* provided guidance whereby 'depending on the level of impact, mitigation measures to reduce the negative impact of the proposal should be considered'. Mitigation measures have been included in the application through appropriate design, form and materials to the proposed dwellings and landscaping within the site and to the northwest boundary.

3.10 Cadw have assessed the HIA, the proposed development and the mitigation measures and have raised no objections to the proposal in terms of the potential impact on the SAM's. They have concluded that the HIA has been compiled in accordance with best practice and have concurred with the impact assessment applied to the Pen y Bryn SAM but consider that the impact on the Pen y Mwd SAM is slightly greater than assessed. They do conclude by stating that they do agree that in both cases the impact is not significant.

3.11 Cadw do not comment on potential impacts on conservation areas, this matter is for this Authority to assess.

- 3.12 This Authority's advisor on conservation area's has commented that the proposed buildings will not have a notable impact on the conservation area and that the proposed design is fairly in keeping with surrounding buildings.
- 3.13 Planning Policy Wales (PPW) provides more guidance on assessing potential impact of development on a conservation area at paragraph 6.1.14 – 6.1.16. At these paragraphs PPW states that:

'there should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation area or their settings.'

And that:

'The presumption may be overridden in favour of development considered desirable on public interest grounds.'

- 3.14 It can be argued that this proposed development is desirable on public interest grounds in that it will provide one affordable dwelling for local person occupation in need of housing.
- 3.15 However, at paragraph 6.1.16 PPW states that:

'Preservation or enhancement of a conservation area can be achieved by a development which makes a positive contribution to an area's character or appearance or leaves them unharmed. Mitigation measures can also be considered which could result in an overall neutral or positive impact....'

- 3.16 The proposed landscaping will mitigate this proposed development against the perceived negative impacts and thereby bringing it in conformity with the guidance provided in PPW and with ELDP policy Ff.

Archaeology

- 3.17 The applicants were requested to produce a written scheme of investigation for an archaeological evaluation and to undertake a geophysical survey of the proposed site to ascertain the potential for archaeological remains and further investigation. This has satisfactorily been carried out with the conclusions being that there were a series of high responses typical of modern fences and buildings and of buried iron objects. Linear features were also detected which could be indicative of former boundaries and recent dumping of soil.
- 3.18 Six targeted responses were selected for further investigation. Five of which produced modern material and one produced a response from an unknown source.

- 3.19 This archaeology study concluded that this area *'gives the impression of having been extensively disturbed possibly at the time of the construction of the houses to the north east'*.
- 3.20 The study recommends that further evaluation is required through trial trenching or targeted excavation. This can be ensured through planning condition attached to any approval that may be issued in response to this application.

Housing need

- 3.21 Development opportunities have been identified within the ELDP 2016-2031 to provide a target of 375 new affordable homes to meet local needs. It is anticipated that these units will be delivered as affordable intermediate or social rented housing for local people in need who cannot afford open market housing. The figure of 375 units represents 25 units per annum. The number of affordable units granted consent has been well below the target in recent years. Secondary Settlements are identified by Policy 30 as areas that require a 50% affordable contribution towards the National Parks need for affordable/local needs, in order to provide for the social and economic well-being of Snowdonia's communities.

Design, scale and form of the proposed dwellings

- 3.22 I am of the opinion that the design, scale, form and use of materials proposed with this application are acceptable when compared with the general character of dwellings in this area of Abergwyngregyn and would not be considered as being out of place or harming the character of this part of the conservation area.
- 3.23 The proposed dwellings are of two storey semidetached construction shown with 3 bedrooms, set back from the access road. With a floor area of around 100sqm the size of the dwellings conform to the affordable sizes as defined in the Supplementary Planning Guidance Note 4: Affordable Housing, Para 8.8.
- 3.24 The dwellings have been so designed and orientated to avoid any loss of amenity through overlooking or loss of light to neighbouring residential dwellings. Other than a single first floor bathroom window inserted in the gables, which can be conditioned to be obscured, there are no windows directly overlooking any habitable rooms in neighbouring dwellings.
- 3.25 The nearest dwellings are Glan y Don at 4.5m, 4 Cae'r Felin at 11.5m and 5 Cae'r Felin at 7.5m.

- 3.26 The proposed dwellings are shown to be finished as painted render walls under a natural mineral slate roof. This reflects the predominant finish to the existing dwellings in close proximity to this site and are considered to be appropriate.
- 3.27 Given the above it is considered that the proposed dwellings are appropriate for their setting in terms of scale, design, orientation and finishing materials.
- 3.28 In order to ensure that the dwellings remain within the parameters of affordable dwellings in terms of size, permitted development rights should be removed. Consequently, if permission is granted for this development it is proposed to attach a condition to any such decision notice as may be issued which removes the right of future home owners to alter or extend the dwelling without first applying to this Authority for permission. The imposition of this condition does not necessarily prevent the dwelling being extended but will provide this Authority the opportunity to control any alteration or extension and ensure that it is justified and the dwelling remains affordable. Further guidance on this is contained in Supplementary Planning Guidance note 4: Affordable Housing.

Landscaping and Biodiversity Enhancement

- 3.29 The applicants have indicated that they propose to a scheme of landscaping in terms of tree planting but have not as yet shown this in detail in plan form. A condition is proposed, should permission be granted, for the applicants to submit a detailed landscaping plan, prior to any development commencing, to show how boundaries will be treated and provide for Biodiversity Enhancement. This should also address any concerns over boundary treatments raised by neighbouring residents.

4. **Conclusions**

- 4.1 There is no doubt that this application presents a fine balance between the protection of Historic Assets and the provision of an appropriately located, designed and finished affordable/local occupancy dwelling.
- 4.2 It has been shown that this proposal is in conformity with ELDP policies C and G in that it is located within a housing development boundary and can be regarded as an infill plot which does not harm the amenity existing dwellings and forms only a very small part of the overall conservation area.
- 4.3 Any recorded harm to the Historic Assets can be mitigated against through appropriate landscaping and through the provision of an affordable/local occupancy dwelling.
- 4.4 PPW provides the guidance which would permit such an application provided that appropriate mitigation is provided and is desirable on the grounds of public interest gain.

- 4.5 It is therefore considered that this application can be approved and that it does conform to ELDP policies C, G 1, 6 and 8 and does reflect the guidance presented in PPW.

Background Papers in Document Bundle No.1: Yes

RECOMMENDATION: To **GRANT** permission subject to a **Section 106 Agreement** to secure affordability and restrict occupancy of one of the dwellings and to the following conditions:

1. The development hereby permitted shall be commenced before the expiration of FIVE years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
JP/CFA-PE-PL200: Proposed Site Plan
JP/CFA-PE-PL01: Proposed Floor Plans
JP/CFA-PE-PL02: Proposed Elevations
3. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting or amending that Order with or without modification) nothing shall operate so as to permit (within the area subject to this permission) any development referred to in the Parts and Classes of Schedule 2 to the Order, summarised below:
PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE
Class A: The enlargement, improvement or other alteration of a dwellinghouse.
Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
Class C: Any other alteration to the roof of a dwellinghouse.
Class D: The erection or construction of a porch outside any external door of a dwellinghouse.
Class E: The provision within the curtilage of the dwellinghouse, of any building or enclosure, raised platform, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building, enclosure, platform or pool; or a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.
Class F: The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or the replacement in whole or in part of such a surface.
Class G: The installation, alteration or replacement of a chimney on a dwellinghouse

PART 2: MINOR OPERATIONS

Class A: Gates, fences, walls and other means of enclosures.

Class B: The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part).

PART 40: INSTALLATION OF DOMESTIC MICROGENERATION EQUIPMENT

No such developments shall be carried out at any time within these Parts and Classes without the express grant of permission by the Local Planning Authority.

4. The roof of the dwellinghouses shall be covered with heather blue slates from the Bethesda area, or slates with equivalent colour, texture and weathering characteristics details of which shall be approved in writing by the Local Planning Authority.
5. No development or site clearance shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping by means of a formal application. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is sooner; and any trees or plants which within the period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority, and shall allow him/her to observe the excavations and record items of interest and finds.
8. The car parking accommodation shall be completed in full accordance with the details as submitted before the dwellings are occupied.

Reason(s) for Condition(s):

1. To Comply with Section 91 (as amended) of the Town and Country Planning Act 1990.
2. To define the permission and for the avoidance of doubt.
3. The local planning authority considers that such development should be subject to formal control in order to safeguard the amenities of the area.
4. To ensure a satisfactory standard of appearance of the development and the use of appropriate local building materials, in accordance with Eryri Local Development Plan Policies 2016-2031 and in particular policies 1, 6 and A.

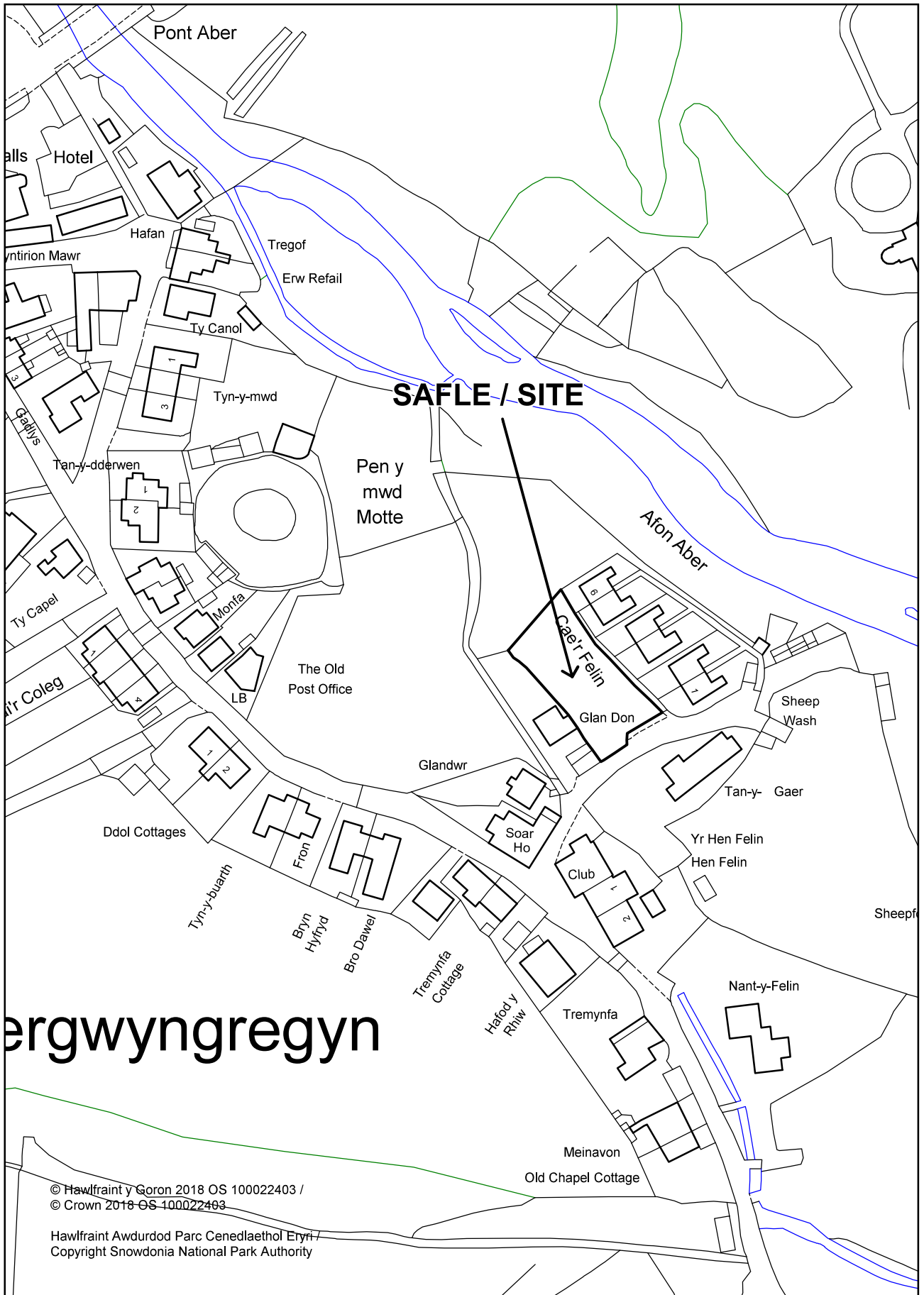
5. To preserve and enhance the visual amenities of the area, in accordance with Eryri Local Development Plan Policies 2016-2031 and in particular Policy 1.
6. To preserve and enhance the visual amenities of the area, in accordance with Eryri Local Development Plan Policies 2016-2031 and in particular Policy 1.
7. In order that any remains of archaeological importance can be adequately investigated and recorded before any development takes place on site.
8. In the interest of the free flow of traffic on the adjacent highway and to prevent any on street parking.

ADVISORY NOTE

1. FLOOD AND WATER MANAGEMENT ACT (FWMA) 2010
THE SUSTAINABLE DRAINAGE (APPROVAL AND ADOPTION
PROCEDURE)(WALES) REGULATIONS 2018
Following the introduction of the above legislation on 7th January 2019, sustainable drainage systems have become a mandatory requirement on new development of more than 1 dwelling house or where the construction area is 100m² or more. It is considered that this development, as it appears, exceeds the above identified threshold and may require Sustainable Drainage Systems (SuDS) consent from the relevant Sustainable Drainage Systems Approval Body (SAB). Consequently, you are advised to contact the relevant Sustainable Drainage Systems Approval Body (SAB) at Gwynedd Council at <https://www.gwynedd.llyw.cymru/en/Residents/Planning-and-building-control/Planning/Sustainable-Drainage-Systems.aspx> for advice and guidance on this matter.
PLEASE NOTE: If SUDS consent is required this will need approval from the SAB prior to the commencement of any works on site.



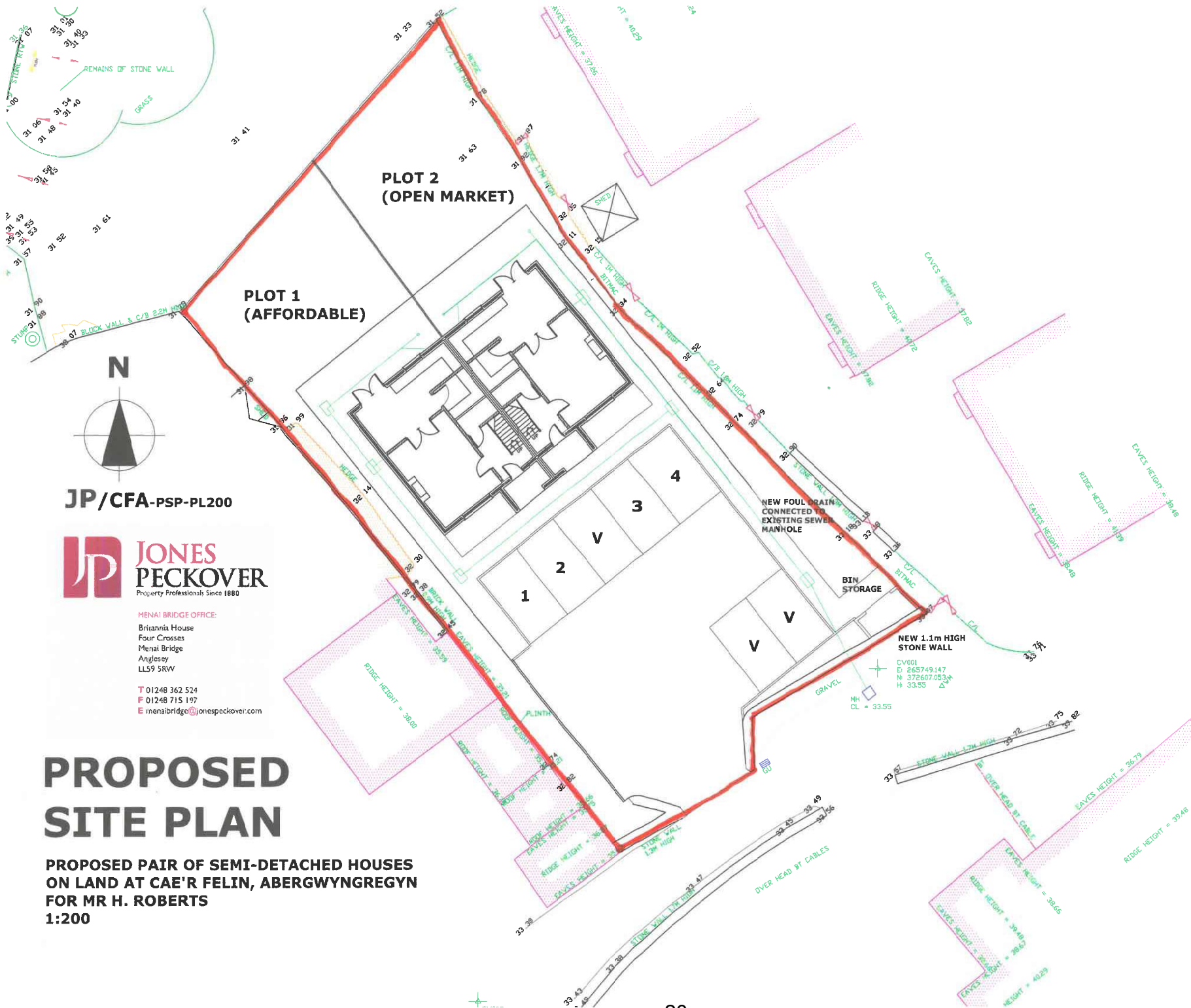
Cais Rhif / Application No. NP3/10/121



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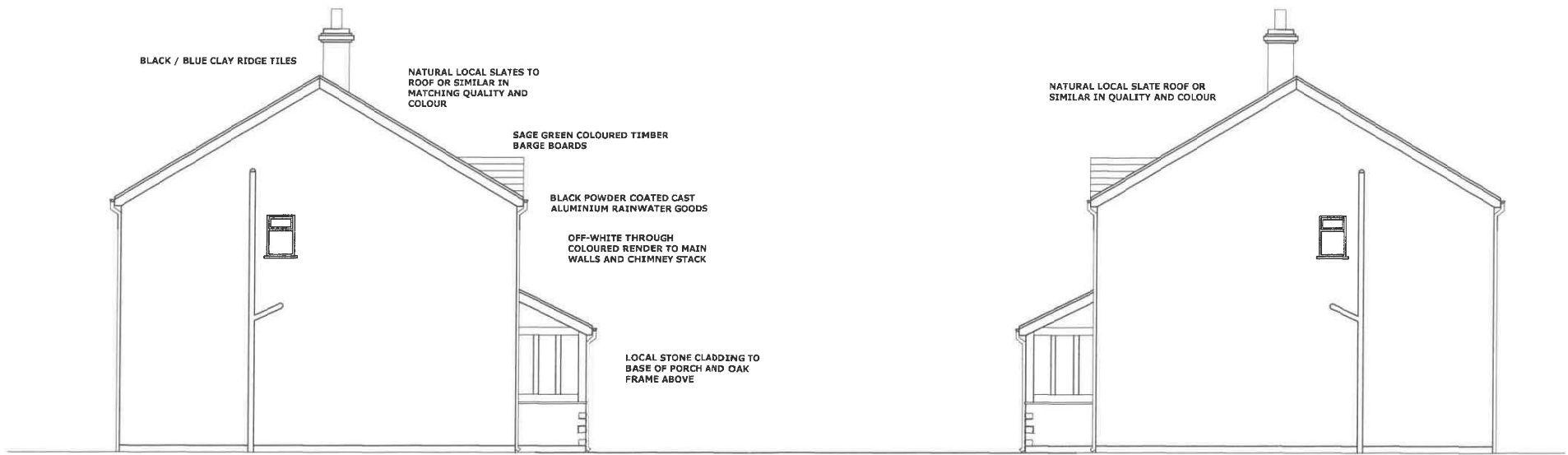
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MENAI BRIDGE OFFICE:
 Britannia House
 Four Crosses
 Menai Bridge
 Anglesey
 LL59 5RW
 T 01248 362 524
 F 01248 715 197
 E menaibrIDGE@jonespeckover.com

PROPOSED SITE PLAN

PROPOSED PAIR OF SEMI-DETACHED HOUSES ON LAND AT CAE'R FELIN, ABERGWYNGREGYN FOR MR H. ROBERTS
1:200



PROPOSED END (SOUTH WEST) ELEVATION

PROPOSED END (NORTH EAST) ELEVATION



PROPOSED FRONT (SOUTH EAST) ELEVATION



PROPOSED REAR (NORTH WEST) ELEVATION

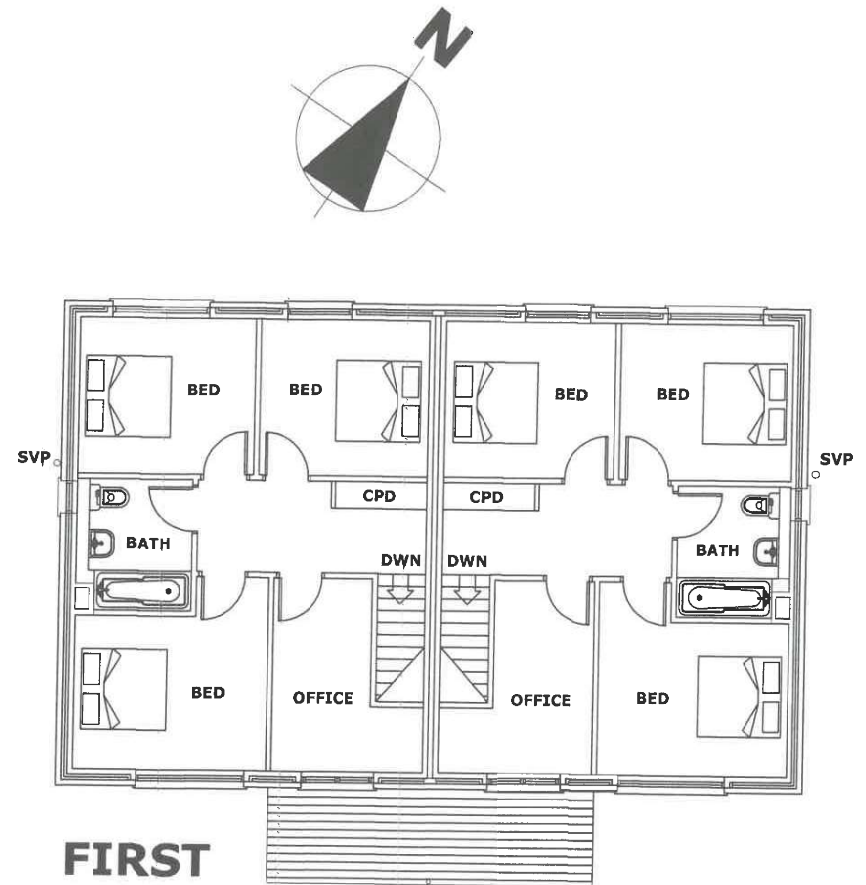
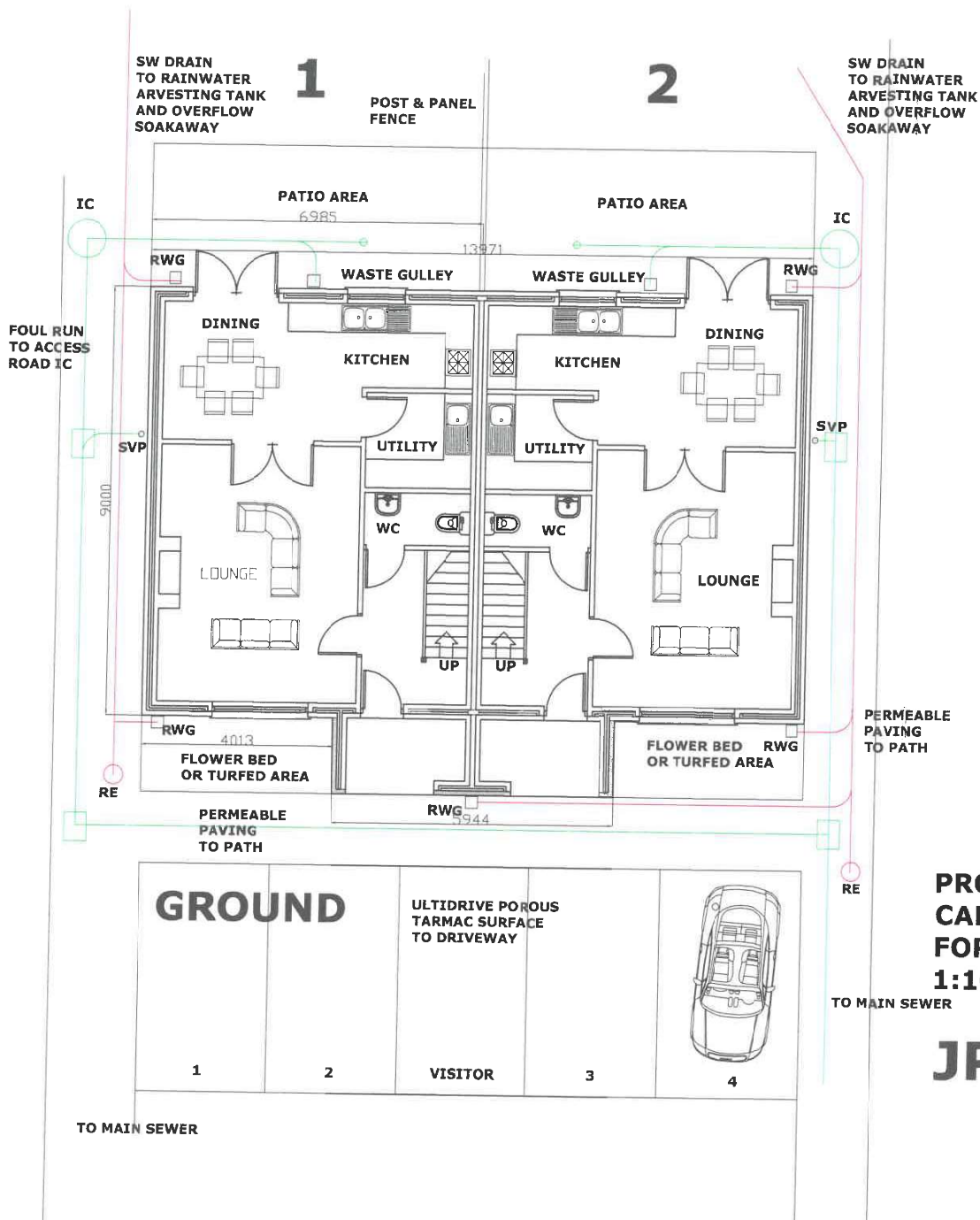
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MENAI BRIDGE OFFICE
 Britannia House
 Four Crosses
 Menai Bridge
 Anglesey
 LL59 5RVV

T 01248 362 524
 F 01248 715 197
 E menai@jonespeckover.com

PROPOSED 3 BED SEMI-DETACHED HOUSES ON LAND AT CAE'R FELIN, ABERGWYNGREGYN FOR MR H ROBERTS 1:100



PROPOSED 3 BED SEMI-DETACHED HOUSES ON LAND AT CAE'R FELIN, ABERGWYNGREGYN FOR MR H ROBERTS
1:100

JP/CFA-PFP-PL01



MENAI BRIDGE OFFICE:

Britannia House
 Four Crosses
 Menai Bridge
 Anglesey
 LL59 5RW

T 01248 362 524
 F 01248 715 197
 E menaibridge@jonespeckover.com

Snowdonia National Park Authority Date: 02/12/2020
– Planning & Access Committee

Application Number: NP5/62/63G

Date Application Registered: 14/09/20

Community: Llanbedr

Grid Reference: 260379 327388

Case Officer: Mr Aled Lloyd

Location:

Kennels, Pentre Gwynfryn, Llanbedr.

Applicant:

Mr. Christopher Bennett
 Cymru Lân Cyf.
 Plot 4
 Gaerwen Industrial Estate
 Gaerwen
 Ynys Môn
 LL60 6HR

Description:

Continuation of the established use of the site as a fallen stock store by the demolition of existing outbuildings and erection of new building measuring 13.5 x 9 metres (Repeat Application).

Summary of the Recommendation:

To **REFUSE** for the following reasons:

- Contrary to criteria iv. and v of Development Policy 19: New Employment and Training Development.
- Inappropriate development which fails to enhance or conserve the 'Special Qualities' of the National Park and therefore in conflict with Development Policy 1: General Development Principles and Development Policy 2: Development and the Landscape.
- Conflict with the purposes of Strategic Policy Ff: Historic Environment in that the development neither enhances or preserves the setting of listed buildings.
- Insufficient information to carry out a Habitat Regulations Assessment.

**Reason(s) Application Reported to Committee:
 Scheme of Delegation**

At the request of an Authority Member.

Environmental Impact Assessment (EIA):

The development has been subject to a screening opinion, which concluded that the development is not EIA development.

Habitats Regulations Assessment (HRA):

As the 'Competent Authority' for the purposes of the Conservation of Habitats and Species Regulations 2017 this Authority is required to undertake a Habitats Regulations Assessment.

The Authority is required to undertake a Habitat Regulations Assessment (HRA) for this planning application on account of the presence of a night roost(s) for Lesser horseshoe bats in the existing building(s) on the site that are to be demolished to facilitate the construction of the proposed new building. Lesser horseshoe bats are Annex II species that are a primary reason for selection of the Meirionnydd Oakwoods and Bat Sites SAC, the 2 closest component parts (i.e. Coed Aber Artro SSSI and Coed Lletywalter SSSI) of which are located at c.160m and c. 270m respectively from the proposed development site.

Further information has been requested from the agent to enable the Authority to undertake the assessment.

Land Designations / Constraints:

Open Countryside

Close proximity c160m Coed Artro SSSI

Close proximity c270m to Coed Lletywalter SSSI

Ancient Woodland adjacent to the site

Public Footpath runs through the site (Public Right of Way Llanbedr No 23)

Close proximity to a Listed Building (Capel Salem)

Site Description:

The site is situated within open countryside on a levelled area of agricultural land. It is situated on the eastern edge of two adjoining blocks of woodland, approximately 700m north east of the small village of Pentre Gwynfryn and almost 1.2 miles from the village of Llanbedr. The site is partially visible from the road that leads from the village of Llanbedr to Cwm Nantcol. Capel Salem and Chapel house (Grade II Listed Building) is within 60 metres of the site.

The site is currently occupied by kennel buildings and a small incinerator building comprising of low concrete and corrugated tin buildings and a hard standing area. There is a small pond to the east and the site is bounded by a wire mesh fence on all sides. The current buildings are situated within a cleared area amongst the woodland, with trees forming the immediate boundaries to the north and west. The Afon Artro flows adjacent to the western boundary of the site, with its closest point being approx. 25 m from the north-western most corner of the site. The river is at the bottom of a valley from the site, with a steep drop in terrain between the site and the river.

Nantcol Waterfalls and Nantcol Falls campsite are within close proximity.

The application site is accessed off the county road by a single track of approximately 40 metres in length. A public footpath runs along the track and through the site. From the county road the site is reasonably screened by native trees.

Proposed Development:

The proposed development is for the continuation of the established use of the site as a fallen stock store by the demolition of the existing open corrugated sheeting and block buildings and the erection of a new building measuring 13.5m x 9m x 5.5m in height.

The proposed building will incorporate sheeting with 3 bays enclosed by roller shutter doors.

The current proposal includes planting on the boundary of the site to the rear of the proposed building.

The site management plan states all stock will be delivered in a leak proof covered container. These containers are plastic pallet boxes which are supplied to customers which they can store and transport themselves. Collection of these containers takes place in a company vehicle.

Animal carcasses or food wastes would be unloaded from delivery vehicles and loaded to freezer containers in the new enclosed building. The refrigerated/frozen carcasses/food waste would then be transported from the site in a freezer container for incineration elsewhere on a weekly or fortnightly basis. The frequency of collections is dependent on the time of year/season.

The existing site turning area and access track will be upgraded with the use of a tarmac and permeable surface and used as a HGV turning area.

Details within the application state the fallen stock store will operate between 07.00 and 18.00, Monday to Friday and 08.00 to 12.00 on a Saturday. The site will provide employment for 2 full time employees.

The applicant currently operates a waste management and fallen stock collection service from Gaerwen Industrial Estate, Anglesey.

Relevant Planning Policies:

Eryri Local Development Plan 2016-2031

- SP A: National Park Purposes and sustainable Development
- SP C: Spatial Development Strategy
- DP 1: General Development Principles
- DP 2: Development and the Landscape

- SP D: Natural Environment
- SP L: Accessibility and Transport
- DP 19 New Employment and Training Development
- SP Ff: Historic Environment
- SP H: Sustainable Rural Economy

Supplementary Planning Guidance

- SPG 2: General Development Considerations
- SPG 7: Landscapes and Seascapes of Eryri

National Policy

Planning Policy Wales (Edition 10) 2018

- Technical Advice Note 6: Planning for Sustainable Rural Communities.
- Technical Advice Note 18: Transport
- Technical Advice Note 11: Noise
- Technical Advice Note 21: Waste
- Technical Advice Note 23: Economic Development
- Technical Advice Note 24: The Historic environment

Consultations:

<p>Llanbedr Community Council</p>	<p>1. Objection – Planning permission was granted in 2004 (NP5/62/63C) to install a small incinerator to prepare animals that had fallen as food for the hunting dogs that were kept on the site. This new application alleges that the intention is “a continuance of the proven use of the site as a fallen stock store”. That which is described in the application is totally different in character, its size and use, to the last application, it has an industrial character to it and on a much larger scale than the current private use.</p> <p>The site is unsuitable for a number of reasons including its location in the countryside. It is also in an area where the tourism industry is an important element of the local economy.</p>
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	<p>2. Due to the nature of the intention which means a significant investment, it is clear that the collection and storage of the fallen stock service will be on a far larger scale, especially as the other centres the company has are located far away. There will therefore be a significant increase in the transport along a narrow and winding road. Within the documents, mention is made of provision for a turning and parking area for articulate lorries; the constant use of similar vehicles would affect the safety and amenities for local residents on a scale that would be unacceptable.</p> <p>3. The proposed building including the hard industrial landscape would have a detrimental effect on the site of a listed building that is Salem Chapel, which is of national importance and a popular destination for visitors.</p> <p>4. The site is close to and is surrounded by Sites of Special Scientific Interest, and such a development would affect the character of these zones.</p>
Natural Resources Wales	Views awaited to be reported
Gwynedd - Highways	No objection – Recommend condition with regards to traffic movement
Gwynedd – Environmental Health	No objection – Recommend conditions
Dŵr Cymru	No objection, since a septic tank is to be utilised
SuDS Approval Body	Views awaited to be reported
Forestry	No response
Ecology	HRA required

Response to Publicity:

The application has been publicised by way of a site notice and notification letters to previous objectors of the refused application reference number NP5/62/63F.

At the time of writing this report, 171 letters of objection had been received and a summary of the concerns raised are cited as follows:

- Traffic congestion
- Commercial operation

- Degrade a beautiful and important environment
- Unsuitable usage of land
- Pollution risk
- Impact on tourism
- Proximity to residential properties
- Not an appropriate site
- Errors in the submission
- Never been a centre for collecting dead animals
- Odour problems
- Managing and disposing of effluent
- The impact the development will have on sites of special conservation interest.
- The impact of the development on Capel Salem

1.0 Background

- 1.1 The existing buildings/kennels benefit from planning permission which was conditionally granted in 2005 for the erection of two new buildings to accommodate a meat store (3.8m x 2.7m x 2.9m), and an animal skin/hide store and incinerator (9m x 4.5m x 2.7m).
- 1.2 At the time of the 2005 application, the site had been established as a foxhound kennels known locally as the Cwm Nantcol Foxhounds. The permission granted in 2005 related to a small scale incinerator and storage area wholly to facilitate the feeding of the foxhounds at the kennels. It was limited to the collection of fallen stock from the immediate small catchment area.
- 1.3 Although the site has not operated for the last 2 years, it is considered the established use of the site remains. Vegetation has overgrown within the site and there is no evidence of recent vehicular movements.
- 1.4 In September 2019 planning permission was refused for the demolition of existing outbuildings and erection of new building for use as a fallen stock collection centre.
- 1.5 The application was refused on the following grounds:
- By reason of insufficient information submitted on Ecological matters this application is in conflict with Eryri Local Development Plan policy 1.
 - By reason of its close proximity to residential properties, the proposal is likely to have an adverse effect on neighbouring residential amenity by way of odour and pest nuisance. The proposal is therefore contrary to the Eryri Local Development Plan, in particular Development Policy 1, which seeks to ensure that development will not cause significant harm to neighbouring residential amenity or the amenity of the Park.

- By reason that robust evidence has not been provided to show there are no other suitable alternative sites available, the proposal is therefore contrary to Development Policy 19.
- By reason that the proposal proposes an average of 10 daily vehicle movements, a full traffic assessment is required. The proposal as submitted is in conflict with Eryri Local Development Plan (2016-2031) criteria ix in that insufficient information has been submitted to enable the Local Planning Authority to assess the same.

2.0 Principle of Development

- 2.1 It is appropriate to consider the proposal against Strategic Policy A, C, D and L and Development Policies 1, 2, and 19. Proposals of this type will only be permitted providing they do not significantly harm the visual appearance and character of the immediate area or the wider landscape, or adversely affect the 'Special Qualities' of the National Park and the amenity of those living close by.
- 2.2 The principle policies to consider are Strategic Policy C: Spatial Development Strategy and Development Policy 19: New Employment and Training Development.
- 2.3 Strategic Policy C provides limited opportunities for new development within an open countryside setting. At criteria (xxiv) '*new small scale employment and training development in accordance with Development Policy 19*' will be supported in '*exceptional circumstances.*'
- 2.4 Development Policy 19 will support appropriate new scale small development within the open countryside "in exceptional circumstances", provided the following criteria are met, namely:
- (iv.) '*The scale and design of the development including its setting respects and conserves the character of the landscape and does not have an adverse impact on the on the National Park.*'
 - (v.) '*Robust evidence has been provided to show there are no other suitable alternative sites available.*'
 - (vi.) '*The location is sustainable in terms of a local workforce.*'
 - (vii.) '*It utilises the local workforce.*'
- 2.5 An assessment of these policies will be undertaken later on in this report.

3.0 Planning Assessment

Strategic Policy C and Development Policy 19 criteria v.

- 3.1 As stated earlier, the main policy considerations are Strategic Policy C and Development Policy 19.
- 3.2 These policies state that new employment and training development should be focussed within local service centres, service settlements and in secondary settlements. It is only in exceptional circumstances development of this nature will be supported in an open countryside location.
- 3.3 In particular criteria (v) of this policy requires the submission of '*robust evidence*' to demonstrate there are no other suitable alternative sites for the development in question.
- 3.4 No such evidence has been forthcoming in this respect. Within the submission, the applicant states they have been searching for a suitable site in the area for over two years. However no evidence has been forthcoming to substantiate this. Also it is noted within their Design and Access Statement the applicant considers there is no requirement to provide such evidence as the site benefits from an established fallen stock use.
- 3.5 However the nature of this proposal appears to be materially different to that which was granted planning permission in 2005. Although it does not provide for the incineration of animals, it does provide a much larger storage capacity for fallen stock. Previously it is understood the site would be used mainly for the keeping and feeding of resident foxhounds. This proposal will operate on a larger commercial basis, with regular traffic movements to transfer animal carcasses to and from the site, and all within a countryside location.
- 3.6 On this basis, I consider criteria (v) is relevant and this proposal fails in that no evidence has been submitted as part of this application.

Development Policy 19 criteria (iv), Development Policy 1 and Development Policy 2

- 3.7 Furthermore criteria (iv) of Development Policy 19, Development Policy 1, Development Policy 2 and Strategic Policy Ff need to be assessed as to whether the proposal in terms of its design, scale and setting will conserve the character of the landscape and also conserve and enhance the 'special qualities' of the National Park.

- 3.8 The proposed new building will replace an array of smaller, unkempt tin sheeted and block work buildings. The building will be relatively large in scale having a footprint of 13.5 metres by 9 metres and having a height to the ridge of 5.5 metres. The design includes the use of three roller-shutter doors. Any lighting required outside will be controlled by motion-sensors. No specific lighting scheme has been submitted as part of this submission.
- 3.9 It is proposed to improve the current access and turning area by the use of tarmac and a permeable hardstanding area. Boundary treatment to the rear elevation of the building is proposed by way of planting a new hedgerow and trees which will assist in screening the proposed building. No details have been forthcoming in respect to the remaining boundary of the site and therefore it is assumed this boundary treatment will remain in its current state.

Traffic and Transport

- 3.10 Access to the site is by a network of minor highways, many of which are narrow in places.
- 3.11 The proposal would result in additional vehicular movements through Pentre Gwynfryn. The highway at this particular point is narrow and exacerbated further by on-street parking.
- 3.12 The proposal states vehicles will be used to transport dead animals to the site and articulated Heavy Goods Vehicles will be used to transport the carcasses from the site for incineration elsewhere.
- 3.13 On average 10 vehicle arrivals per day are envisaged and details provided suggest this movement will be no different to that when the site was operating as a kennels.
- 3.14 Information submitted with the current application states there is no current condition restricting traffic movements on the existing use, and that the site when it previously operated had an average of 10 visitors per day. Since there is no intended increase on this number, the highway authority sees no basis to insist on a traffic assessment.
- 3.15 In this respect Gwynedd Highways have no objection to the proposal. However in view of the numerous objections, they have recommended the use of a condition to control the number of heavy vehicle movements to a number of ten during weekdays and five movements on a Saturday morning. Whilst this suggestion has been noted; enforcing such a condition would be problematic and not practicable.

Local Amenity Considerations

- 3.16 With regards to noise and disturbance it is not considered that on-site operations, including the reversing of vehicles and associated warning alarms would be especially audible as the site is some distance from the nearest residential properties.
- 3.17 Loading and unloading operations will take place within the building and potentially will minimise the release of any odours.
- 3.18 An odour management plan has been submitted with the application. It concludes the release of significant odour which has the potential to cause nuisance can be sensibly discounted by the fact the storage is refrigerated and only low volumes of waste will be managed at any one time. Furthermore all deliveries will be directly taken into the enclosed processing building.
- 3.19 Gwynedd Council Environmental Health Department has confirmed following consideration of the odour management plan they cannot guarantee that odours will not arise, but with the measurements proposed any odours will be reduced. The site should not cause a statutory nuisance to residential properties. They have recommended that conditions are imposed to ensure the new building is properly sealed and complies with the requirements of the Animal and Plant Health Agency.
- 3.20 If the Authority were minded to approve the application, then further details relating to water the water supply, septic tank and a drainage plan would be required. These matters can be addressed by the imposition of suitably worded conditions.
- 3.21 Details of a pest control scheme has been submitted and the Environmental Health Department is satisfied with the details.
- 3.22 In terms of the overall appearance, design and setting of the building and the infrastructure which facilitates it, the proposal appears commercial in nature and considered to be an unsympathetic form of development within an open countryside setting. The proposal fails to respect and conserve the character of the landscape within this area of the National Park. To this extent it fails to comply with criteria (iv) of Development Policy 19.
- 3.23 Development Policy 1: General Development Principles aims to conserve and enhance the 'special qualities' of the National Park. Development will only be permitted where the nature, location, siting, height, form and scale of the development is compatible with the character of the site and its location.

- 3.24 Taking into account all of the details provided in respect to how the proposed building will operate, the location and siting of the development is not compatible with the character of the site and its locality. Therefore it conflicts with criteria (i) of Development Policy 1.
- 3.25 Notwithstanding the consultation response from Gwynedd Highways, there is a potential conflict with criteria (ix) which specifies the “traffic implications of the development do not result in volumes or types of traffic which will create highway or safety problems on the local road network, or significantly harm the landscape or amenity of the local people.” As previously suggested, imposing a condition on daily vehicular movements to the site raises the question of the suitability of the development at this location and the impact within the wider landscape.
- 3.26 In reference to the impact on the wider landscape, Development Policy 2: Development and the Landscape states the scale of new development, including its setting and landscaping should respect and conserve the character of the landscape. In particular, the policy aims to protect landscape character areas based on LANDMAP. LANDMAP is an all Wales geographic information system based on landscape resource. It is comprised of five ‘Evaluated Aspects’ which are Geological Landscape, Landscape Habitats, Visual and Sensory, Historic Landscape and the Cultural Landscape.
- 3.27 This proposal is incorporated within a larger defined area for the requirements of the LANDMAP assessment. This area incorporates the Afon Cwmnantcol and the upland areas of the Rhinogs. In terms of the visual and sensory and the geological landscape aspects, the whole area is classed as having a high and an outstanding value. The recommendation for this area is that it should be conserved in its existing state.
- 3.28 As Cwm Nantcol is a very high quality and sensitive landscape, particular attention and consideration has been given to this proposal. It is questionable whether elements of the proposal can be integrated within the existing land form and within existing trees. Although the proposal will not be visually apparent on distant higher ground, it will be highly visible to wider public views from the footpath which runs directly through the site. Due to the nature and design of the proposed development, it will fail to integrate and conserve the unique qualities of this wider area and ultimately have an unacceptable impact on the landscape.

Historic Environment

- 3.29 The site is within 60 metres of Capel Salem and the attached Caretakers cottage which is a Grade II Listed Building.

- 3.30 In Planning Policy Wales - Edition 10 - December 2018, Chapter 6, paragraph 6.1.10 specifically states, ' There should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, which might extend beyond its curtilage. For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses.'
- 3.31 Due to the 'commercial' nature of this proposal and how it will operate in terms of vehicular movements and hours of operation, it will neither preserve nor enhance the setting of Capel Salem or the attached Caretakers cottage.

4.0 Conclusion

- 4.1 Planning decisions should ensure development is appropriate for its location.
- 4.2 The application is linked to a commercial fallen stock operator and is materially different in context to the 2005 permission, which was on a different nature and scale to what is being proposed.
- 4.3 As highlighted above, the proposal is in direct conflict with criteria (iv) and (v) of Development Policy 19: New Employment and Training Development in that no 'robust evidence' has been submitted to demonstrate there are no alternative suitable sites available. Furthermore the scale and design of the proposal including its setting fails to conserve the character of the landscape and would ultimately adversely impact on the National Park.
- 4.4 There is also conflict with criteria (i) and (ix) of Development Policy 1: General Development Principles in that the proposal would not conserve and enhance the "Special Qualities" and purposes of this part of the National Park and there is traffic implication which may significantly harm the landscape within this area.
- 4.5 The proposal will fail to integrate into the wider landscape and have an unacceptable presence in an area noted for its high quality and sensitive landscapes. Therefore it is contrary to Development Policy 2: Development and the Landscape.
- 4.6 Due to the nature of the proposal, it will neither preserve or enhance the setting of nearby listed buildings and conflict with the purposes of Strategic Policy Ff: Historic Environment.

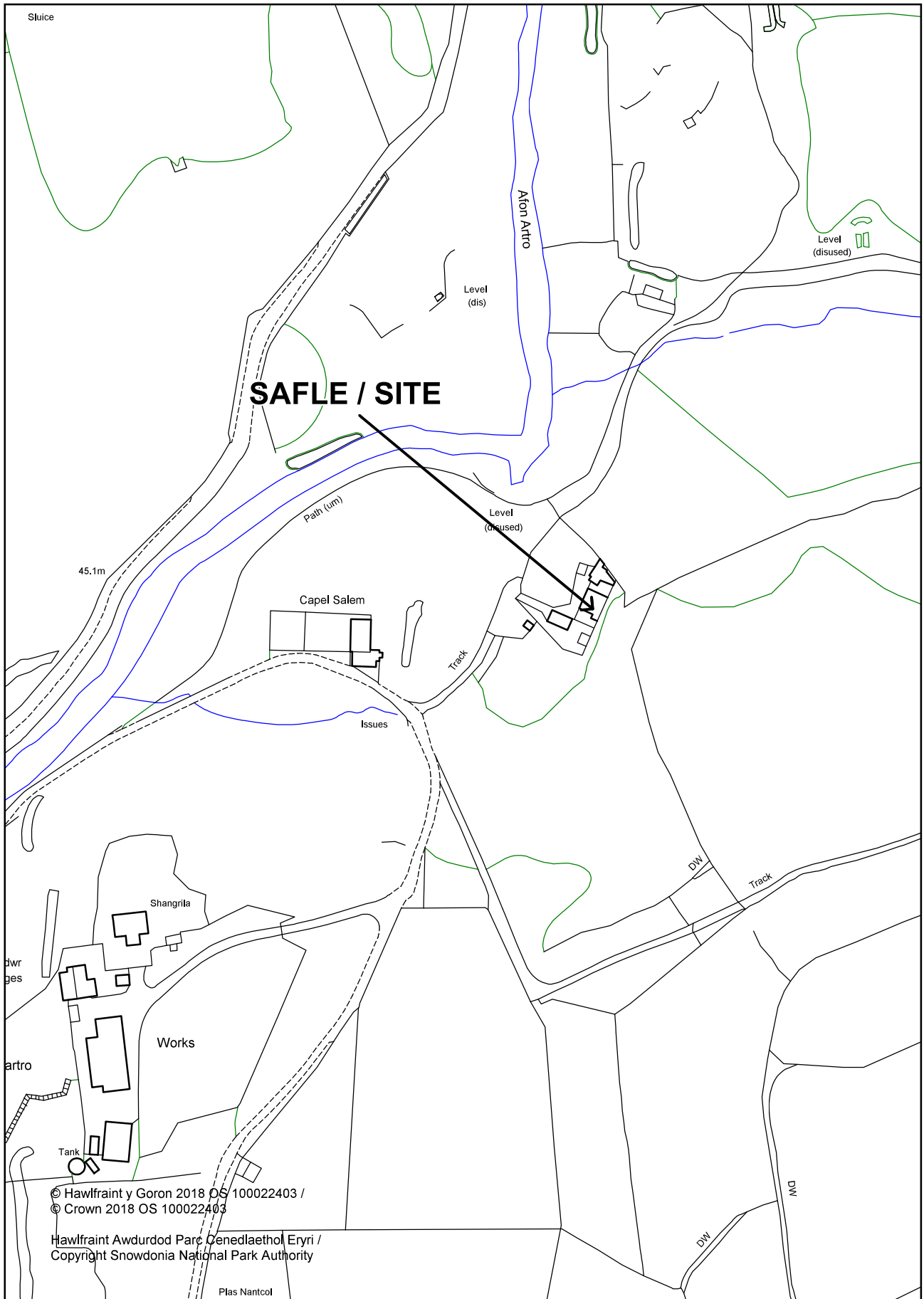
Background Papers in Document Bundle No.1: Yes

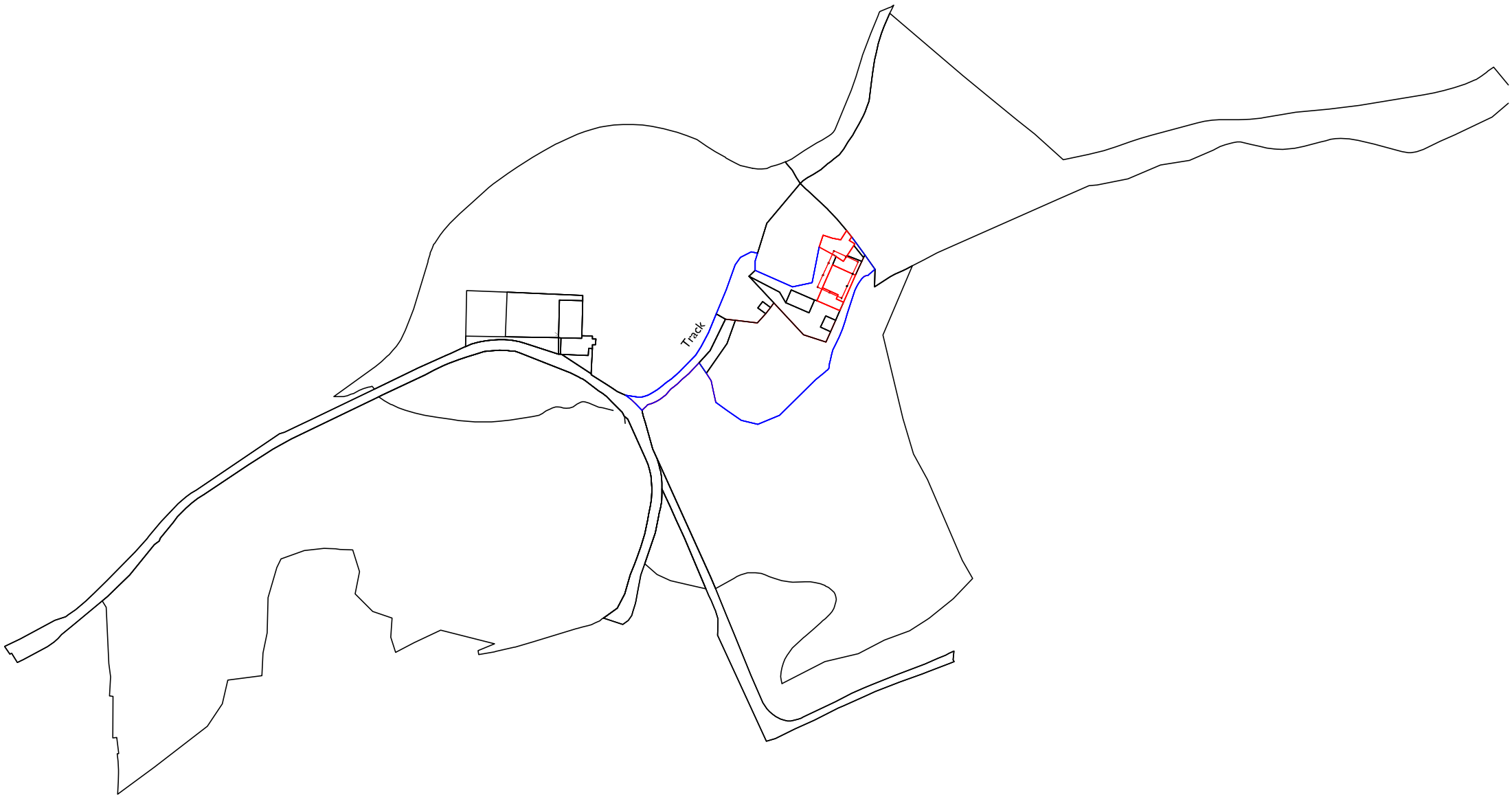
RECOMMENDATION: TO REFUSE PLANNING PERMISSION, for the following reasons:

1. By reason that robust evidence has not been provided to show there are no other suitable alternative sites available, the proposal fails to comply with criteria (v) of Development Policy 19: New Employment and Training Development. Furthermore the proposal also fails to comply with criteria (iv) as it constitutes an unsympathetic form of development within an open countryside setting and fails to respect and conserve the character of the landscape.
2. By way of the proposal introducing a commercial development within the open countryside , it is considered to be an inappropriate form of development which fails to enhance or conserve the 'Special Qualities' of the National Park and will have a detrimental impact on the character of the wider landscape. Therefore the proposal conflicts with Development Policy 1: General Development Principles and Development Policy 2: Development and the Landscape.
3. By reason the proposal cannot be reasonably conditioned in relation to daily vehicular movements to and from the site, resulting in a conflict with criteria (ix) of Development Policy 1: General Development Principles which aims to safeguard the landscape, amenity of local people and the local highway network from adverse volumes or types of traffic movements.
4. Due to the nature of the proposal and its proximity to listed buildings, the proposal fails to neither enhance or preserve their setting and subsequently conflicts with Strategic Policy Ff.
5. By reason that insufficient information has been provided to the Authority to undertake a Habitats Regulations Assessment.



Cais Rhif / Application No. NP5/62/63G





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Cynllun - Job
**LAND KNOWN AS KENNELS,
 LLANBEDR**
 Dyluniad - Drawing
LOCATION PLAN

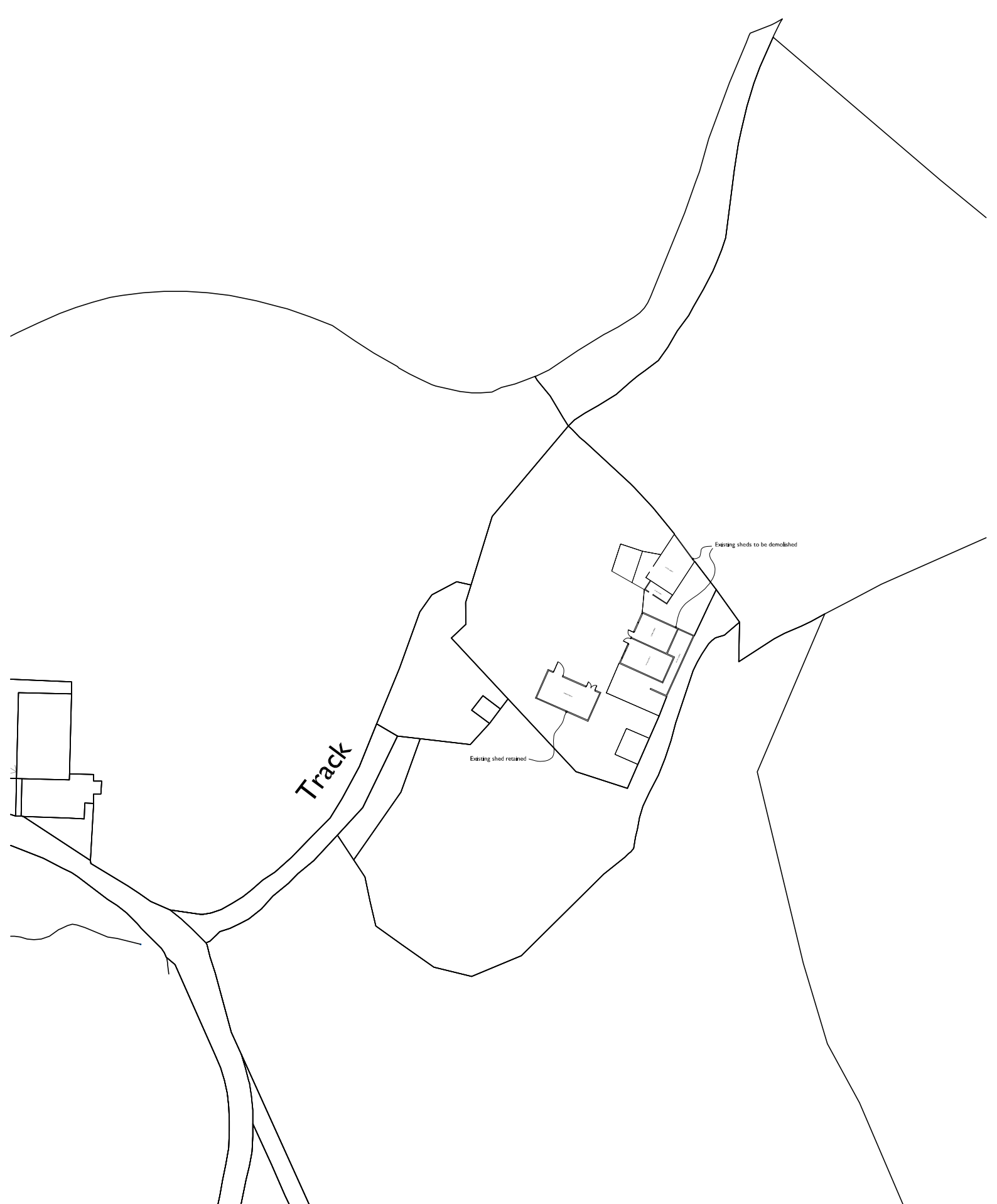
Rhif Dyluniad - Drawing No.
2633:18:1
 Graddfa - Scale
1:1250 A3
 Dyddiad - Date
October 2018



56 Bridge Street,
 Llangefni,
 Ynys Mon
 LL77 7HH

Tel: 01248 722333
 Fax: 01248 750600
 E-mail: info@russellhughes.co.uk





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**LAND KNOWN AS KENNELS,
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Dylunïad - Drawing

EXISTING SITE PLAN.

Rifff Dylunïad - Drawing No.

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Graddfa - Scale:

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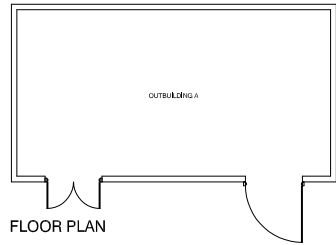
Dyddiad - Date

January 2019

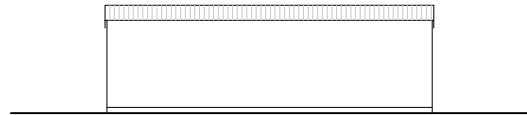
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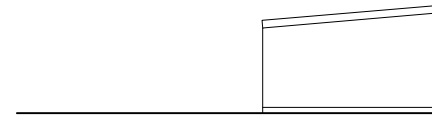
FLOOR PLAN



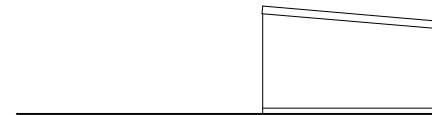
REAR ELEVATION



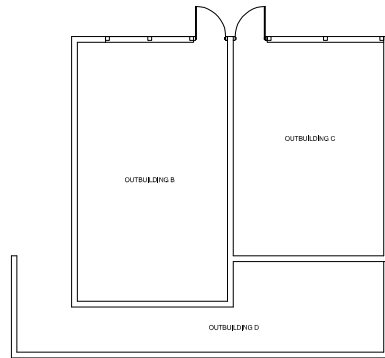
FRONT ELEVATION



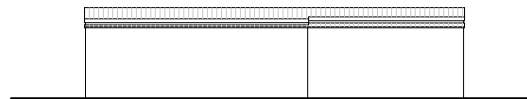
SIDE ELEVATION



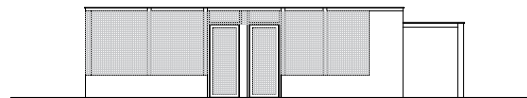
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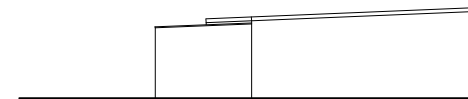
FLOOR PLAN



REAR ELEVATION



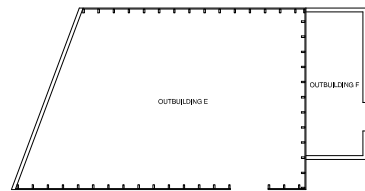
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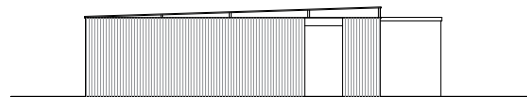
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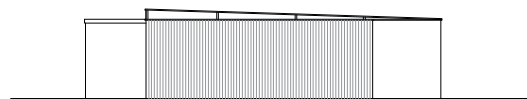
SIDE ELEVATION



FLOOR PLAN



SIDE ELEVATION



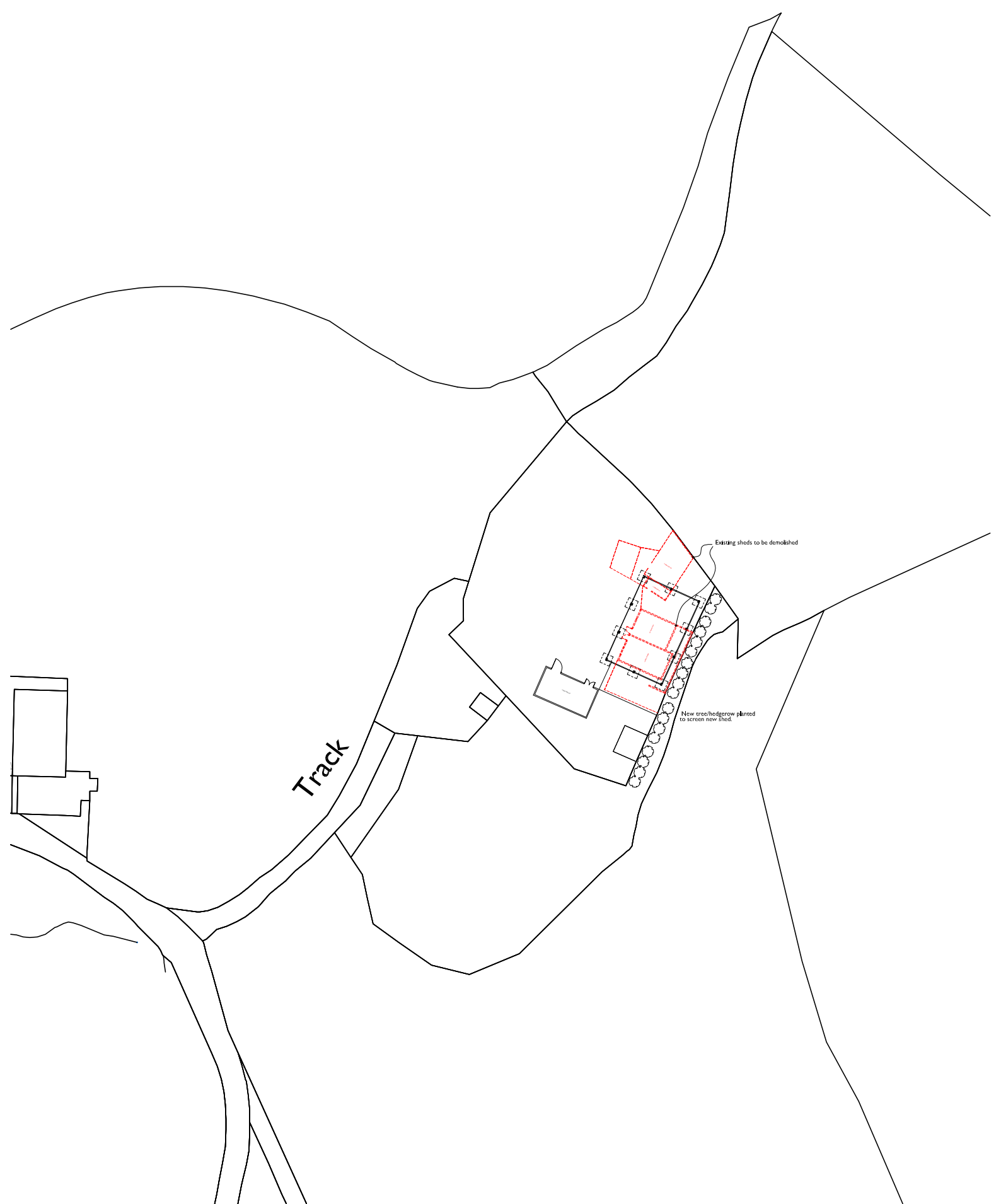
SIDE ELEVATION



FRONT ELEVATION



REAR ELEVATION



Track

Existing sheds to be demolished

New tree/hedgerow planted to screen new shed.

Pleidwch a chymryd mesurtauadau graddfa oddi ar y dyluniad hwn
 Os yn amau - gofynnwch
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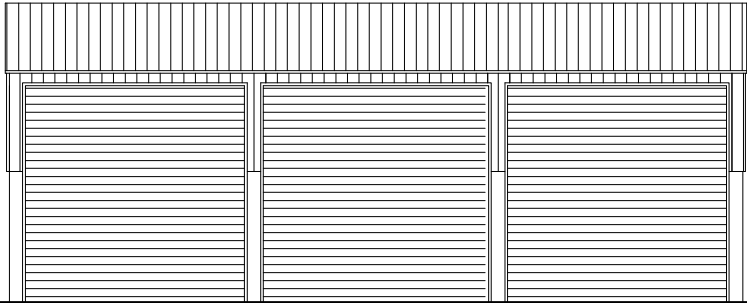
Cynllun - Job
**LAND KNOWN AS KENNELS,
 LLANBEDR**
 Dyluniad - Drawing
PROPOSED SITE PLAN

Rifff Dyluniad - Drawing No.
2633:18:3
 Graddfa - Scale
1:500@A3
 Dyddiad - Date
 January 2019

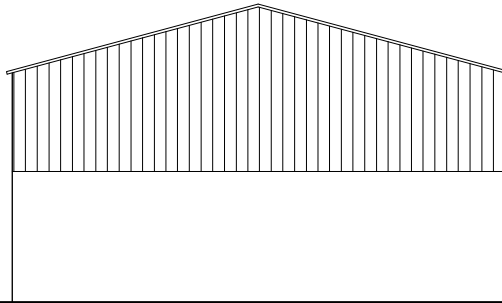
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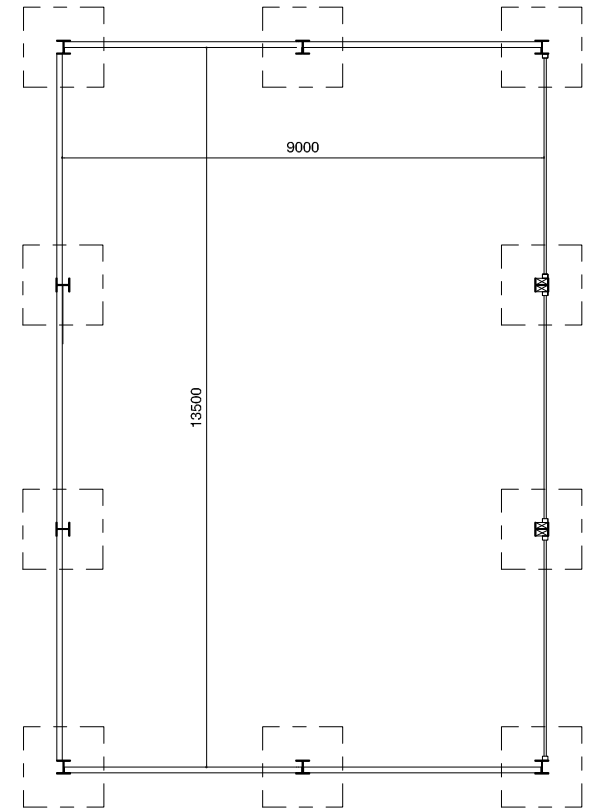
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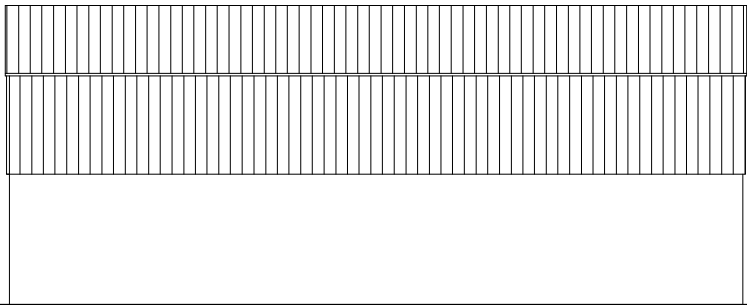
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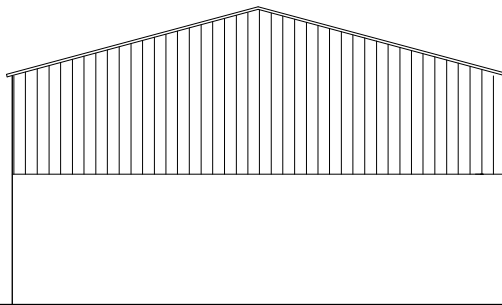
SIDE ELEVATION



PLAN



REAR ELEVATION



SIDE ELEVATION

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Newidiadau - Amendments

Cynllun - Job

LAND AND BUILDINGS KNOWN AS KENNELS,
 LLANBEDR, GWYNEDD.

Dyluniad - Drawing

PROPOSED SHED.

Rhif Dyluniad - Drawing No.

2633:18:5

Graddfa - Scale

1:100@A3

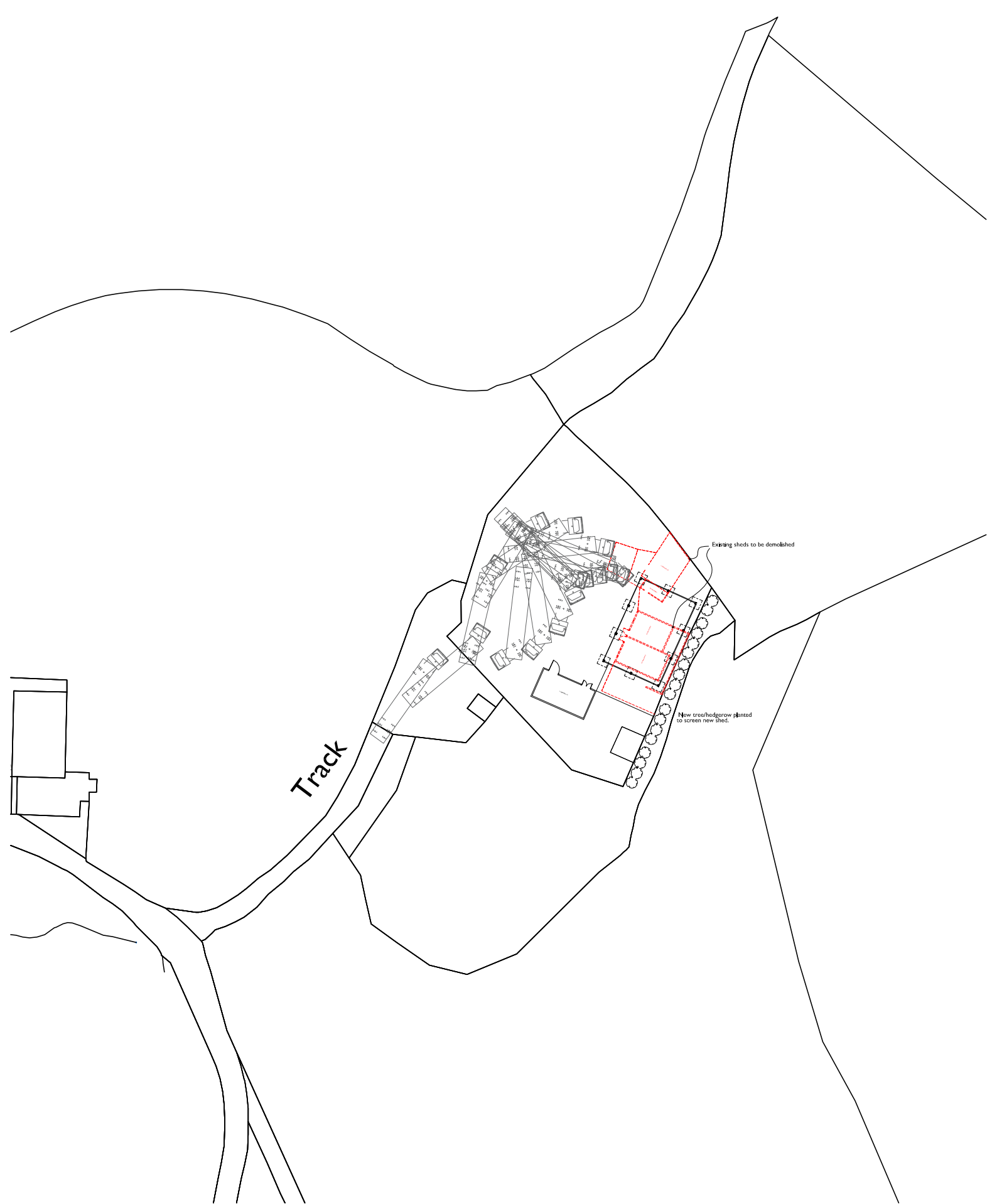
Dyddiad - Date

January 2019

russell-hughes cyf 56 Bridge Street,
 penseiri/architects Llangefni,
 Ynys Mon
 LL77 7HH



Tel: 01248 722333
 Fax: 01248 750600
 E-mail: info@russellhughes.co.uk



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Cynllun - Job

**LAND KNOWN AS KENNELS,
 LLANBEDR**

Dyluniad - Drawing

PROPOSED ARTICULATED LORRY TURNING CIRCLE

Rhif Dyluniad - Drawing No.

2633:18:10

Graddfa - Scale

1:500@A3

Dyddiad - Date

May 2020

russell-hughes cyf
 penseiri/architects

56 Bridge Street,
 Llangefni,
 Ynys Mon
 LL77 7HH

Tel: 01248 722333

Fax: 01248 750600

E-mail: info@russellhughes.co.uk

ITEM NO.

MEETING	Planning and Access Committee
DATE	2 nd December 2020
TITLE	Siting of 1 pod and 2 shepherd's huts for use as holiday accommodation (re-submission), Llanfendigaid Hall, Rhoslefain – NP5/69/113H
REPORT BY	Principal Planning Officer
PURPOSE	Addendum Report

1. Background

This application was discussed by Members at the Planning and Access Committee meeting on the 1st July 2020 whereby it was resolved to grant permission in accordance with officer's recommendation, subject to a legal agreement to secure the removal of the exempted caravan and motorhome club site.

Members will recall that part of the site is currently a Caravan and Motorhome Club Certified Location (located within the walled garden), for up to 5 touring caravans all year round, with on-site toilet and shower facilities.

On balance, it was concluded that the impact of the proposed development would be materially less harmful than that caused by the existing touring caravan site, which would cease to operate if planning permission was granted. To that end, it was considered that this factor outweighed the identified policy conflict and justified the grant of planning permission subject to relevant planning conditions and legal agreement.

Soon after the Committee meeting on the 1st July 2020 the applicant and the Authority's Legal team had reached an agreement with the wording of the legal obligation. However, the applicant has been unable to complete the agreement owing to one of the mortgage holders being unwilling to agree to the imposition of a Section 106 agreement on the land. The applicant would therefore like Members to consider his request to grant permission subject to relevant conditions only, without the imposition of a legal agreement.

Member's attention is drawn to a written statement from the applicant outlining the full background to this request which has been forwarded to them in advance of the committee meeting.

2. Assessment

It is officer's opinion that the imposition of suitably worded conditions (conditions 3 and 4 as recommended in the Committee Report of the 1st July 2020) would be sufficient to secure removal of the current touring caravan site, along with the removal of permitted development rights to prevent any future caravan sites from being developed at Llanfendigaid Hall. The conditions read as follows:

- The shepherd huts and pod hereby permitted shall not be erected on the site until the touring caravan site identified on drawing number S01B has ceased to be operational.
- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending or re-enacting that Order with or without modification) no development referred to within Part 5 of Schedule 2 of that Order shall take place within the application site as identified in red on drawing number S01B without planning permission first being granted by the Local Planning Authority.

3. Conclusion

It is recommended that Members approve the application without a legal agreement, but subject to all conditions as recommended by officers in the Committee report of the 1st July 2020.

Snowdonia National Park Authority Date: 01/072020
– Planning & Access Committee

Application Number: NP5/69/113H

Date Application Registered: 11/02/20

Community: Llangelynin

Grid Reference: 256782 304984

Case Officer: Mr. David Fitzsimon

Location:
Llanfendigaid Hall, Rhoslefain.

Applicant:

Mr. W. Garton-Jones
Llanfendigaid
Rhoslefain
Tywyn
Gwynedd
LL36 9LS

Description:

Siting of 1 pod and 2 shepherd's huts for use as holiday accommodation (Re-submission).

Summary of the Recommendation:

Approve subject to the conditions outlined within this Report.

Reason Application Reported to Committee:
Delegated Scheme

Members request that proposals for alternative holiday accommodation be determined by the Authority's Planning and Access Committee.

Environmental Impact Assessment (EIA):

The application has been the subject of a Screening Opinion which concluded that the proposal is not EIA development.

Land Designations/Constraints:

Open Countryside

Site Description:

Llanfendigaid is an existing self-catering holiday complex and venue for small events such as weddings, team building and other management courses. The main house (Grade II* Listed) sleeps up to 17 people in 9 bedrooms. There are also 3 converted outbuildings which are used as self-catering accommodation, sleeping between 4-6 people in each.

The site also operates as a Caravan and Motorhome Club Certified Location, which is located within the walled garden, for up to 5 touring caravans (all year round), with on-site toilet and shower facilities.

The house is surrounded by wooded gardens to the north-east. To the south-west is a large walled garden which is separated from the house by a minor road.

Proposed Development:

The proposal involves the introduction of 3 alternative holiday accommodation units.

The single pod would be located within the walled garden, set against an existing stone wall and outbuilding. Access to this unit would be via an existing track which currently serves the caravan site. The proposed plans show bathroom facilities to be included within the unit. All services (electricity, water and sewerage) are already in place and therefore no additional services are proposed.

The two shepherd huts would be located within the woodland to the rear of the main house and set against a stone boundary wall. Access to the huts would be via an existing track. The plans show bathroom and modest kitchen facilities to be incorporated within the units but no details with respect to connection to services.

Relevant Planning Policies:

Planning Policy Wales (PPW)

Eryri Local Development Plan 2016-2031

- SPA: National Park Purposes and Sustainable Development
- SP1: Tourism
- DP1: General Development Principles
- Strategic Policy D: Natural Environment
- DP29: Alternative Holiday Accommodation

Supplementary Planning Guidance: SPG8 – Visitor Accommodation

Consultee Responses:

Llangelynin Community Council	No response to date
Gwynedd Traffic and Projects Service	No objection
Built Environment	No response to date
Forestry	Advises that the proposal would have no adverse impact on existing trees but recommends additional landscaping.

Ecology	No objection to the siting of the pod. Recommends that parking and access details should not have a negative impact on the surrounding woodland environment and would not wish to see the existing path upgraded. Recommends biodiversity enhancement as part of the scheme in the form of fixing of several bat/bird boxes to trees within the immediate vicinity.
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Responses to Publicity:

The application has been publicised by way of a Site Notice. No representations have been received to date.

Relevant Planning History:

<i>Application No.</i>	<i>Details</i>	<i>Decision</i>
NP5/69/113G	Siting of 4 pods for use as holiday accommodation	Refused 16-Oct-2019

1. Assessment:

1.1 Development Policy 29 of the adopted Eryri Local Development Plan 2016-2031 (LDP) relates to alternative holiday accommodation. It advises that small scale developments for alternative holiday accommodation will be permitted provide all of the following criteria are met:

- i. The site is part of an agricultural diversification scheme or is ancillary to a new or existing tourist attraction and does not become the main attraction.
- ii. The proposed development does not cause significant harm to landscape character, fits unobtrusively within the landscape and is well screened by existing landscape features.
- iii. The proposal does not lead to the creation of a new vehicular access or parking areas that would adversely affect landscape character.
- iv. Any ancillary facilities should be located within an existing building or as an extension to existing facilities.
- v. The site is for short-term holiday accommodation only.

- 1.2 The applicant advances that the alternative accommodation units would be ancillary to the existing tourist attraction of the Llanfendigaid Estate, which is a place of cultural significance and historic interest. The site offers holiday accommodation in the main house and converted outbuildings along with leisure facilities for guests in the form of a heated indoor swimming pool and walks in the grounds. It is also a venue for small events.
- 1.3 The application is supported by a Planning Statement which expands on the current use of the site, the proposal and its relationship with the existing business. Members can find this additional information within the document bundle.
- 1.4 This matter was considered in detail when determining an earlier application for alternative holiday accommodation at the site in 2019 (Ref. NP5/69/113G), which sought planning permission for a greater number of units. Officers remain of the view that this site is not a tourist attraction. A 'tourist attraction' is defined as a place that offers leisure, adventure, culture or amusement, drawing people to and experience the particular offering. In this instance, the leisure facilities offered on site are only available to those who book accommodation and would not be available to other members of the public.
- 1.5 Similarly, the Grade II* Listed Building is not open to members of the public, other than those who book to stay at the property. On this basis, it is considered that the Llanfendigaid Estate is more accurately defined as tourist accommodation rather than a tourist attraction. In light of this, the proposal fails the first criterion of Development Policy 29, which is that '*the site is part of an agricultural diversification scheme or is ancillary to a new or existing tourist attraction and does not become the main attraction*'.
- 1.6 Notwithstanding the above, the application proposes that the two shepherd huts and pod would replace the existing Caravan and Motorhome facility which currently operates at the site. This existing facility benefits from a Certified Location Certificate from an Exempted Organisation (The Caravan and Motorhome Club) and does not require planning permission.
- 1.7 Although the touring caravan site is a materially different form of development than the proposal before Members, it is located in a prominent position and it has a substantial visual impact upon the rural character of the surrounding landscape when occupied. This is a material consideration to be weighed in the planning balance.
- 1.8 The two shepherd huts would be positioned adjacent to an existing boundary wall. Whilst they would be somewhat isolated from the main buildings and would enjoy an elevated position, they would be small scale, finished in timber under iron roofs and they would be partially screened from public vantage points by existing landscape features. The Authority's Tree and Woodland Officer is satisfied that the proposal would not threaten the longevity of any existing trees, whilst additional planting could be secured by a suitably worded planning condition to ensure the huts sat unobtrusively within the landscape.

- 1.9 The proposal indicates that the shepherd huts would be served by an existing track, with parking provided at the top of the track, near to the huts themselves. However, this track is informal and grassed over. As recommended by the Authority's Ecologist, it is considered that alternative parking provision should be provided within the existing complex to ensure that it does not adversely affect landscape character or ecological and biodiversity interests, as required by policy DP29. This could be secured by a suitably worded planning condition.
- 1.10 The single pod would be located on the opposite side of the highway and within the walled garden, set against an existing stone wall and outbuilding. Access to this unit would be via an existing track which currently serves the caravan site. Against this setting, the visual impact of this element of the proposal would be negligible.
- 1.11 The units would be within reasonable proximity of the main house, which as explained, is a Grade II* Listed Building. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the determining Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or interest which it possesses. In this case, it is considered that the scale and positioning of the shepherd huts and pods would not harm the Listed Building or its setting.
- 1.12 The Authority's adopted Supplementary Planning Guidance 8 titled 'Visitor Accommodation' (SPG) explains that the emphasis of proposals for alternative holiday accommodation should be very much on small scale and 'back to nature' where environmental and visual impacts are kept to an absolute minimum. The SPG goes on to say that individual accommodation units should be of a modest size and they should provide only the most basic of facilities. It adds that self-contained units with toilets and showers will not generally be supported in order to keep the units as small as possible and to minimise their impact upon the landscape, unless a compelling justification can be advanced.
- 1.13 Criterion (iv) of Development Policy 29 is consistent with the SPG and directs that ancillary facilities, including toilets and showers, should be located within an existing building or as an extension to existing facilities. The commentary to this policy explains that if no suitable buildings are available, the need for additional temporary and low impact facilities should be clearly demonstrated and should be commensurate with the scale of the development.
- 1.14 In this case, the proposed shepherd huts and the pod include toilet and showering facilities. However, they are modest structures and the shepherd huts themselves would be located a significant distance from the facilities which serve the existing touring caravan site. Whilst the pod would be closer to the existing facilities, this unit would not be significantly smaller and would not have a noticeably lesser visual impact if the toilet and shower facility were to be removed.

1.15 Accordingly, it is considered that in this particular case, the inclusion of toilet and showering facilities would be commensurate with the scale and nature of the development, the character of the site and the existing tourist facility within which they would be located. Notwithstanding this, if Members were inclined to take a contrary view, the toilet and shower facilities could be removed from the units by the imposition of a suitably worded planning condition.

2. Summary

2.1 In summary, as the proposed development would not form part of an agricultural diversification scheme or would not be ancillary to a new or existing tourist attraction, it does not comply with criterion (i) of policy DP29 of the LDP.

2.2 However, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states:

'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

2.3 In this particular case, weighing heavily in favour of the proposal is the fact that the visual impact of the proposed shepherd huts and single pod would be limited and importantly, this impact would be materially less harmful than that caused by the existing touring caravan site, which would cease to operate if planning permission was granted.

2.4 On balance, Officers are of the view that this is a material consideration which should be afforded very substantial weight in the overall balance. To this end, it is considered that this factor outweighs the identified policy conflict and justifies the grant of planning permission. Officers are satisfied that the particular circumstances of this case are such that the grant of planning permission would not undermine the sound policy principles of policy DP29 or set an undesirable precedent.

3. Conclusion

3.1 The proposal would fail to satisfy Criterion (i) of Development Policy 29 because it would not form part of an agricultural diversification scheme or would not be ancillary to a new or existing tourist attraction. However, the proposed shepherd huts and pod would have a materially less harmful visual impact on the rural character of the surrounding landscape than the existing touring caravan site, which would cease to operate if planning permission was granted. The removal of the current touring caravan site, along with the removal of permitted development rights to prevent any future caravan sites from being developed at Llanfendigaid Hall, could be secured by planning conditions and a suitably worded Planning Obligation.

- 3.2 On this basis, it is recommended that the application be approved subject to the conditions below and the prior completion of a Planning Obligation.

Background Papers in Document Bundle No.1: Yes

RECOMMENDATION: To APPROVE subject to the following conditions:

1. The development hereby permitted shall be commenced before the expiration of FIVE years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the details and specifications shown on drawing numbers S01B, PL01B and PL02A.
3. The shepherd huts and pod hereby permitted shall not be erected on the site until the touring caravan site identified on drawing number S01B has ceased to be operational.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending or re-enacting that Order with or without modification) no development referred to within Part 5 of Schedule 2 of that Order shall take place within the application site as identified in red on drawing number S01B without planning permission first being granted by the Local Planning Authority.
5. Notwithstanding the details shown on drawing number PI01B, no development shall commence until a scheme for the parking of vehicles associated with the two shepherd huts has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details.
6. The development hereby permitted shall not take place until details of the method for providing a water supply, power and drainage to the shepherd huts (including method of construction) have been submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.
7. The development hereby permitted shall not take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority
8. The landscaping shall take place in accordance with the approved scheme within the first planting season following the completion of the development or in accordance with the agreed implementation programme. The landscaping shall then be managed and maintained in accordance with the agreed scheme of management and maintenance.
9. The development hereby permitted shall not take place until a scheme of biodiversity enhancement has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the accommodation is first occupied and shall be retained thereafter.

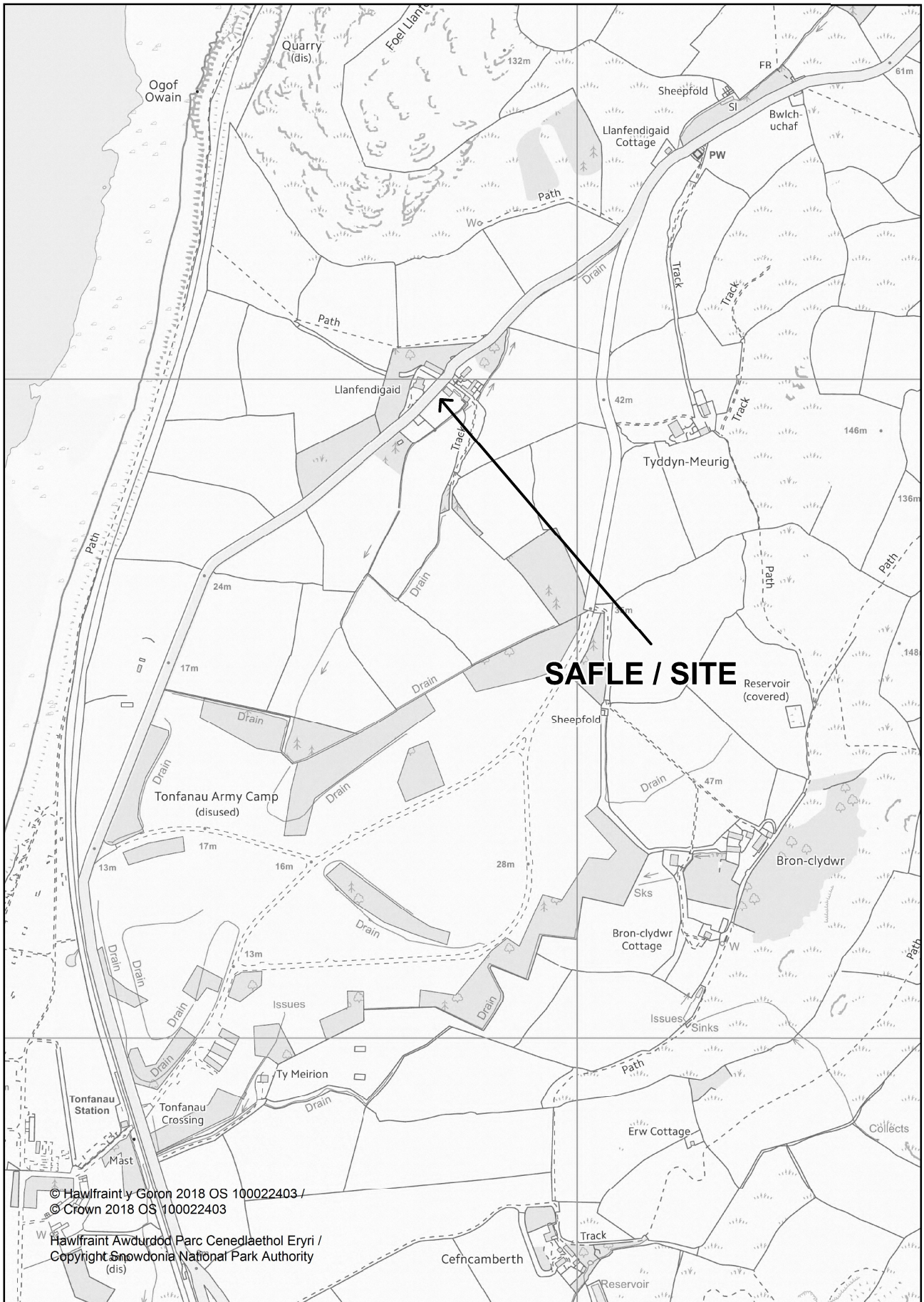
10. The shepherd huts and pod hereby permitted shall be for short term holiday use only and no person shall occupy any of the units for a continuous period of more than 28 days in any calendar year.

Reason(s) for Condition(s):

1. To Comply with Section 91 (as amended) of the Town and Country Planning Act 1990.
2. To define the permission and for the avoidance of doubt.
- 3, 4. In the interests of visual amenity and because the grant of planning is justified on this basis.
- 5, 6, 7, 8. In the interests of visual amenity and to ensure compliance with Development Policy 1 of the adopted Eryri Local Development Plan 2016-2031.
9. In order to secure biodiversity enhancement in accordance with Strategic Policy D of the adopted Eryri Local Development Plan 2016-2031.
10. To avoid the creation of any unjustified dwellings within the open countryside which would conflict with Strategic Policy A of the adopted Eryri Local Development Plan 2016-2031

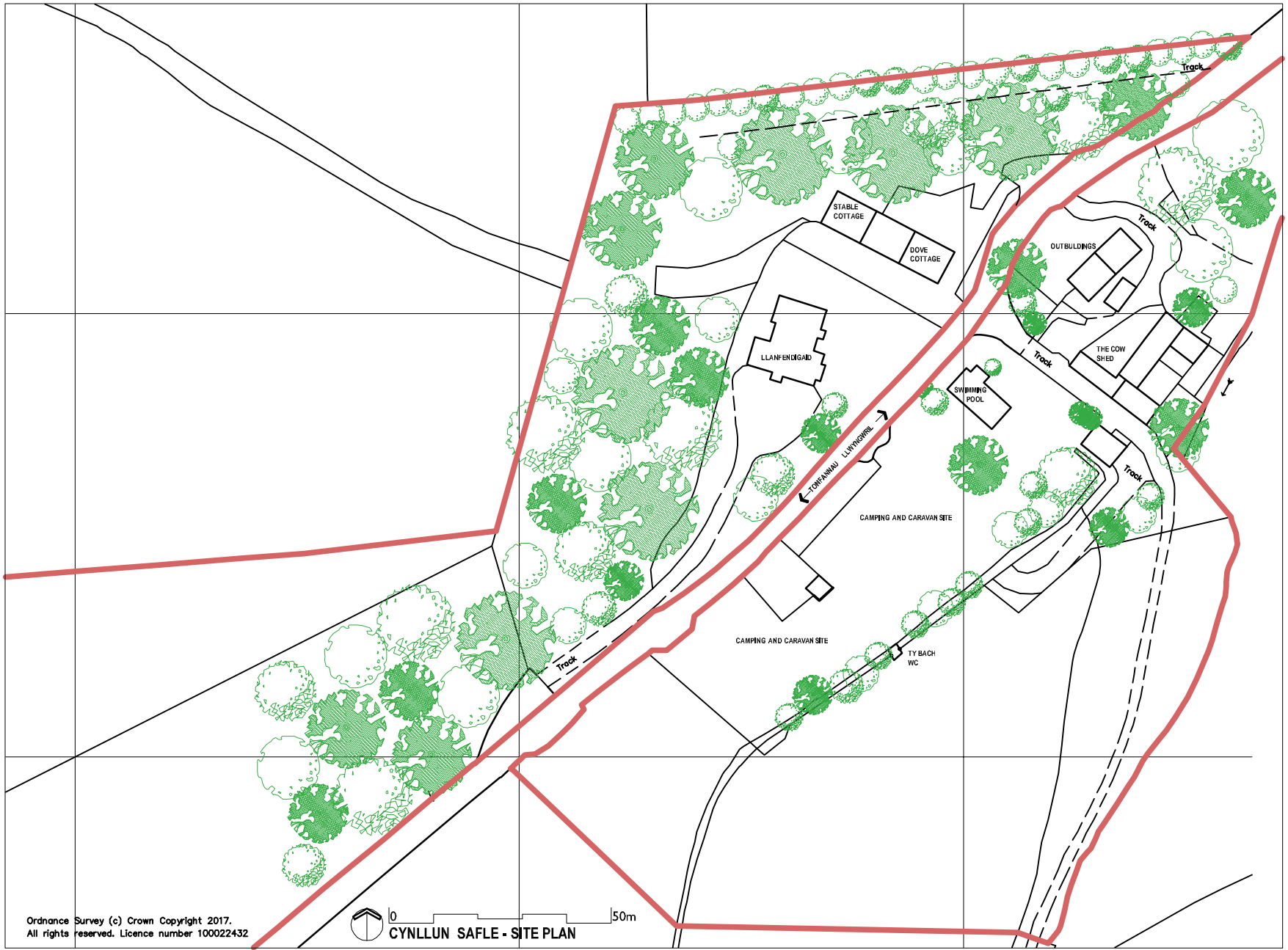


Cais Rhif / Application No. NP5/69/113H



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0 50m
CYNLLUN SAFLE - SITE PLAN

REV_B - 08.10.2019 Showing existing woodland track

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PENSEIRI : ARCHITECTS Cyf.
12 Hazel Parrell, Pochriach, Faversham, SY20 8AL
www.georgeandtomos.co.uk - georgeandtomos@btopenworld.com
01464 700387
01464 2853040

Client: Mr W Garton-Jones
Project: Additional Visitor Accommodation to replace touring pitches @ Llanfengald, Tywyn, LL36 9LS
Location Plan

Job No: 07_41
Drawing No: S O I B
Created/Drawn: I:1250@A4
Checked/Issue: Sep'19



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CYNLLUN SAFLE - SITE PLAN
 1 : 500 @ A3

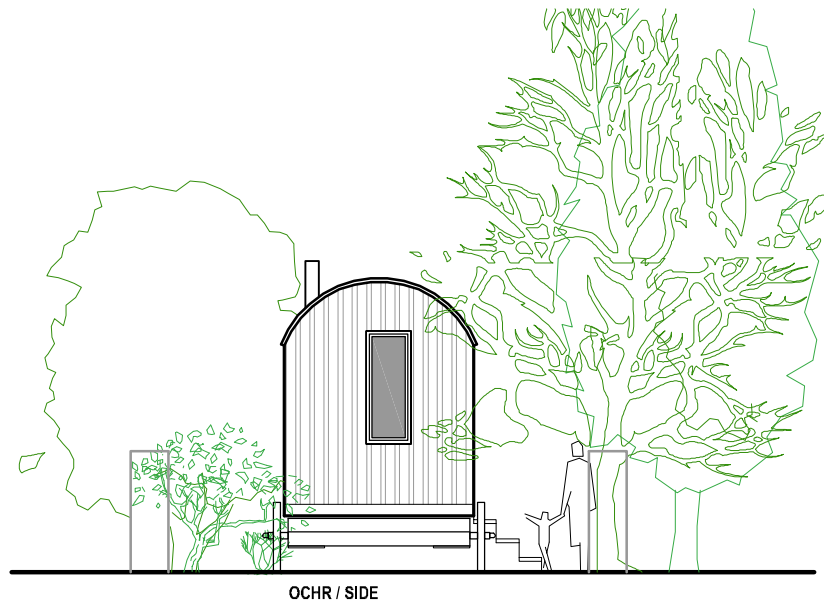
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 12 Heol Penrhyn, Machynlleth, Powys, SY20 8AL
 www.georgetomos.co.uk • georgetomos@yahoo.co.uk
 01854 700337
 0845 280 3040

REV_B - 06.12.2019
 Client: Mr W Garton-Jones
 Project: Additional Visitor/Accommodation to replace touring pitches @ Llanfendigaid, Tywyn, LL36 9LS
PROPOSED PLAN

Job No: 07_41
 Drawing No: PL 01B
 Grid/Info / Scale: 1:500 @ A3
 Dwyddiad / Date: Dec' 19
 DT

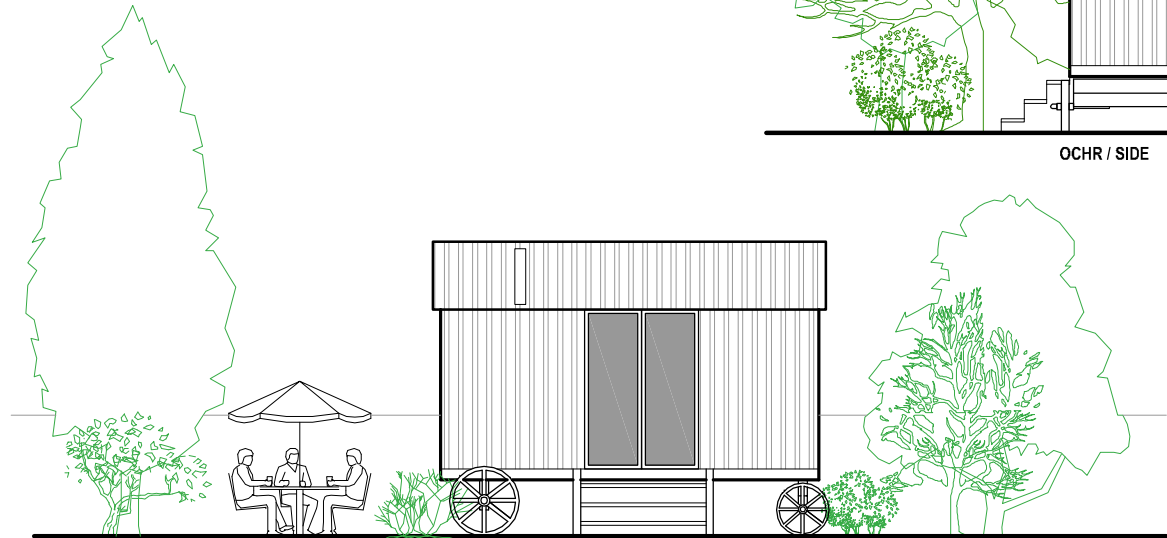
THE PROPERTY OF THE DRAWING AND DESIGN IS REGISTERED BY GEORGE + TOMOS CYF AND MUST NOT BE REPRODUCED OR ANYWAY WITHOUT THEIR WRITTEN CONSENT



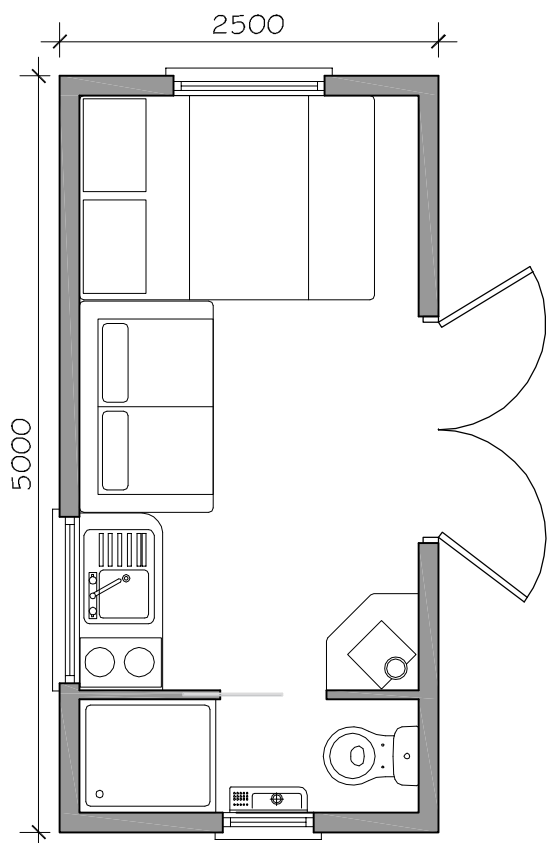
OCHR / SIDE



OCHR / SIDE

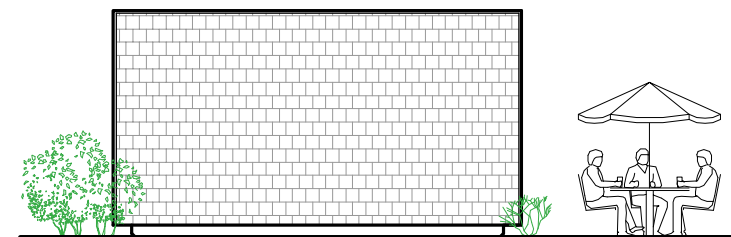


FRONT / BLAEN

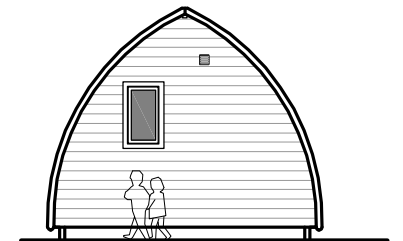


REAR / CEFN

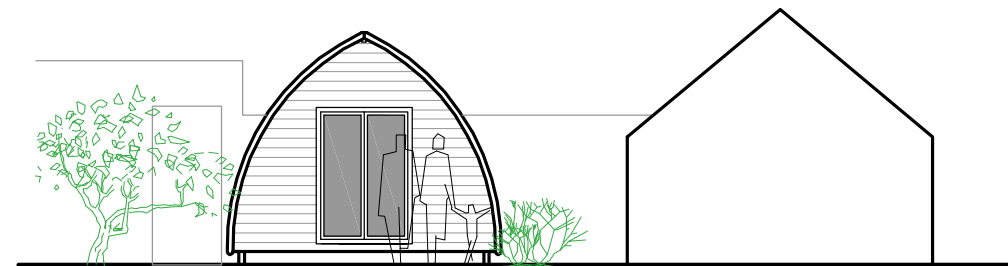
CYNLLUN LLAWR / GROUND FLOOR PLAN
1 : 50 @ A3
UNIT 2 + 3 - Shepherd's Huts



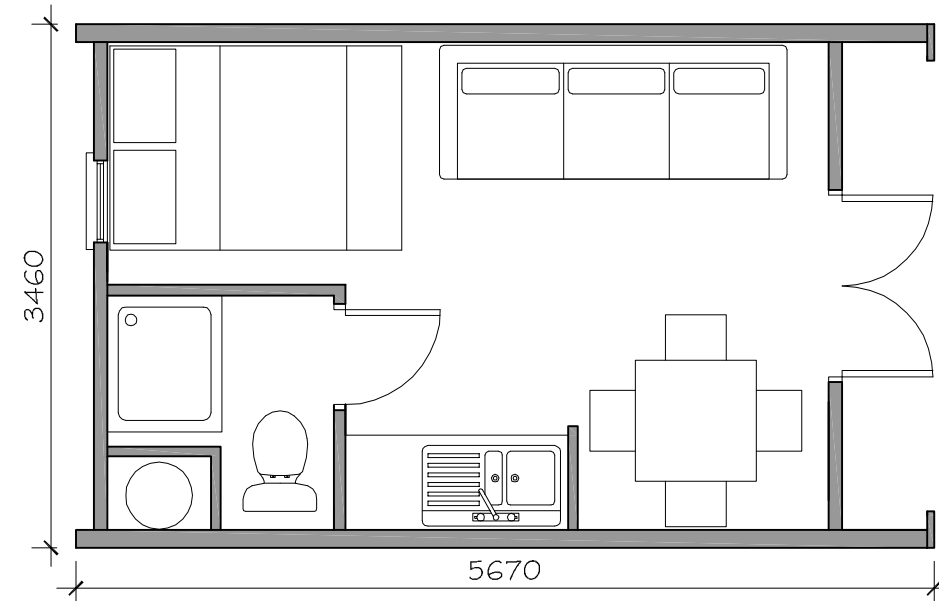
OCHR / SIDE



REAR / CEFN



FRONT / BLAEN POD 1



CYNLLUN LLAWR / GROUND FLOOR PLAN
1 : 50 @ A3

UNIT 1 - Glamping pod

Revisions
REV_A - 06.12.2019

GEORGE + TOMOS
PENSEIRI : ARCHITECTS Cyf.
12 Heol Penrallt, Machynlleth, Powys, SY20 8AL
www.georgetomos.co.uk • georgetomos@yahoo.co.uk

Client
Mr W Garton-Jones
PROPOSED PLAN

Project
Additional Visitor Accommodation
to replace touring pitches
@ Llanfendigaid, Tywyn, LL36 9LS

Job No.	07_41	Drawing No.	PL02A
Graddfa / Scale	1:100@A3	Dyddiad / Date	Dec' 19



PLANNING AND ACCESS COMMITTEE

2 DECEMBER 2020

ENFORCEMENT NOTICES, LISTED BUILDING ENFORCEMENT NOTICES SERVED UNDER DELEGATED POWERS AND LIST OF COMPLIANCE CASES

**SNOWDONIA NATIONAL PARK AUTHORITY
PLANNING AND ACCESS COMMITTEE, 2ND DECEMBER 2020**

BREACH OF CONDITION NOTICES, ENFORCEMENT NOTICES & LISTED BUILDING ENFORCEMENT NOTICES SERVED UNDER DELEGATED POWERS

Reference	Date Served	Location of Site	Details of Planning Breach	Date Notice Takes effect	Period of Compliance
NP5/58/ENF35H	23 rd October 2020	Dyffryn Seaside Estate, Dyffryn Ardudwy, Near Barmouth	<p>Breach of Condition 3 of planning permission reference NP5/58/35G granted on the 11th April 2018 to extend the opening season to allow chalets to be occupied all year round for holiday purposes.</p> <p>Condition 3:</p> <p>The chalets shall be occupied for short term holiday use only, and shall not be used as a second home or for the sole or main residence of the occupiers. No person shall occupy the holiday accommodation hereby permitted for a continuous period of more than 28 days in any calendar year. An up to date register of the names of all occupiers, including their main home addresses shall be maintained and the information made available upon request for inspection by the Local Planning Authority.</p>	24th October 2020	10 months

			<p>Requirements of the Notice:</p> <p>Cease the use of those chalets currently being used as second homes or as a sole residence.</p> <p>Ensure no chalet is occupied by a person for a continuous period of more than 28 days in any calendar year.</p> <p>Provide an up to date register of the names of all occupiers, including their main home addresses for each chalet.</p>		
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SNOWDONIA NATIONAL PARK AUTHORITY

PLANNING AND ACCESS COMMITTEE, 2ND DECEMBER 2020

LIST OF COMPLIANCE CASES

New cases

	Reference	Date of initial complaint or Date observed by Compliance OfficerS	Location of Site	Details of Planning Breach	Current Position
1	NP5/50/ENF562Q	October 2020	32 Plas Panteidal, Aberdyfi LL35 0RF	Erection of external staircase to access roof	Contact made with the owner who has advised that the structure has now been dismantled. Site visit required to confirm this then close file.
2	NP5/56/ENF165	October 2020	Land to the West of A487, Pantperthog, SY20 9AT	Engineering works	Contact made with the owner who has been advised that planning permission is required and to cease works. Further site visit to be carried out to ensure works have ceased.

3	NP5/58/ENF44E	October 2020	12 Glan Ysgethin, Talybont LL43 2BB	LPG tank to front of dwelling	Contact made with the owner who has advised that an application will be submitted to retain the tank
4	NP5/62/ENF107B	October 2020	Bron Meini, Llanbedr LL45 2HL	Decking in rear garden	Contact made with the owners who have been advised that planning permission is required. Owner has suggested that he will amend the proposal and will apply for pre- application advice.
5	NP5/65/ENF274F	July 2020	Barn near Maes Mawr	Works not implemented in accordance with approved plans	Contact made with the agent to advise that an application should be submitted for the amendments to the windows.
6	NP5/67/ENF325	October 2020	Former Boot Shop, Llanegryn Street, Abergynolwyn	Windows not implemented in accordance with approved plans	Contact made with the owner. Non- material amendment application received and is pending consideration.
7	NP5/69/ENF354C	October 2020	Maes Y Crynwyr, Llwyngwriil LL37 2JQ	Cladding on flank elevaiton	Contact made with the owner who have confirmed that an application will be submitted.

8	NP5/77/ENF130C	August 2020	Tanforhesgan, Ynys, Talsarnau LL476TR	Replacement outbuilding	Contact made with the owner who has been advised that planning permission is required for the works.
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Awaiting Retrospective Application/Listed Building Consent Application/CLEUD Application

	Reference	Date of initial complaint or Date observed by Compliance Officers	Location of Site	Details of Planning Breach	Position at time of last committee meeting	Updates since last committee meeting
9	NP5/51/ENF446E	April 2019	Cae Gwian Forestry, Bontddu	Works to Forestry Tracks	Site meeting has been held with the forestry manager. To submit a retrospective planning application to try and regularise the unauthorised works.	
10	NP5/53/ENF28M	March 2020	5 Rhesdai'r Berllan, Arenig Street, Y Bala	Erection of Building for Hot Tub	Contact made with the owner and a site meeting carried out. Owner has intimated they will submit a retrospective planning application. Awaiting application.	Application received but invalid. Invalid notice sent.

11	NP5/61/ENF638	June 2020	Railway Station House, Hwylfa'r Nant, Harlech	Extension to existing raised platform	Contact made with the owner. Owner has intimated they will submit a retrospective planning application. Awaiting application.	
12	NP5/69/ENF16C	August 2020	Land near Castell Mawr, Llanegryn	Development not built in accordance with the approved plans	Contact made with the owner and a site meeting held.	Further discussions with agent. Awaiting application.
13	NP5/78/ENF546	April 2019	Cabin 211, Trawsfynydd Holiday Village, Bronaber	Decking	Contact made with the owner who has intimated they will submit a retrospective planning application. As no application has been forthcoming, an assessment will now be carried out to determine the expediency of initiating formal action.	

Retrospective Application Received

	Reference	Date of initial complaint or Date observed by Compliance Officers	Location of Site	Details of Planning Breach	Position at time of last committee meeting	Updates since last committee meeting
14	NP5/65/ENF93A	August 2020	Brookside, Llanelltyd	Garage not Built in Accordance with the Approved Plans	Contact made with the owner and NMA application received. Pending determination.	Application approved. Close file.

Awaiting further information or awaiting replies to a Planning Contravention Notice or a Section 330 Notice

	Reference	Date of initial complaint or Date observed by Compliance Officers	Location of Site	Details of Planning Breach	Position at time of last committee meeting	Updates since last committee meeting
15	NP2/16/ENF457	June 2020	Land near Ynys y Pandy Slate Mill, Cwm Ystradllyn	Re-building of derelict building	Contact made with the owner and site meeting held.	Corresponding with landowner.
16	NP3/21/ENF46D	January 2020	2 Tai'r Cae, Carneddi, Bethesda	Dumping of Silt & Soil	Contact made with the owner of the land. Site meeting was arranged but did not take place due to lockdown. Meeting to be re-arranged.	
17	NP4/11/ENFL52X	March 2020	Field and Treck, Betws Y Coed	Untidy condition of building	Letter sent to the owner but no response received to date.	No response received. Consider expediency.
18	NP4/11/ENF112B	May 2019	Ty'n y Merddyn, Ffordd Gethin, Betws y Coed	Erection of a Building within the Garden	Site visit undertaken and owner advised planning permission is required for the building. The owner has intimated a retrospective planning application will be submitted in due course.	

19	NP4/11/ENF337	May 2020	Hendre Rhys Gethin, Pentre Du, Betws y Coed	Permanent Residential Use of Touring Caravan	A valid Enforcement Notice is currently in place for this alleged breach, whereby it requires cessation of the residential use of the caravan and for the caravan to be removed. The owner has been contacted and advised to comply with the requirements of the Notice.	It appears that the landowner has not complied with the requirements of the Enforcement Notice. Legal action being initiated.
20	NP4/13/ENF247	February 2020	Land Near Deunant, Capel Curig	Engineering Works, Retaining Walls and Possible Encampment	Land registry search undertaken. Letter sent to the owner and currently await a response. No response has been provided. A further visit will take place to determine if any further works have taken place.	Site visit carried out. No further works taken place.
21	NP4/16/ENF227C	July 2020	Gwalia Stores, Dolwyddelan	Change of use from retail to dwelling	Letter sent to the owner but no response received to date.	Second letter sent to owner. Awaiting response.

22	NP4/16/ENF405	March 2018	Land Opposite Tan y Castell, Dolwyddelan	Dumping of Building Material and Waste	Owner advised to clear the land of building materials and restoring the land back to its original state. Also advised to remove the touring caravan. Site visit undertaken in January 2019 where it was noted the building material and waste was still on the land. Enforcement Notice served on the 26th September 2019 and took effect on the 1st November. The Notice is due to be complied with by the 1st May 2020. A visit is due to take place during August/September.	
23	NP4/26/ENF261B	January 2020	Y Felin, Plas yn Rhos, Rhydlanfair	New Structure	Contact made with the owner and a site meeting is currently being arranged.	Site meeting being arranged.
24	NP4/26/ENF266W	January 2020	Zip World Fforest, Betws y Coed	Erection of building & creation of footpaths	Contact made with the owner and a site meeting has been arranged.	Site meeting carried out. Application to be submitted.
25	NP4/29/LBENF217	June 2020	5 Rhiwbach Terrace, Cwm Penmachno	Untidy condition of Property	Letter sent to the owner. No response received to date.	Site visit carried out and expediency to be considered.
26	NP5/50/ENF562P	July 2020	62 Plas Panteidal, Aberdyfi	Extension to decking Area	Letter sent to the owner. No response received to date.	Contact made with the owner. Site meeting to be carried out.

27	NP5/50/ENF607A	August 2019	Garth, Aberdyfi	Extended Decking	Site meeting held with the owner of the property. Appears planning permission is required for what is currently being erected. The owner has been advised of this and the Authority continue to liaise with them.	
28	NP5/55/ENFL142A	June 2017	3 Glandwr, Brynchrug	Untidy Condition of Property	Section 215 Notice served on the 18 th February 2019. No appeal has been forthcoming, therefore the Notice has taken effect. The Notice must be fully complied with by the 22nd January 2020. A recent site visit has taken place where it was noted the Notice had not been complied with. A letter has been written to the owner advising that to avoid further proceedings they must comply with the requirements of the Notice imminently. No remedial works have taken place and prosecution proceedings are now being considered.	

29	NP5/58/ENF58G	November 2019	Bryn y Bwyd, Talybont	Engineering Works and Possible Siting of Caravan/Chalet	Contact made with the owner and a site meeting has taken place. Currently assessing the works that have taken place and whether any of these benefit from permitted development rights.	
30	NP5/58/ENF144K	December 2018	Land at Tan y Coed, Talybont	Siting of Static Caravan used for Residential Purposes	Contact made with the owner of the land. Site meeting taken place where the siting and use of the caravan was discussed. Owner currently considering their options to regularise the situation. A Planning Contravention Notice has been served to ascertain further details about the use of the caravan. Replies have been received and currently being assessed.	
31	NP5/58/ENF616	December 2018	Land adjacent Coed y Bachau, Dyffryn Ardudwy	Siting of Static Caravan used for Residential Purposes	Contact made with the owner and a site meeting has taken place. Planning Contravention Notice served and replies received. Advised to re-locate the caravan within the garden curtilage of the property. To progress this matter, a further site meeting is currently being arranged.	

32	NP5/62/ENF232A	February 2019	Glanrafon, Llanbedr	Removal of Two Chimneys	Contact made with the owners of the property. A site meeting has recently taken place with the owner (June 2019), where they have confirmed the two chimneys will be re-built. Work is underway to re-build the chimneys with one chimney already built.	The second chimney is currently under construction and near completion.
33	NP5/65/ENF115A	October 2019	Land at Hengwrt, Llanelltyd	Dumping/Storage of Mattresses and Carpets	Requested an update from NRW on the current situation of this case. It is understood the waste material is currently being removed but only at one lorry load a week. Anticipated the waste will be removed Sept/October time.	
34	NP5/69/ENF69C	March 2020	Ceffylau Gwyion, Llwyngwrl	Structure to front of house.	Contact made with owner who has advised the temporary structure will be removed by November.	Owner advised that structure will be removed at beginning of December.

35	NP5/71/ENF473	June 2017	Bronant Stores, 1 Pen y Banc, Llanuwchllyn	Untidy Condition of the Building	According to land registry, there has been a recent change in ownership. To make contact with the new owner in respect to the poor condition of the building. A planning application has been received for the conversion and change of use of the former shop to form an extension to the adjoining dwelling.	
36	NP5/73/ENF197K	January 2020	Land adjacent to Bryn Arms, Gellilydan	Not Built in Accordance with plans Approved under NP5/73/197J	Contact made with the owner. In the process of arranging to measure the building.	Site visit carried out appears that building is in accordance with the approved plans. Close file.

Cases where formal action is being considered/has been taken.

	Reference	Date of initial complaint or Date observed by Compliance Officers	Location of Site	Details of Planning Breach	Position at time of last committee meeting	Updates since last committee meeting
37	NP2/14/18D	February 2019	Nant Cwmbran Isaf, Nasareth, Caernarfon	Without planning permission, operational development to construct a two-storey extension on the eastern gable end of the dwelling.	<p>Enforcement Notice served on the 22nd September 2020 and due to take effect on the 27th October 2020.</p> <p>Requirements to comply with the Notice:</p> <p>Remove the two-storey extension on the eastern gable end of the dwelling. Remove from the land all building materials and rubble arising from compliance with requirement (i) above, and restore the land to its condition before the breach took place by levelling the ground and reinstating with grass and/or gravel.</p>	<p>Enforcement Notice Appeal submitted. Currently awaiting a formal start date for the appeal from the Planning Inspectorate.</p>

38	NP2/16/ENF448	May 2017	Hendre Ddu Quarry, Cwm Pennant	Unauthorised Quarrying and Track Creation	Site visit undertaken on the 12th April. Unauthorised works carried out, enforcement proceedings commenced and a Temporary Stop Notice has been served in respect to the extraction of mineral waste from slate tips and the construction of new tracks. The Notice ceases to have effect on the 3rd July 2019. An Enforcement Notice is currently being drafted.	No further works have been carried out. Expediency report being undertaken in relation to the works carried out.
39	NP5/71/ENF474A	March 2018	Glofer, Llanuwchllyn	Siting of Two Containers within Garden	Enforcement Notice served 30 th October 2018. Enforcement Notice Appeal submitted and commenced 21 st December 2018. The appeal was determined on the 21st June 2019 where the Planning Inspectorate allowed the appeal under ground (g) and varied the enforcement notice by the deletion of four months and substituting with eight months as the period of compliance. Subject to this variation, the Enforcement Notice was upheld.	A site visit has been undertaken whereby it was noted the requirements of the Enforcement Notice have now been complied with.

					The Authority understand the requirements of the Enforcement Notice have now been complied with. A site visit will be carried out in due course to confirm this.	
40	NP5/77/ENF115G	September 2016	Lizzie's Barn, Llandecwyn, Talsarnau	Barn being Used for Permanent Residential Occupation in breach of a CLEUD which only stipulates 3 months residential use.	An enforcement notice is currently being drafted. Discussions ongoing with the Authority's legal section. A further site visit has been arranged with the owner of the land.	

Listed Building Cases

	Reference	Date of initial complaint or Date observed by Compliance Officers	Location of Site	Details of Planning Breach	Position at time of last committee meeting	Updates since last committee meeting
41	NP5/53/ENFLB197	December 2019	Neuadd y Cyfnod, High Street, Bala	Structure being Erected to the Rear of the Building	Site meeting has taken place with the owner. They are currently in discussions with the Authority with the intention of submitting a planning application.	Listed Building Consent and a full planning application have now been received.
42	NP5/54/ENFLB33M	January 2020	Nannau Hall, Llanfachreth	Poor Condition of Building	<p>It has been brought to the Authority's attention that the lead from the roof of the building has been removed and that the overall condition of the building is deteriorating rapidly. A site visit has confirmed this.</p> <p>Contact has been made with the owner who is aware of the condition of the building. They propose to undertake a temporary repair to the roof until at such time they can visit the property and ascertain the damage for themselves.</p>	

43	NP5/69/ENFLB326A	September 2018	Ty Gwyn, Llwyngwril	External and internal Alterations to a Listed Building	A site meeting has taken place. Advised to submit a listed building consent application in respect to the unauthorised works that have taken place.	
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PLANNING AND ACCESS COMMITTEE
2 DECEMBER 2020

SECTION 106 AGREEMENTS

**SNOWDONIA NATIONAL PARK AUTHORITY
PLANNING AND ACCESS COMMITTEE, 02 DECEMBER 2020**

SECTION 106 AGREEMENTS

	Application No.	Date application was received	Location	Development	Present Position
1.	NP5/58/363F	26/04/19	Nant Eos, Dyffryn Ardudwy.	Conversion to open market dwelling unit and installation of sewage treatment plant.	Awaiting reply from applicants solicitor
2.	NP5/65/L359	08/11/19	Capel Coffa, Llanelltyd.	Conversion of chapel to open market dwelling	The land has now been registered and therefore the agreement is ready to be signed.
3.	NP5/72/134K	08/10/19	Plot 2 Maes Gwyn, Rhyd Uchaf.	Erection of one bungalow (Affordable local needs)	Awaiting transfer or title to go through Land Registry to the applicant, before the agreement can be signed.
4.	NP5/72/134L	08/10/19	Plot 4 Maes Gwyn, Rhyduchaf.	Erection of one bungalow (Affordable local needs)	Awaiting transfer or title to go through Land Registry to the applicant, before the agreement can be signed

Number of applications on committee list 21 October 2020 = 4

**APPLICATIONS SUBJECT TO A SECTION 106 AGREEMENT AND WHICH HAVE BEEN COMPLETED SINCE
PLANNING & ACCESS COMMITTEE
21 OCTOBER 2020**

Application No.	Location	Development

**APPLICATIONS SUBJECT TO A SECTION 106 AGREEMENT WHICH HAVE BEEN REFUSED, WITHDRAWN, OR
DISPOSED, OR WHERE AN AGREEMENT IS NO LONGER NECESSARY SINCE PLANNING & ACCESS
COMMITTEE 21 OCTOBER 2020**

Application No.	Location	Development



PLANNING AND ACCESS COMMITTEE

2 DECEMBER 2020

OUTSTANDING APPLICATIONS WHERE MORE THAN 13 WEEKS HAVE ELAPSED

SNOWDONIA NATIONAL PARK AUTHORITY

PLANNING AND ACCESS COMMITTEE 02 DECEMBER 2020

OUTSTANDING APPLICATIONS WHERE MORE THAN 13 WEEKS HAVE ELAPSED

Awaiting Welsh Government Highways

NP5/73/26B	24/05/19	Utica Buildings, Trawsfynydd.	Change of use of land to external Storage yard.
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Awaiting Agreement Between Applicant and Highways Authority and Welsh Government Highways Agency Over Access Arrangements

NP4/31/113E	14/07/20	Gwern Hywell Isaf, Pentrefoelas, Betws y Coed. LL24 OHS	Proposed siting of 6 timber self-contained short term visitor accommodation pods, creation of access track, parking and turning areas and installation of drainage and sewage treatment plant.
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Awaiting Further Ecology Report

NP5/52/384D	23/06/20	Land at Cefn-yr-Owen, Penmaenpool. LL40 1TP	Installation of permanent track to access to Emergency Service mast site (Re-submission).
NP5/70/114G	10/08/20	Llechwedd Ystrad, Llanuwchllyn. LL23 7DB	Rural enterprise dwelling (including package treatment plant).

Awaiting Ecology

NP4/32/L222C	27/07/20	Hafod Gras, Crafnant Road, Trefriw. LL27 0JZ	Extension to visitor accommodation bunkhouse barn.
NP5/75/73D	21/10/19	Ynys, Cwrt, Pennal.	Conversion and alterations to existing BCF Hut to form holiday let accommodation and installation of septic tank (Re-submission),

In Discussion With Agent

NP5/58/81Y	23/04/20	Dyffryn Seaside Estate, Dyffryn Ardudwy. LL44 2HD	Extension to touring caravan site to accommodate additional 15 units, re-site 3 static caravans, erection of new toilet block and landscaping,
NP5/58/629	29/01/20	Plas Meini & Swyn y Mor, Dyffryn Ardudwy. LL42 2BH	Outline permission for the erection of 2 open market and 2 affordable dwellings. integral garages and formation of new vehicular access on to the A496.

Total applications on list = 8

Total applications on list Committee 21 October 2020 = 12

DEDDF LLYWODRAETH LEOL (HAWL I WYBODAETH) 1985**RHESTR O BAPURAU CEFNDIR**

Ystyrir y dogfennau canlynol fel papurau cefndir ar gyfer adroddiadau ar geisiadau ac eitemau gorfodaeth a wnaed dan Ddeddfau Cynllunio 1990.

Ffurflen gais, gan gynnwys unrhyw Dystysgrif.

Cynlluniau a dogfennau eraill i gefnogi'r cynigiad.

Sylwadau cyrff cyhoeddus a hysbyswyd neu yr ymgynghorwyd a hwy, gan gynnwys swyddogion eraill yr Awdurdod, Cynghorau Cymuned, Cynghorau Unedol, Ymgwymerwyr Statudol, Adrannau neu asiantau'r Llywodraeth (ac eithrio cyngor cyfreithiol, a llythyrau yn gofyn am gyngor cyfreithiol).

Llythyrau a dderbyniwyd o ffynonellau eraill, yn cynnwys aelodau o'r cyhoedd. (Ac eithrio gohebiaeth gydag hysbyswydd gwarchoddedig).

Lluniau o'r safle ac o ddatblygiadau tebyg mewn mannau eraill.

Deddfau Cynllunio 1990 ac unrhyw deddfwriaeth ychwanegol.

Deddf Cynllunio ac Iawndal, 1991.

Deddf yr Amgylchedd, 1995.

Deddf Cynllunio a Phrynu Gorfodol, 2004.

Deddf Iawnderau Dynol, 1998.

Cyngor cyhoeddedig y Llywodraeth (lle cyfeirir ato mewn adroddiadau ac eitemu unigol).

Y Cynllun Fframwaith ynghyd ac unrhyw gynigion i'w ddiwygio a gyhoeddwyd.

Cynlluniau Lleol, ynghyd ac unrhyw gynigion i'w diwygio a gyhoeddwyd (lle cyfeirir atynt mewn adroddiadau ar eitemau unigol).

Ffeiliau ar geisiadau cynllunio blaenorol ar safleoedd y cynigion presennol.

Unrhyw ddogfen arall y cyfeirir ati mewn adroddiadau ar eitemau unigol.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**LIST OF BACKGROUND PAPERS**

The following documents are considered background papers for reports on applications and enforcement items made under the Planning Acts 1990.

Application form, including any Certificates.

Plans and other documents in support of the proposal.

Comments of public bodies notified or consulted, including other Officers of the Authority, Community Councils, Unitary Councils, Statutory Undertakers, Government Departments or agencies, (excluding legal advice and requests for legal advice).

Letters received from other sources, including members of the public. (Excluding correspondence with a protected informant).

Photographs of the site or of similar developments elsewhere.

The Planning Acts 1990 and subsidiary legislation.

The Planning and Compensation Act, 1991.

The Environment Act, 1995.

The Planning and Compulsory Purchase Act, 2004.

The Human Rights Act, 1998.

Published Government advice (where referred to in reports on individual items).

The Structure Plan together with any published proposals for amendments.

Local Plans, together with any published proposals for amendments (where referred to in reports on individual items).

Files for previous planning applications on sites of current proposals.

Any other document which may be referred to in reports on individual items.



PLANNING AND ACCESS COMMITTEE
2 DECEMBER 2020

DELEGATED DECISIONS

SNOWDONIA NATIONAL PARK AUTHORITY

PLANNING AND ACCESS COMMITTEE 02 DECEMBER 2020

DELEGATED DECISIONS

Applications Approved

	Application No.	Proposed	Location	Decision Date	Case Officer
1.	NP2/11/T528B	Insertion of rooflight windows to rear elevation	Ysgoldy, Nant Gwynant. LL55 4NW	05/11/20	Mr Richard Thomas
2.	NP2/16/144B	Demolition of shed and erection of dwelling	Brymer Yard, Garndolbenmaen. LL51 9NJ	05/10/20	Mr Richard Thomas
3.	NP3/12/47D	Non-material amendment to Planning Approval NP3/12/47C dated 11/01/2018 to reduce size of extension	Bryn Cwellyn, Rhyd Ddu. LL54 6TP	28/09/20	Mr Richard Thomas
4.	NP3/21/20B	Demolition of existing rear addition, erection of single storey extensions to side and rear and insertion of rooflight windows	Bryn Hall, Llanllechid. LL57 3LG	08/10/20	Mr Richard Thomas
5.	NP3/21/7B	Proposed installation of above ground sewage treatment plant	Ty'r Mynydd, Llanllechid. LL57 3HT	19/10/20	Mr Richard Thomas
6.	NP3/22/17Q	Discharge Condition 9 (Levels) attached to planning approval notice NP3/22/17N dated 16/10/2019	Ffridd, Nantlle. LL54 6BB	10/11/20	Mr Richard Thomas
7.	NP3/22/76B	Two storey rear extension and enclosed balcony, external cladding and insertion of roof windows	13 Pen Yr Orsedd Terrace, Nantlle. LL54 6BH	08/10/20	Mr Richard Thomas
8.	NP4/11/212D	Non-material amendment (Installation of Thermal Panels) to Planning Approval NP4/11/212C dated 02/12/2019	Bryn Conwy, Vicarage Road, Betws-y-Coed. LL24 0AD	28/09/20	Mr Richard Thomas
9.	NP4/11/38N	Discharge Condition 4 (Stone panel) attached to Planning Notice NP4/11/38L dated 22/08/2019	Gwydyr Cottage, Betws y Coed. LL24 0AE	01/10/20	Mr Richard Thomas
10.	NP4/11/38P	Non-material amendment to planning approval NP4/11/38L dated 22/08/2019 for cat slide covered addition over front door	Gwydyr Cottage, Betws y Coed. LL24 0AE	28/09/20	Mr Richard Thomas

11.	NP4/12/130E	Change of use of land to domestic curtilage, removal of stable/store and erection of office/store	Tan yr Onnen, Rowen. LL32 8YP	04/11/20	Mr Richard Thomas
12.	NP4/13/T138A	Replacement windows	Gwydyr Mountain Club Bunkhouse, Tan-y-Garth, Capel Curig. LL24 0EB	14/10/20	Mr Richard Thomas
13.	NP4/29/63D	Erection of agricultural shed	Llechwedd Hafod Isaf, Cwm Penmachno. LL24 0RB	13/10/20	Mr Richard Thomas
14.	NP4/30/163A	Installation of flue	Glan y Coed Lodge, Dwygyfylchi. LL34 6UE	10/11/20	Mr Richard Thomas
15.	NP5/50/715B	Discharge Conditions 3 (Details of slate), 4 (Details of cladding) & 5 (Details of render) of Planning consent NP5/50/715A dated 18/02/2020	Christ the King RC Church, Aberdyfi. LL35 0NR	28/09/20	Mr. David Fitzsimon
16.	NP5/51/T677B	Revised scheme to that previously approved under reference NP5/51/T677 for the Conversion of stone barn to holiday letting unit including extension, installation of sewage treatment plant, erection of detached stone bat shed and associated hard and soft landscaping	Cil Ynys, Barmouth. LL42 1DX	23/10/20	Mr Aled Lloyd
17.	NP5/52/388	Installation of rooflights	Y Felin, Arthog. LL39 1YU	12/11/20	Mr. David Fitzsimon
18.	NP5/52/LB141B	Construction of summerhouse / store in front garden and associated decking	1 Arthog Terrace, Arthog. LL39 1AQ	01/10/20	Mr. David Fitzsimon
19.	NP5/52/LB141C	Listed Building Consent for demolition of rear outbuildings and construction of single storey rear extension together with internal alterations	1 Arthog Terrace, Arthog. LL39 1AQ	01/10/20	Mr. David Fitzsimon
20.	NP5/53/579	Increase the height of building to two storeys and replacement of roof	Land adjacent to 60 Mount Street, Bala. LL23 7RS	11/11/20	Mrs. Sara Thomas
21.	NP5/54/289E	Retrospective application to demolish existing redundant structures and erect new kitchen workshop with showroom	The Old Creamery, Rhydymain. LL40 2AY	09/10/20	Mrs. Iona Roberts
22.	NP5/55/11K	Construction of replacement agricultural building	Cynfal Farm, Bryncreug. LL36 9RB	05/11/20	Mr. David Fitzsimon

23.	NP5/55/36F	Alterations and extension to dwelling (Re-submission)	The Grange, Cil Cemmaes, Brynchrug. LL36 9RG	01/10/20	Mr. David Fitzsimon
24.	NP5/57/1161	Construction of two storey side extension and installation of rooflights	21 Ardd Fawr, Dolgellau. LL40 2YD	21/10/20	Mr. David Fitzsimon
25.	NP5/57/AD228W	Advertisement consent for revised advertisements / signage on the site	Co-Op, Maes Talarran, Dolgellau. LL40 1HR	04/11/20	Mrs. Iona Roberts
26.	NP5/57/E977A	Consultation under Section 37 of the Electricity Act 1989 for retention of overhead electricity line	Bodlondeb, Dolgellau.	09/10/20	Mrs. Sara Thomas
27.	NP5/59/384E	Retrospective application for the retention of a side extension to existing industrial unit	Unit 1, Pen Cefn Industrial Units, Llan Ffestiniog. LL41 4PS	16/10/20	Mr Aled Lloyd
28.	NP5/59/511H	Discharge Condition 14 (Drainage scheme) on Planning Decision Notice NP5/59/511F dated 11/06/2018	Land at rear of Penrhiw, Pantllwyd, Llan Ffestiniog. LL41 4PS	30/10/20	Mr Aled Lloyd
29.	NP5/59/53E	Proposed extinguishment of Section 106 Agreement (affordable & local occupancy) dated 28th March 2018 at Land adjacent to Arenig, Highgate, Llan Ffestiniog	Land adjacent to Arenig, Highgate, Llan Ffestiniog	03/11/20	Mr Richard Thomas
30.	NP5/60/91U	Erection of traffic control barrier for visitor car park	Coed y Brenin Visitor Centre, Dolgyfeiliau, Ganllwyd. LL40 2HZ	20/10/20	Mrs. Sara Thomas
31.	NP5/60/91V	Change of use from shop (A1) to café (A3)	Coed y Brenin Visitor Centre, Dolgyfeiliau, Ganllwyd. LL40 2HZ	02/11/20	Mrs. Sara Thomas
32.	NP5/61/390B	Demolition of existing structures and erection of new outbuilding	Crud yr Awel, Old Llanfair Road, Harlech. LL46 2SS	04/11/20	Mr Aled Lloyd
33.	NP5/61/518A	Erection of two storey dwelling (open market)	Land adjoining Isallt, Harlech.	26/10/20	Mr Aled Lloyd
34.	NP5/61/579B	External wall insulation, formation of new pedestrian access, installation of roof light on North elevation and extension to lean-to	Llwyn, Ffordd Isaf, Harlech. LL46 2PR	07/10/20	Mr Aled Lloyd
35.	NP5/61/629	Erection of single storey rear extension	30 Cae Gwastad, Harlech. LL46 2GY	09/10/20	Mr Aled Lloyd
36.	NP5/61/637	Demolition of existing dwelling and erection of replacement dwelling	Beaumont, Old Llanfair Road, Harlech. LL46 2SS	07/10/20	Mr Richard Thomas

37.	NP5/62/421	Erection of extension to existing detached dwelling to provide residential annexe	Llys Brithyll, Llanbedr. LL45 2NH	26/10/20	Mr Aled Lloyd
38.	NP5/62/422	Installation of pitched roof dormer window on front elevation	Ty'r Graig, Llanbedr. LL45 2HL	10/11/20	Mr Aled Lloyd
39.	NP5/62/60D	Erection of 3m x 4m garden room on the front of the dwelling	Cyplau, Llanbedr. LL45 2ND	27/09/20	Mr Aled Lloyd
40.	NP5/64/187	External alterations including external cladding	2, 7, 9, 13, 28, 29 & 30 Maesegryn, Llanegryn. LL36 9SH	28/10/20	Mrs. Sara Thomas
41.	NP5/64/55E	Conversion and extension of existing residential annex together with the demolition and re-building of an existing outbuilding. Both buildings to be used as ancillary accommodation to the main use of the site as a care establishment	Cerrig Cornel, Cerrig Camu, Llanegryn. LL36 9SA	02/11/20	Mrs. Iona Roberts
42.	NP5/65/252F	Temporary consent for 3 years to site 'Portakabin' on site as office (B1 Use)	Glasfryn Stores, Bontddu. LL40 2UA	21/10/20	Mrs. Sara Thomas
43.	NP5/65/364A	Discharge Condition 8 of Planning Permission NP5/65/364 dated 05/08/2020 requesting the submission of a programme of archaeological works to be agreed by the Local Planning Authority prior to the commencement of works	Land near Gesail-Gwm Fawr, Taicynhaeaf, Bontddu.	04/11/20	Mr Robin Williams
44.	NP5/65/93B	Non-material amendment to Planning Consent NP5/65/93A dated 08/01/2018 to allow repositioning of staircase within the building together with the replacement of the door on the North elevation with a window and an additional window at first floor level on the South elevation	Brookside, Llanelltyd. LL40 2TA	16/10/20	Mrs. Alys Tatum
45.	NP5/69/123B	Construction of agricultural shed	Plas Y Bryn, Llwyngwriol. LL37 2UZ	01/10/20	Mr. David Fitzsimon
46.	NP5/69/405	Construction of dormer extension and balcony	The Burf, Llwyngwriol. LL37 2JG	28/09/20	Mr. David Fitzsimon

47.	NP5/69/408	External alterations including external cladding	2, 3, 6 & Block 1 (31-34) Godre'r Gaer, Llwyngwrlil. LL37 2JZ	29/10/20	Mrs. Sara Thomas
48.	NP5/70/LB102F	Discharge of Condition 4 (Submission of photographic record) of Planning Consent NP5/71/LB102D dated 06/05/2020	Rhyd Fudr, Llanuwchllyn. LL23 7DD	22/10/20	Mrs. Sara Thomas
49.	NP5/71/377E	Construction of extension to existing agricultural building	Cwm Ffynnon, Nant y Barcud, Llanuwchllyn. LL23 7UL	05/10/20	Mrs. Sara Thomas
50.	NP5/71/89A	Installation of roof over dry manure store	Braich Ceunant, Llanuwchllyn. LL23 7SU	05/10/20	Mrs. Sara Thomas
51.	NP5/71/9B	Installation of roof over dry manure store	Nant y Barcud, Cynllwyd Uchaf, Bala. LL23 7DF	01/10/20	Mrs. Sara Thomas
52.	NP5/72/163B	Construction of side extension	Ty'n y Pant, Llidiardau, Bala. LL23 7SG	05/10/20	Mrs. Sara Thomas
53.	NP5/73/LB28Q	To erect a timber framed carport with transparent/translucent corrugated roof sheeting over existing concrete parking area.	Ysgubor Wen, Tan y Bwlch, Maentwrog. LL41 3YU	07/10/20	Mr Aled Lloyd
54.	NP5/74/403E	Construction of rear extension	Swn Yr Afon, Aberangell. SY20 9ND	14/10/20	Mrs. Sara Thomas
55.	NP5/75/234C	Discharge Conditions 3 (Slates), 4 (Details of the standing seam roof panels) and 5 (Stone panel) of Planning Consent NP5/75/234B dated 08/05/2019	Llyn, Felindre, Pennal. SY20 9DP	01/10/20	Mr. David Fitzsimon
56.	NP5/77/2F	Application to discharge Conditions 4, 5, 7, 8 and 9 of Planning Consent NP5/77/2E dated 19/03/2018	Gwrach Ynys, Talsarnau. LL47 6TS	23/10/20	Mr Aled Lloyd
57.	NP5/78/22E	Replacement of Condition 6 attached to Planning Consent NP5/78/22A dated 08/06/1988 with rural enterprise dwelling condition.	Swn y Nant, Bodfyddau, Trawsfynydd. LL41 4UW	26/10/20	Mrs. Sara Thomas

Applications Refused

	App No.	Proposed	Location	Reason for Refusal	Case Officer
1.	NP4/29/T271A	Conversion and change of use of garage/store to affordable dwelling	Ysgubor, John Street, Penmachno. LL24 0UG	26/10/20 By reason of this application not being able to show any appropriate off-street vehicular parking it would, if approved, exacerbate the proliferation of on-street parking in this area to the detriment of the free flow of vehicles and potential dangers to other road users and pedestrians along the adjacent county road. As such this application is in conflict with ELDP policy 1 criterion viii.	Mr Richard Thomas
2.	NP5/50/731	Construction of two storey rear extension	Bodnant, Gwelfor Road, Aberdyfi. LL35 0PB	28/09/20 The proposed extension, by reason of its height, form and scale would not be compatible with the height form and scale of the host dwelling. As a result, it would detract from the character and appearance of the host dwelling and the immediate surroundings, contrary to policies DP1 and DP15 of the adopted Eryri Local Development Plan 2016-2031.	Mr. David Fitzsimon

ITEM NO. 7

MEETING	Planning and Access Committee
DATE	2 nd December 2020
TITLE	Court of Appeal Decision: <i>Hillside Parks Ltd v Snowdonia National Park Authority</i>
REPORT BY	Director of Planning and Land Management
PURPOSE	Summary of a recent decision by the Court of Appeal at Hillside, Aberdyfi

1. Background

2. On the 4th November, the Court of Appeal dismissed an appeal against the decision of the High Court which considered the question of whether a planning permission for 401 houses in Aberdyfi, granted and implemented in 1967, was capable of further implementation in light of various subsequent planning permissions granted, the resulting developments of which were physically incompatible with the original permission.
3. The Court of Appeal's decision is found in Appendix A.
4. A Plan of the site which was used in the Authority's proof of evidence is found in Appendix B, which provides an overview of the planning history.
5. The development to which this decision relates is a planning permission granted by the then Meirioneth County Council in 1967 for 401 houses. The site has developed sporadically and very slowly over several decades, and there are now 27 dwellings completed through various subsequent permissions on the site, the most recent one approved in 2009. None of these were in line with the original masterplan approved in 1967.
6. The issues were further complicated by a high court case in 1987 which reached a conclusion to the effect that the 1967 permission may lawfully be completed at any time in the future, notwithstanding there having then been some incompatible developments in accordance with subsequent permissions.

7. The developer approached the National Park Authority in 2016 with regard to plans to further develop the site. Further discussions took place with the developer in 2016 and 2017 when it was noticed that engineering works were taking place, which appeared to be with regard to undertaking further development on the site. There were also discussions relating to the site in the context of the review of the LDP that was taking place at the time. Officers raised concerns about the validity of the original permission with the developer at this stage.
8. The developer took the issue to the High Court in 2019. In his judgement HHJ Keyser QC set out and dealt with two issues as he had identified them to be:
 - The first issue was whether the 1987 High Court Judgement was wrong in law, in that the 1967 permission could be completed at any time in the future. Justice Keyser concluded that the 1987 judgement did not err in law and was entitled to make the declarations in that decision.
 - The second issue was whether the Authority was still bound by the third declaration in the Order made by the 1987 judgement that the 1967 permission “may lawfully be completed at any time in the future”. This issue was split by the Judge into two sub-issues:
 - “2a) Does the declaration in the 1987 Order bind the Authority according to its terms regardless of whether it was wrongly made?
 - “2b) Do events since the 1987 Order mean that the development permitted by the January 1967 Permission may not now be completed lawfully, so that (whether rightly or wrongly made) the declaration can no longer bind according to its terms?”
9. The Judge held that the question that he identified as 2a did not need to be dealt with as he had determined that the 1987 Order was not wrongly made.
10. In relation to the question that he identified as 2b, he determined that the development which had occurred since 1987 (none of which was in line with the 1967 Masterplan) now renders the development granted by the 1967 permission a physical impossibility and that future development pursuant to that permission would no longer be lawful.
11. At the High Court, Justice Keyser found in favour of the Authority in October 2019.
12. The decision was appealed in the Court of Appeal, which ultimately concluded that Justice Keyser was entitled to reach the conclusion that it is no longer possible to implement the 1967 permission in the light of factual developments since the original High Court judgment in 1987.
13. Where there was previously confusion and uncertainty regarding the site, I believe the decision of the High Court upheld by the Court of Appeal have brought certainty about the future of the area. Any future decisions made on the site will now require fresh planning permission and will ultimately be guided by the policies of the Eryri LDP, which should avoid further confusion and uncertainty.

Recommendation:

For Members to note the content of the report and appended decision.



APPENDIX 1

Neutral Citation Number: [2020] EWCA Civ 1440

Case No: A2/2019/2802 & A2/2019/2804

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN’S BENCH DIVISION
HHJ KEYSER QC (sitting as a judge of the High Court)
[2019] EWHC 2587 (QB)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 03/11/2020

Before :

LORD JUSTICE DAVID RICHARDS
LORD JUSTICE SINGH
and
LADY JUSTICE NICOLA DAVIES DBE

Between :

HILLSIDE PARKS LIMITED **Appellant**
- and -
SNOWDONIA NATIONAL PARK AUTHORITY **Respondent**

Mr Robin Green (instructed by **Aaron & Partners LLP**) for the **Appellant**
Mr Gwion Lewis (instructed by **Geldards LLP**) for the **Respondent**

Hearing dates : 7 and 8 October 2020

Approved Judgment

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties’ representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 10:30 a.m. on Tuesday, 3 November 2020.

Lord Justice Singh :

Introduction

1. This is an appeal against the order of HHJ Keyser QC (sitting as a judge of the High Court), dismissing the Appellant’s claim for certain declarations relating to the current status of a planning permission granted in 1967. The judgment was given on 8 October 2019.
2. Permission to appeal to this Court was granted by Leggatt LJ on 19 December 2019.

Factual Background

Events from 1966 to 1987

3. The case concerns a site comprising 28.89 acres of land at Balkan Hill, Aberdyfi, (“the Site”). Planning permission was applied for on 19 December 1966 by Mr John Madin and was granted by Merioneth County Council, which was at that time the local planning authority, on 10 January 1967 (“the 1967 permission”). The relevant application, which incorporated a plan referred to as the “Master Plan”, was for the development of 401 dwellings. The proposed siting for each of the dwellings was shown on the plan along with a proposed internal road network. The Master Plan detailed five key types of dwelling: Type A (3-bedroom semi or terrace); Type B (2-bedroom bungalow); Type C (2-bedroom flat); Type D (3-bedroom and study bedroom); and Type E (2-bedroom and study bedroom). The 1967 permission was granted subject to one condition, that water supply be agreed before work commenced. That condition does not give rise to any issue in the present appeal.
4. Building of the first two houses began on 29 March 1967, but the approved location was found to be the site of an old quarry. Planning permission was applied for the houses as built and granted on 4 April 1967. Further planning permissions for departures from the Master Plan were granted on:
 - (1) 14 September 1967 for the addition of a 3-bedroom flat to the two built houses;
 - (2) 22 October 1970 for 2 houses and 5 garages which departed from the Master Plan on the Site “as part of development already approved”;
 - (3) 9 May 1972 for “adjustments to the agreed layout”;
 - (4) 13 June 1972 for “variation to approved plans for 2 flats with garages beneath”;
 - (5) 19 October 1972 for the “erection of dwelling houses and garages”; and
 - (6) 28 June 1973 for another variation to the layout of the Master Plan.
5. Merioneth County Council was replaced by Gwynedd County Council on 1 April 1974.
6. Landmaster Investments Limited acquired the Site in June 1978.

7. A dispute arose between the parties in January 1985, which led to proceedings being issued in the High Court. Gwynedd County Council denied that the 1967 permission was still valid.

The action before Drake J in 1987

8. The action was commenced by writ on 8 May 1985. The statement of claim sought declarations as to the status of the 1967 permission.
9. In the pleaded defence, dated 21 June 1985, issue was taken with the application for the declarations numbered 2, 3 and 4. The two issues that were raised, at paras. 6 and 7 of the defence, were that, first, the development permitted had not begun before 1 April 1974 and therefore could not lawfully be carried out because the permission had expired by operation of law; alternatively, if the development was begun before 1 April 1974, it was alleged to be in breach of the condition attached to the 1967 permission as to an adequate water supply.
10. Drake J gave judgment after a six day trial on 9 July 1987. By the time of the hearing before him the issues had been clarified, as he set out at page 2 of his judgment. It was agreed by the defendant that the 1967 permission was lawful. The defendant's contentions were as follows:
 - (1) The condition as to water supply was never fulfilled.
 - (2) Certain development on the land was carried out but, as the condition had not been satisfied, such development was unlawful.
 - (3) As no lawful development was ever commenced, the 1967 permission lapsed on 1 April 1974 by operation of law as a result of the statutory time limit for implementation of a planning permission.
 - (4) Such development as had been carried out was not pursuant to the 1967 permission but was pursuant to subsequent planning permissions granted in response to subsequent applications for certain development on the land.
11. It is clear from the judgment of Drake J that he viewed the subsequent grants of planning permission, for example that granted on 4 April 1967, as "a variation of the Master Plan": see e.g. page 13G of his judgment.
12. It was common ground before us that, strictly speaking as a matter of law, the power to vary a planning permission did not exist at the material time and only exists in limited form even now, since amending legislation was enacted by Parliament in 1987 and subsequently. Nevertheless, what is submitted on behalf of the Appellant is that, as a matter of substance, the judgment of Drake J (and indeed the understanding of the local planning authority at the time) was that the subsequent permissions which were granted were in effect variations of the 1967 permission rather than additional permissions. Certainly this is consistent with the conclusion reached by Drake J at page 20C of his judgment:

“... Although development has gone on very slowly and with a number of variations, the Master Plan remains in force, and if the development is allowed to progress further it can be completed substantially in accordance with the rest of the Master Plan.”

13. Judgment was given by Drake J on 9 July 1987 and an order was made granting four declarations to the following effect. First, the full planning permission of 10 January 1967 was lawfully granted. Secondly, the 1967 permission was a “full permission which could be implemented in its entirety without the need to obtain any further planning permission or planning approval of details”. Thirdly, “the development permitted by the January 1967 Permission has begun; and that it may lawfully be completed at any time in the future”. The fourth declaration concerned the satisfaction of the condition attached to the 1967 permission. It is the third declaration that is of particular relevance to the present proceedings.

Events since the judgment of Drake J

14. Hillside Parks Limited acquired the Site from Landmaster Investments Limited on 6 February 1988. It is the Appellant before this Court.
15. Snowdonia National Park Authority (“the Authority” or “the Respondent”) came into existence on 23 November 1995 and became the relevant local planning authority for the Site on 1 April 1996.
16. Departures from the Master Plan were granted by the Authority on:
 - (1) 27 June 1996 for a single dwelling house as a variation to the 1967 Permission.
 - (2) 20 June 1997 for “two terraces forming: 1 attached dwelling, six apartment units and 8 garages with apartments over” as a variation to the 1967 permission.
 - (3) 18 September 2000 for a two-storey detached dwelling house and garage on Plot 5 of the Site.
 - (4) 24 August 2004 for 5 detached houses and 5 garages as a variation to the 1967 permission.
 - (5) 4 March 2005 for the erection of a 2-storey dwelling and detached garage on Plot 17 on the Site.
 - (6) 25 August 2005 for the erection of a detached dwelling at Plot 3 of “Phase 1” on the Site.
 - (7) 20 May 2009 for the erection of 3 pairs of dwellings.
 - (8) 5 January 2011 for 1 dwelling at Plot 3 on the Site.

17. On 23 May 2017, the Authority contacted the Appellant, stating that, in its view, the 1967 permission could no longer be implemented because the developments carried out in accordance with the later planning permissions rendered it impossible to implement the original Master Plan. The Authority required that all works at the Site should be stopped until the planning situation had been regularised.

The present proceedings

18. The present proceedings were commenced by the Appellant as a claim under CPR Part 8. The details of the claim set out the history and the nature of the dispute which had arisen between the parties from 2017. The Appellant sought the following declarations, at para. 17:
 - (1) The Respondent is bound by the judgment and declarations of Drake J given on 9 July 1987.
 - (2) The planning permission granted on 10 January 1967 by Merioneth County Council with reference number TOW.U/1115/P is a valid and extant permission.
 - (3) The said planning permission may be carried on to completion, save insofar as development has been or is carried out pursuant to subsequent planning permissions granted for alternative residential development.
19. It should be noted that there was an application by the Authority to strike out the claim on the ground, among others, that it was an abuse of process because the argument in the claim should have been made under the planning legislation by way of an application for a certificate of lawful development. An application for a certificate of lawfulness of proposed development can be made under section 192 of the Town and Country Planning Act 1990. That application to strike out was dismissed by HHJ Keyser QC on 10 May 2019 and no more need to be said about it in this appeal.

The judgment of the High Court

20. In his judgment HHJ Keyser QC set out and dealt with two issues as he had identified them to be. These were not the issues as formulated by the parties.
21. The first issue was whether Drake J was wrong in law in his determination that the 1967 permission could be completed at any time in the future. The Judge concluded that Drake J did not err in law and was entitled to make the declarations that he did.
22. The second issue was whether the Authority is still bound by the third declaration in the Order made by Drake J that the 1967 permission “may lawfully be completed at any time in the future”. This issue was split by the Judge into two sub-issues:
 - “2a) Does the declaration in the 1987 Order bind the Authority according to its terms regardless of whether it was wrongly made?

“2b) Do events since the 1987 Order mean that the development permitted by the January 1967 Permission may not now be completed lawfully, so that (whether rightly or wrongly made) the declaration can no longer bind according to its terms?”

23. The Judge held that the question that he identified as 2a did not need to be dealt with as he had determined that the 1987 Order was not wrongly made.
24. In relation to the question that he identified as 2b, he determined that the development which has occurred since 1987 now renders the development granted by the 1967 permission a physical impossibility and that future development pursuant to that permission would no longer be lawful.

Grounds of Appeal

25. **Ground 1:** HHJ Keyser QC erred in his approach to the issue whether Drake J was wrong in law in holding that the 1967 permission could be completed at any time. The Judge did not follow Drake J’s interpretation of the 1967 permission, but rather gave his own interpretation of the 1967 Permission.
26. **Ground 2:** The Judge was wrong to conclude that *F. Lucas & Sons Ltd v Dorking and Horley Rural District Council* (1966) 17 P & CR 111 did not apply and therefore that the 1967 permission authorised one single scheme of development.
27. **Ground 3:** The Judge did not correctly construe the Additional Permissions to the 1967 permission.
28. **Ground 4:** The Judge took an inconsistent position in regard to whether developments could be carried out in accordance with different Additional Permissions that had been granted.
29. **Ground 5:** The errors contained within the judgment meant that the Claimant’s case was not properly addressed, particularly the arguments in relation to *res judicata*.

Submissions of the parties

The Appellant’s submissions

30. On behalf of the Appellant Mr Robin Green submits that the Judge erred in saying that the first issue to be dealt with was whether Drake J was wrong to determine that the 1967 permission could be completed at any time in the future. The Respondent could not provide any legal basis on which it could say that it was not bound by the judgment of Drake J. Unless it could be shown that the Respondent was not bound by the 1987 Order then the question of whether Drake J was correct in law did not arise and should not have been dealt with by the Judge.

31. Mr Green submits that the Authority was bound by Drake J's judgment by virtue of the statutory continuity of functions and the binding effect of a judgment *in rem*.
32. He also submits that the effect of subsequent variations to the 1967 permission is *res judicata* as it was determined by Drake J in 1987. The Authority cannot now raise a defence which was available at the time of the 1987 judgment by reason of the doctrine of issue estoppel and the rule in *Henderson v Henderson* (1843) 3 Hare 100. It would also be an abuse of process for the Authority to pursue the argument that the building work being completed pursuant to the variations of the Master Plan render the 1967 permission no longer capable of completion. The Authority has itself granted such variations of the 1967 permission since it came into existence in 1995.
33. Mr Green submits that there has been no material change in circumstances since the judgment of Drake J in 1987.
34. It is also submitted that the Judge's reasoning was internally inconsistent. He found that the Additional Permissions granted before 1987, and therefore considered by Drake J, were variations of the 1967 Permission with specific modifications but implicitly held that the same was not true of the Additional Permissions granted after 1987. Complaint is made that there is no reasoning given in the judgment to show that the Additional Permissions granted after 1987 should be considered differently from the ones before 1987. If all the Additional Permissions were considered in this way, then the remainder of the Master Plan with the specific modifications which were granted could still be developed.
35. It is further submitted that the Judge was wrong to determine that *Lucas* did not apply to the present case and that the 1967 permission was only for the Master Plan in its entirety and could not be considered as permitting separate acts of development.
36. By way of summary, Mr Green submits that the errors in the judgment below had the effect that the case of the Appellant before the Judge was not properly addressed by him.

The Respondent's submissions

37. On the issue of whether the Authority is bound by the judgment of Drake J, it is accepted by Mr Gwion Lewis on behalf of the Respondent that the Judge should have dealt with this issue first in his judgment. However, submits Mr Lewis, the principle of *res judicata* does not compel the court to determine that the judgment of Drake J still binds the parties. The court should make its own determination of whether the 1967 permission is still valid for three reasons:
 - (1) The circumstances have changed significantly since the Order of Drake J in 1987.
 - (2) The decision of the House of Lords in *Sage v Secretary of State for the Environment* [2003] UKHL 22; [2003] 1 WLR 983 holds that a "holistic approach" should be taken and regard should be had to the totality of the

operations which the grant of a planning permission originally contemplated would be carried out.

- (3) Although the line of authority beginning with *Pilkington v Secretary of State for the Environment* [1973] 1 WLR 1527 was not presented to Drake J, it would not be an abuse of process for the Authority to rely on it in these proceedings. It is entitled to seek to prevent building in a National Park which could be against the public interest.
38. Mr Lewis further submits that the Judge was correct in determining that *Lucas* does not apply to the present case.

The principles of *res judicata*

39. It was common ground before us that the general principles of *res judicata* were correctly summarised by Lord Sumption JSC in *Virgin Atlantic Airways Limited v Zodiac Seats UK Limited* [2013] UKSC 46; [2014] AC 160, at paras. 17-26. In particular, at para. 17, Lord Sumption said that the phrase *res judicata* is “a portmanteau term which is used to describe a number of different legal principles with different juridical origins.” The three particular principles which, it is common ground, potentially arise in the present case are the fourth, fifth and sixth as outlined by Lord Sumption. The fourth was the doctrine of “issue estoppel”, that is where some issue which is necessarily common to both disputes has been decided on an earlier occasion and is binding on the parties. The fifth principle was that based on *Henderson*, which precludes a party from raising in subsequent proceedings matters which were not, but could and should have been, raised in the earlier case. Sixthly, Lord Sumption said, there is the more general procedural rule against abusive proceedings, which may be regarded as the policy underlying all of the above principles.
40. In his skeleton argument for the present appeal, Mr Green invoked the sixth principle separately as well as the fourth and fifth principles. At the hearing before us he accepted, on reflection, that in the present case the sixth principle adds nothing of substance to the fifth and made submissions about both principles together.
41. An example of a situation in which there may be “materially altered circumstances” which justify a departure from the *Henderson* principle was given by Lord Sumption in *Virgin Atlantic* at para. 20: the decision of the House of Lords in *Arnold v National Westminster Bank plc* [1991] 2 AC 93. In that case there had been a subsequent development in the law.
42. At para. 24 Lord Sumption quoted Lord Bingham of Cornhill in the decision of the House of Lords in *Johnson v Gore-Wood and Co* [2002] 2 AC 1, at page 31:

“The underlying public interest is the same: that there should be finality in litigation and that a party should not be twice vexed in the same matter. ... It is, however, wrong to hold that because a matter could have been raised in earlier proceedings it should have been, so as to render the raising of it in later proceedings necessarily abusive. That is to adopt too dogmatic an approach

to what should in my opinion be a broad, merits-based judgment which takes account of the public and private interests involved and also takes account of all the facts of the case, focusing attention on the crucial question whether, in all the circumstances, a party is misusing or abusing the process of the court by seeking to raise before it the issue which could have been raised before.”

43. In *Thrasylvoulou v Secretary of State for the Environment* [1990] 2 AC 273 the House of Lords considered whether and to what extent the doctrine of *res judicata* applies in public law proceedings. The main opinion was given by Lord Bridge of Harwich: see in particular page 289. He concluded that in principle that doctrine does apply to adjudications in the field of public law. This is subject to the important public law requirement that a statutory body cannot fetter its own freedom to perform its statutory duties or exercise its statutory powers. As Lord Bridge explained, it is for this reason that there can be no such fetter which arises from an estoppel by representation. I would add, in the light of more recent developments in public law, that there could not be any such fetter arising from the doctrine of legitimate expectation.

Analysis

44. Although there are five grounds of appeal, the submissions before us were not made separately by reference to those grounds. In similar vein, I will address the substance of the grounds rather than address each one of them separately.
45. Both in the grounds of appeal and in his oral submissions Mr Green complained on behalf of the Appellant about the way in which the Judge dealt with the judgment of Drake J. Particular complaint is made that the Judge failed to deal with the principles of *res judicata*: see e.g. para. 57 of the judgment. To a large extent Mr Lewis on behalf of the Respondent agreed that it would have been preferable for the Judge to address the issue of *res judicata*; indeed that is how the case for the Respondent had been argued before him.
46. Nevertheless, in my view, what is crucial is that the Judge ultimately concluded on what he identified as the first issue before him that Drake J’s judgment and the 1987 order made by him were not wrong. In reaching that conclusion he rejected the Respondent’s contention that they were wrong: see para. 55 of his judgment. Accordingly, the Judge approached what he identified as the second issue before him (and in particular issue 2b) on the footing that the judgment and order of Drake J in 1987 were to be treated as being correct. He set out his reasoning for deciding that issue in favour of the Respondent and against the Appellant at paras. 56-62 of his judgment.
47. At para. 58 the Judge said that:
- “The third declaration in the 1987 Order obviously does not mean that, regardless of how the facts and the law may change or develop at any time thereafter, the development permitted by

the January 1967 Permission would necessarily be capable of lawful completion in perpetuity. Events might occur that would render it physically impossible to complete the development ‘substantially in accordance with the rest of the Master Plan’. Or the law might change. The declaration was concerned, as was Drake J in his judgment, with two questions: first, whether the January 1967 Permission had been implemented; second, if it had been implemented, whether completion of the development thereby permitted was possible. The declaration reflects and gives effect to the judge’s affirmative answers to both questions. It does not determine whether completion of the development remains possible in the light of the physical alterations that have taken place since 1987.”

48. The Judge then said, at para 59:

“In my judgment, the development permitted by the January 1967 Permission cannot now be completed lawfully in accordance with that permission. This conclusion follows from two matters that have already been mentioned in this judgment, as I shall explain.”

49. I hope it will be convenient if I set out the two matters to which he referred in the opposite order to that used by the Judge. The second reason he gave was set out as follows at para. 61:

“Second, it is physically impossible to complete the development fully in accordance with the January 1967 Permission in the circumstances briefly set out in paragraph 37 above. This is not a matter of minor deviations from the detail in the Master Plan: the state of affairs existing on the ground in the north-west part of the Site means that the remaining development there cannot be carried out and that further development will require new design and fresh permission. Regardless of whether Drake J was right or wrong to conclude in 1987 that the remaining development could be completed in accordance with the January 1967 Permission, it is plain that such a conclusion can no longer be reached. Mr Christopher Madin rightly conceded in his second witness statement that by reason of what had been constructed since 1987 ‘it [was] not ... physically possible to build out the entirety of the scheme of development approved in 1967’.”

50. Since the Judge in that passage cross-referred back to para. 37 of his judgment, it is necessary to set out that paragraph here:

“The first contention concerns the effect of what has already been put on the land on the ability to comply with the January 1967 Permission in the future on the undeveloped parts of the Site. At the time of the hearing before Drake J, only a few houses in the extreme south of the Site had been built, all of them pursuant to Additional Permissions. The evidence shows that the positions of some of those houses conflicts not only with their positions as shown on the Master Plan but also to some extent with the positions of estate roads and a footpath as shown on the Master Plan. More important, perhaps, is what has happened since 1987. This later development is all in the north-west part of the Site and, again, has all been carried out pursuant to Additional Permissions. The easternmost row of terraced houses in this later development has been built across the positions shown on the Master Plan for two distinct rows of houses and an access cul-de-sac between them. To the north-west of these houses, an estate road has been constructed along the line of part of a row of terraced houses shown on the Master Plan; the estate road also runs through the positions of another house and garden shown on the Master Plan. Other examples could be given here and are given in the first statement of Mr Jonathan Cawley (the Authority’s director of Planning and Land Management) of the knock-on effect of what has already been done on the ability to develop the rest of the Site in accordance with the January 1967 Permission. The result is that, although there are large parts of the development shown on the Master Plan that could be carried out in accordance with the Master Plan, there are other parts, particularly in the north-west of the Site, where further development will necessarily involve departure from what is shown on the Master Plan.”

51. I turn to the other reason which the Judge gave, which was in fact his first reason and which he set out as follows at para. 60:

“First, the facts of this case do not fall within the *Lucas* exception to the general requirement that a development be carried out fully in accordance with the permission said to authorise it. See paragraph 44 above.”

52. At para. 62 the Judge then said the following:

“Hillside did not advance any cogent answer to the problem of physical impossibility, other than reliance on *Lucas*. Mr Lowe said, and I accept, that much of the Site is unaffected by the development that has taken place. The conflicts with the provisions of the Master Plan regarding the remainder of the north-west part of the Site remain. Mr Lowe submitted that the

issues could be worked out. That may well be right. However, they can only be worked out by a fresh grant of planning permission. The consequence is that, if the *Lucas* exception does not apply, the Authority is correct to say that future development pursuant to the January 1967 Permission would be unlawful.”

53. At the hearing before us Mr Green made clear that he does not contend that the third declaration made by Drake J in 1987, when properly construed, could have binding effect in perpetuity regardless of how the facts and the law might develop subsequently. In that regard therefore, what the Judge said at the beginning of para. 58 of his judgment is common ground. In my view, that concession was correctly made. It is inconceivable that, in 1987, Drake J could possibly have intended, certainly as an objective matter, that his declaration should continue to bind the parties regardless of future developments either as a matter of fact or in law. No judge could reasonably be taken to make such an order or declaration.
54. Furthermore, as is plain from the middle of para. 61 of the judgment, HHJ Keyser QC approached his task on the basis that, regardless of whether Drake J was right or wrong to conclude in 1987 that the remaining development could be completed in accordance with the 1967 permission, it was now plain that such a conclusion could no longer be reached. The correctness of the decision of Drake J therefore was not material to the way in which the Judge disposed of this case. For that reason, in my view, much of the argument about *res judicata* (although interesting) is not to the point.
55. There can certainly be no question of issue estoppel in relation to this part of the Judge’s reasoning. The issue with which he was dealing concerned developments since 1987. He was not deciding anything which had already been decided by Drake J in 1987 on the basis of the facts as they were up to that date.
56. That said, the Judge’s reasoning at para. 61 does call for some consideration by this Court of whether the principle in *Henderson/Abuse of Process* has the consequence that the Judge was wrong to reason as he did in that passage.
57. What Mr Green submits is that the Respondent’s predecessor (in whose shoes it stands) had the opportunity to raise an argument before Drake J based on *Pilkington*, which had been decided in 1973, but did not do so for whatever reason. He submits that it would be an abuse of process for the Respondent now to argue that point.
58. In *Pilkington*, at page 1531, Lord Widgery CJ said that a landowner is entitled to make any number of applications for planning permission which his fancy dictates, even though the development referred to is quite different when one compares one application to another. It is open to a landowner to test the market by putting in a number of applications and seeing what the attitude of the planning authority is to his proposals.
59. Where there are arguably inconsistent planning permissions in respect of the same land, Lord Widgery CJ said, at page 1532:

“One looks first of all to see the full scope of that which is being done or can be done pursuant to the permission which has been implemented. One then looks at the development which was permitted in the second permission, now sought to be implemented, and one asks oneself whether it is possible to carry out the development proposed in that second permission, having regard to that which was done or authorised to be done under the permission which has been implemented.”

60. *Pilkington* was subsequently approved by the Court of Appeal in *Hoveringham Gravels Limited v Chiltern District Council* (1978) 35 P & CR 295.
61. In *Pioneer Aggregates (UK) Limited v Secretary of State for the Environment and Others* [1985] AC 132, *Pilkington* was approved in the opinion of Lord Scarman at pages 144-145.
62. At page 145 Lord Scarman said:

“The *Pilkington* problem is not dealt with in the planning legislation. It was, therefore, necessary for the courts to formulate a rule which would strengthen and support the planning control imposed by the legislation. And this is exactly what the Divisional Court achieved. There is, or need be, no uncertainty arising from the application of the rule. Both planning permissions will be on a public register: examination of their terms combined with an inspection of the land will suffice to reveal whether development has been carried out which renders one or other of the planning permissions incapable of implementation.”
63. I do not accept Mr Green’s submissions in this regard. In my view, the doctrine in *Henderson/Abuse of Process* does not prevent the Respondent from arguing the *Pilkington* point in this case now even though its predecessor did not do so before Drake J in 1987.
64. It is clear from *Johnson v Gore-Wood*, in the passage from the opinion of Lord Bingham which I have cited earlier, that that would be too “dogmatic” an approach to take. The principle in *Henderson/Abuse of Process* is not an absolute one. It requires a merits-based assessment of all the facts, including the public and private interests concerned. In this context, there are undoubtedly important private interests, including the commercial interests of the Appellant. However, there are also important public interests at stake, including the public interest in not permitting development which would be inappropriate in a National Park.
65. Furthermore, I would accept the submission made by Mr Lewis on behalf of the Respondent that there have been significant legal developments since the decision of Drake J in 1987. In particular, the decision of the House of Lords in *Sage* has placed

greater emphasis on the need for a planning permission to be construed as a whole. It has now become clearer than it was before 2003 that a planning permission needs to be implemented in full. A “holistic approach” is required.

66. In *Sage* the main opinion was given by Lord Hobhouse of Woodborough, although there was also a concurring opinion by Lord Hope of Craighead. Mr Green emphasised that, on the facts of that case, what Lord Hobhouse was considering in terms was a planning permission for “a single operation”: see e.g. para. 23. It was in that context, submits Mr Green, that the House of Lords held that a planning permission must be implemented “fully” and that a “holistic approach” must be taken. Mr Lewis observed that, at para. 6, Lord Hope used the word “totality of the operations” (plural rather than singular). In my view, the important point of principle which arises cannot be determined according to semantic differences between the different opinions in the House of Lords. I would accept Mr Lewis’s fundamental submission that the decision in *Sage* made it clearer than it had previously been that a planning permission should be construed “holistically.”
67. As a matter of principle, I would endorse the approach taken by Hickinbottom J in *Singh v Secretary of State for Communities and Local Government and Another* [2010] EWHC 1621 (Admin), in particular at paras. 19-20, where *Sage* was cited. Hickinbottom J was of the view that, reflecting the holistic structure of the planning regime, for a development to be lawful it must be carried out “fully in accordance with any *final* permission under which it is done” (emphasis in original). He continued:
- “That means that if a development for which permission has been granted cannot be completed because of the impact of other operations under another permission, that subsequent development as a whole will be unlawful.”
68. At the hearing before us there was an interesting debate about a point which ultimately this Court does not need to resolve on this appeal. That issue is whether, in the circumstances envisaged by Hickinbottom J, all the development which has already taken place, apparently in accordance with the first grant of permission, is rendered unlawful simply by virtue of the fact that subsequent operations take place pursuant to another permission which is inconsistent with the first. The phrase used by Hickinbottom J (“subsequent development”) might suggest that it is only the later development which would fall to be regarded as unlawful. Mr Lewis contended that as a matter of principle it must be the whole of the development, including any development that has already taken place. That would have the consequence that there could be enforcement action, and potentially criminal liability, in relation to the development that has already taken place, even though it was at the time apparently in accordance with a valid planning permission. Mr Lewis submitted that in such circumstances it would be unlikely that enforcement action would be taken in practice. Even if that is right, that would mean that whether or not enforcement action is taken would be a matter of discretion rather than law. These are potentially important questions on which we did not receive full argument because they do not need to be decided on this appeal. I would therefore prefer to express no view on them.

69. Returning to the present case, in my view, Mr Lewis was correct in his submission that, as a matter of fact and degree, the Judge was perfectly entitled to reach the conclusion that it is no longer possible to implement the 1967 Permission in the light of factual developments since the judgment of Drake J in 1987. For that purpose it is necessary to turn to the evidence that was before the Judge, at least briefly.

The evidence

70. In the second witness statement of Mr Madin, at para. 3, as the Judge noted, it was accepted that what has been constructed since 1987 on the Site does not accord with the approved Master Plan and it is not therefore physically possible to build out the entirety of the scheme of development approved in 1967. However, Mr Green pointed out that, at para. 4 of his statement, Mr Madin had gone on to say:

“... While I accept that it is no longer possible to create the whole development layout as shown on the Master Plan, there is no physical impediment to completing the remainder of the Master Plan scheme as shown on my 2019 plan.”

71. Although we have been assisted by a number of plans, including one which shows the original permitted development on the Site together with what has happened subsequently by way of actual development, it has to be noted that these plans will not be on the public register. As Lord Scarman observed in *Pioneer Aggregates*, it is important that the public, including potential purchasers of land and neighbours who may be affected by development, should be able to ascertain with reasonable certainty what is or is not permitted development by reference to what is available on a public register. This is important not least because a planning permission runs with the land.
72. At the hearing before us we were taken in some detail through the various plans and shown what has been developed on the Site since 1987. It is unnecessary to go into those matters in detail for present purposes, since this is an appellate court and it is not our function to redetermine questions of fact. Nevertheless, what is clear to us is that the development which has taken place consists not only of a different type of housing, with different alignment, but has included the construction of roads on the estate which would be clearly incompatible with the road layout as depicted on the Master Plan. This does not necessarily mean that the Appellant is wrong to say that some at least of the individual units shown in the original Master Plan could still be erected on those parts of the Site which are not affected by the actual development which has taken place. What it does tend to show, in my view, is that the Judge was entitled, having all the evidence before him, to reach the conclusion that events since 1987 have made it impossible now for the original planning permission of 1967 to be implemented.
73. That indeed was the expert view of Mr Jonathan Cawley, in his first witness statement filed in these proceedings, at paras. 12-13, where he set out in detail the development which has taken place since 1987, including the roads which have been constructed on the Site, and concluded that:

“The development carried out on Site since 1987 is accordingly entirely incompatible with the 1967 Permission.”

74. Mr Green complains on behalf of the Appellant that the Authority itself has changed its view since around 2017. Before that time the Authority itself took the view that the 1967 permission could still be implemented on those parts of the Site where there had not been subsequent development pursuant to a variation: see e.g. a letter from the Director of Planning and Cultural Heritage at the Authority dated 10 October 2008.
75. In my view, while the stance which the Authority took between 1995 and 2017 is a relevant factor to be taken into account, it is certainly not conclusive that it has acted in a way which leads to an abuse of process because it is now arguing the contrary in these proceedings.
76. In view of the factual and legal developments which have taken place since the judgment of Drake J in 1987 and after balancing the public and private interests at stake in this case, I conclude that it was not an abuse of process for the Authority to seek to argue the points which it has. Further, I conclude on this part of the appeal that the Judge was entitled to reach the conclusion which he did at para. 61 on the evidence before him.
77. What that then leaves is the reliance placed by the Appellant before this Court, as it was before the trial Judge, on the decision of the High Court in *Lucas*.

The argument based on Lucas

78. *Lucas* was decided by Winn J in 1964. In that case, in 1952, planning permission was granted to develop a plot of land by the erection of 28 houses in a cul-de-sac layout. Later the plaintiffs applied for permission to develop the same plot by building six detached houses, each on a plot fronting the main road. Permission for this later development was granted in 1957 and two houses were built in accordance with it. Later, however, the plaintiffs proposed to proceed in reliance on the earlier permission from 1952 by building the cul-de-sac and the 14 houses on the southern side of it. That land was still undeveloped at that time. The plaintiffs sought a declaration that the earlier permission was still effective and entitled them to carry out the proposed development on that part of the site where it could still take place. Winn J concluded that the 1952 permission was not to be regarded in law as a permission to develop the plot as a whole but as a permission for any of the development comprised within it. Accordingly, it did authorise the “partial” development proposed by the plaintiffs.
79. At page 116 Winn J said:

“... Whilst a planning authority may well have as its object in granting planning permission for a contemplated housing estate upon a lay-out, considered by the planners, the achievement of a whole, it does not follow as a matter of law that development

conforming with that lay-out is only permitted if the whole lay-out is completed and conditionally upon its completion.”

80. At page 117 he continued:

“... I think that it is right to approach this problem on the basis of an assumption that Parliament cannot have intended to leave individual owners of separate plots comprised in the contemplated total housing scheme dependent upon completion of the whole of the scheme by the original developer, or by some purchaser from him, so that they would be vulnerable, were the whole scheme not completed, separately to enforcement procedure which might deprive them of their houses and of the money which they would have invested in those houses, whether or not they built them themselves.”

81. Later on the same page he said:

“Were it right to say that the grantee of such a planning permission as this 1952 planning permission was only enabled thereby to develop the area of land conditional upon his completing the whole contemplated development, it would be very difficult at any given moment to say whether (assuming that some houses had been built but that not all the sites included in the scheme had been filled) the development already achieved was permitted development or development without permission, insofar as it could possibly in those circumstances be said to depend upon the intention of the developer ... I think that the right view is that this planning permission in 1952 permitted each and every item comprised in the application made and granted.”

82. *Lucas* was considered by the Divisional Court in *Pilkington*. At page 1533 Lord Widgery CJ described it as “a rather exceptional case”. He said that Winn J had in that case construed the first planning permission as authorising the carrying out of a number of independent acts of development, and taking that view it naturally followed that the implementation of the second permission did not prevent the owner of the rest of the land from carrying out the independent acts of development authorised on such part of the site as remained under his control.

83. In *Hoveringham*, at page 302, Roskill LJ also considered the decision in *Lucas* and noted that it was subsequently treated by the Divisional Court in *Pilkington* as a rather exceptional case (he thought “rightly”).

84. Although *Lucas* does not appear to have been cited to the House of Lords in *Pioneer Aggregates*, both *Pilkington* and *Hoveringham* were cited and they did refer to *Lucas*.
85. In my view, this is not a *Lucas* case.
86. This issue does squarely raise a potential question of issue estoppel. This is because Mr Green submits that it was implicitly decided by Drake J in 1987 that the present case did indeed fall within the *Lucas* exception to the general requirement that a development must be carried out fully in accordance with the permission granted for it. There are two difficulties with that submission.
87. First, it is difficult to see how Drake J can be said to have decided this issue at all. *Lucas* was certainly not mentioned in his judgment and it does not appear to have been raised before him. It did not feature in the pleaded case between the parties before him nor, so far as one can now tell, in the way in which the case was argued before him at a six day trial.
88. Secondly, *Lucas* was a highly exceptional case. It has never been approved by an appellate court. It has never been followed or applied, so far as counsel have been able to show us, by any court since. Furthermore, it was described as being an exceptional case by Lord Widgery CJ (a judge with immense experience in the field of planning law) in *Pilkington*. Both this Court and the House of Lords have had the opportunity in the many decades since *Lucas* to consider whether it should be regarded as setting out a general principle or not.
89. In my view, it would not be appropriate for this Court now to overrule *Lucas*. In order to do so we would have to be satisfied that it was wrongly decided on its particular facts. It is not possible to be satisfied of that, not least because we do not have the advantage of seeing the precise terms of the planning permission which was granted in that case. It suffices to say that the case should be regarded as having been decided on its own facts.
90. As Hickinbottom J observed in the case of *Singh*, at para. 25, it is conceivable that, on its proper construction, a particular planning permission does indeed grant permission for the development to take place in a series of independent acts, each of which is separately permitted by it. I would merely add that, in my respectful view, that is unlikely to be the correct construction of a typical modern planning permission for the development of a large estate such as a housing estate. Typically there would be not only many different residential units to be constructed in accordance with that scheme, there may well be other requirements concerning highways, landscaping, possibly even employment or educational uses, which are all stipulated as being an integral part of the overall scheme which is being permitted. I doubt very much in those circumstances whether a developer could lawfully “pick and choose” different parts of the development to be implemented.

Conclusion

91. For those reasons I consider that the Judge was entitled to reach the conclusions which he did. I would therefore dismiss this appeal.

Lady Justice Nicola Davies :

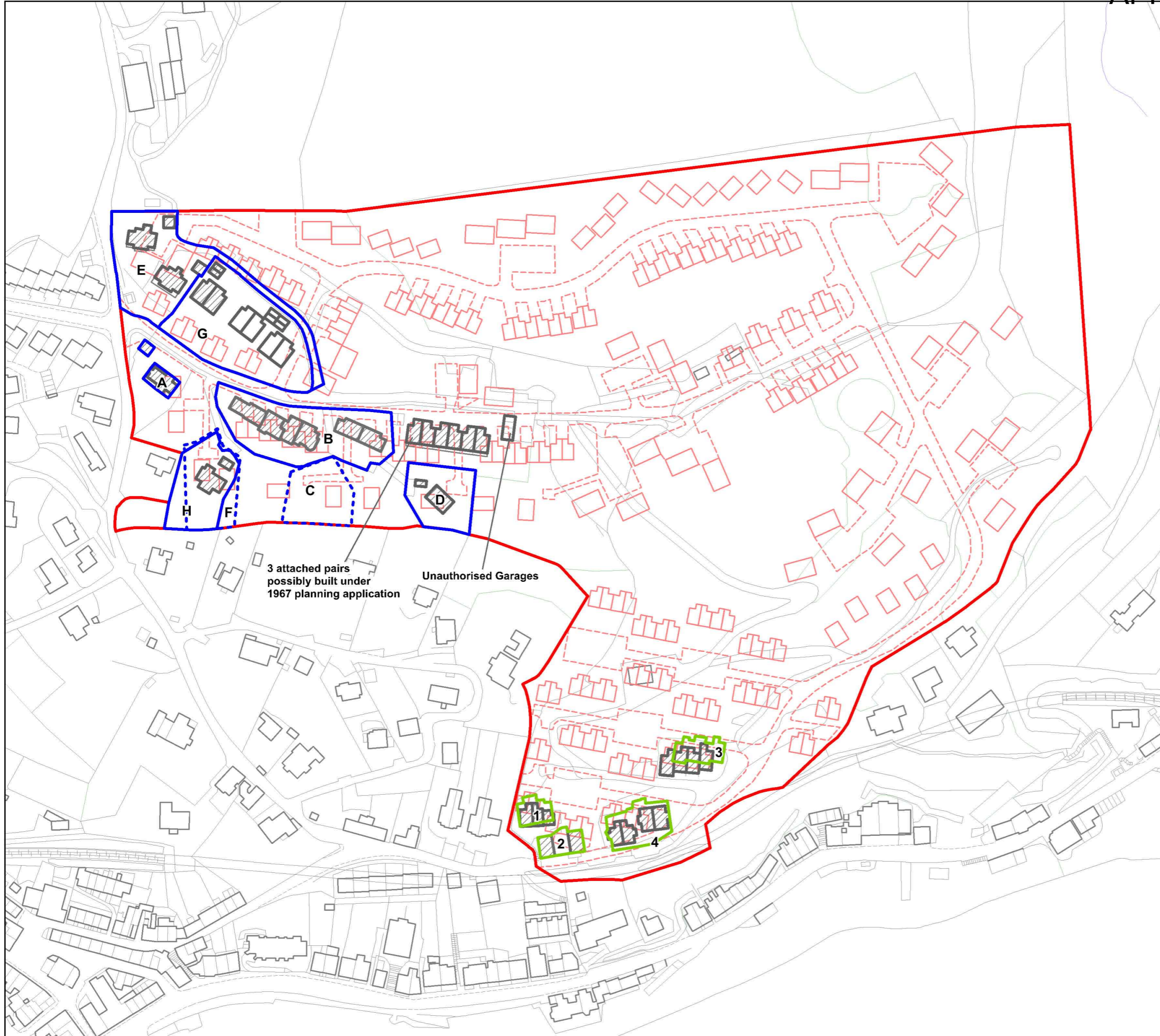
92. I agree.

Lord Justice David Richards :

93. I also agree.



Aberdyfi Hillside



- TOW.U/1115/P - 10/01/1967
- Masterplan - TOW.U/1115/P
- 1 TOW.U/1115/P - 30/08/1967 & 14/09/1967
Pair of dwelling houses / Flat
- 2 TOW.U/1599/P - 13/06/1972
2 flats with garages beneath
- 3 TYW.U/1599/P - 19/10/1972
Dwelling houses and garages, revised layout
- 4 PIAW.NP5/42/5 - 14/10/1974
Permission to retain buildings erected contrary to approved plans
- A NP5/50/300A - 08/05/1996
Plot 1, Phase 1 - 1 dwelling
- B NP5/50/300B - 15/04/1997
Plots 6-15, Phase 1 - 2 terraces
- C NP5/50/300C - 31/07/2000
Plot 5, Phase 1 - 1 dwelling (Expired?)
- D NP5/50/300D - 24/11/2004
Plot 17, Phase 1, 1 dwelling
- E NP5/50/300E - 28/06/2004
Plot 1-5, Phase 2, 5 dwellings
- F NP5/50/300F - 14/03/2005
Plot 3, Phase 1, 1 dwelling (Superceded)
- G NP5/50/300G - 07/04/2009
Plot 1-3, Phase 2, 3 pairs of dwellings
- H NP5/50/300H - 15/06/2010
Plot 3, Phase 1, 1 dwelling
- Built
- Under Construction

3 attached pairs possibly built under 1967 planning application

Unauthorised Garages

Graddfa / Scale 1:2000

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