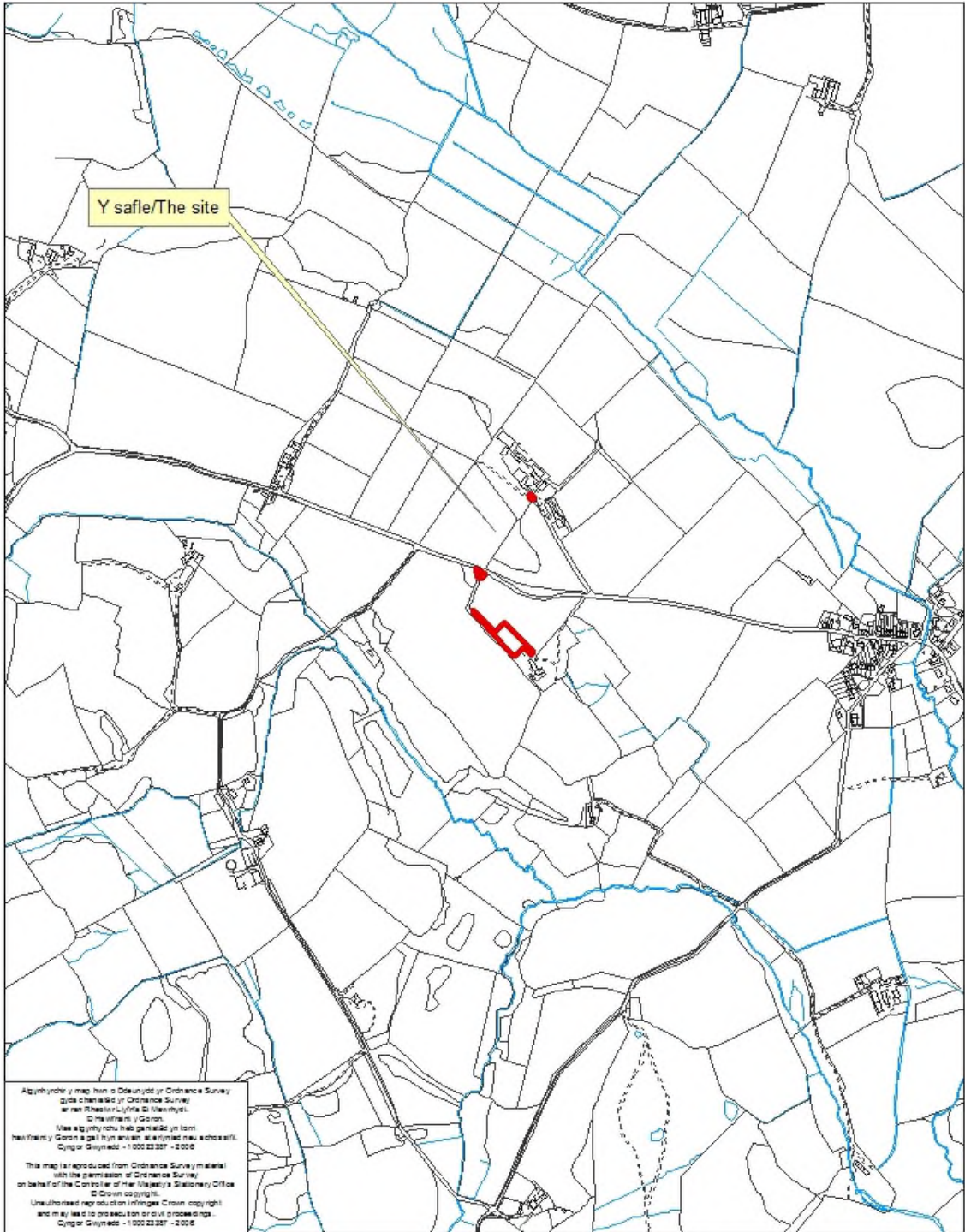


Number: 7



Rhif y Cais / Application Number : C15/0162/33/LL

Cynllun lleoliad ar gyfer adnabod y safle yn unig. Dim i raddfa.  
Location Plan for identification purposes only. Not to scale.



PLANNING COMMITTEE	DATE: 27/04/2015
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

Application Number: C15/0162/33/LL  
Date Registered: 02/03/2015  
Application Type: Full - Planning  
Community: Buan  
Ward: Efailnewydd/Buan

Proposal: A PART RETROSPECTIVE APPLICATION TO CONSTRUCT A BUILDING TO BE USED AS A COMMERCIAL GARAGE, CHANGE OF USE OF A BUILDING APPROVED AND USED PREVIOUSLY AS A COMMERCIAL GARAGE AT GALLT Y BEREN TO AGRICULTURAL USE, ALONG WITH PROPOSED IMPROVEMENTS TO THE ENTRANCE TO THE B4415 FROM HENDRE WEN

Location: GALLT Y BEREN, RHYDYCLAFDY, PWLLHELI, LL537YP

**Summary of the Recommendation:** TO REFUSE

## 1. Description:

- 1.1 The application in question is a partly retrospective application; the retrospective element of the application is to retain a building and use it as a commercial garage with a floor area of 264m<sup>2</sup> near a dwelling known as Hendre Wen, change the use of a building that was approved and used previously as a commercial garage with a floor area of 72m<sup>2</sup> in Gallt y Beren to agricultural use along with modifications to the entrance onto the B4415 from Hendre Wen. The applicant emphasises that he is exchanging the site of one commercial garage in Gallt y Beren for a new site for his business in Hendre Wen. There is no need for planning permission to change the use of a commercial garage to agricultural use.
- 1.2 The site of the commercial garage is located on a hill to the west of Rhydyclafdy on the southern side of the B4415 in Hendre Wen. The farm of Gallt y Beren, from where the use was moved, is located a short distance away down the road on the northern side of the B4415. The application site is located in open countryside outside recognised settlement boundaries as defined in the Gwynedd Unitary Development Plan (GUDP), and also the site is located within a Landscape Conservation Area.
- 1.3 Permission has been granted previously for an agricultural shed for storage purposes in Hendre Wen on 1 June 2009. In September 2011, a planning application was submitted to change the use of the agricultural building into a garage and MOT centre. The planning application was later withdrawn on 22 February 2012 as it was obvious that the application was not a change of use as the building had not been constructed in accordance with the application which had been previously approved. On 14 December 2012, a further planning application was submitted to change the use of an agricultural shed into a garage and MOT centre. That application was refused on 21 February 2012 on the grounds that the development was a misuse of general permitted agricultural development rights, the prominence of the building, lack of visibility from the entrance to the nearby county road and no justification for locating the building in open countryside. As a result of the refusal of the planning application, an enforcement notice was submitted to terminate the use and demolish the building used as a commercial garage and remove all the materials associated with that use from the site.
- 1.4 An appeal was lodged against the enforcement notice and the planning refusal to the Planning Inspectorate on 13 August 2013, and both appeals were refused by a decision dated 2 May 2014. The enforcement notice was amended to extend the

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compliance period to 12 months which would end on 4 May 2015. It is obvious at the moment that no effort has been made to comply with the requirements of this notice.

## 2. Relevant Policies:

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that decisions should be in accordance with the Development Plan, unless material planning considerations dictate otherwise. Planning considerations include National Planning Policy and the Unitary Development Plan.

### 2.2 Gwynedd Unitary Development Plan 2009

POLICY B10 – PROTECT AND ENHANCE LANDSCAPE CONSERVATION AREAS by ensuring that proposals conform to a series of criteria aimed at avoiding significant damage to recognised features.

POLICY B20 – SPECIES AND THEIR HABITATS WHICH ARE INTERNATIONALLY AND NATIONALLY IMPORTANT - Refuse proposals which are likely to cause disturbance or unacceptable damage to protected species and their habitats unless they conform to a series of criteria aimed at safeguarding the recognised features of the site.

POLICY B22 – BUILDING DESIGN - Promote the good building design by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and character of the local landscape and environment.

POLICY B23 – AMENITIES - Safeguard the amenities of the local area by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and amenities of the local area.

POLICY B25 – BUILDING MATERIALS - Safeguard the visual character by ensuring that the building materials are of high standard and in keeping with the character and appearance of the local area.

POLICY C1 – LOCATING NEW DEVELOPMENTS - Land within town and village development boundaries and the developed form of rural villages will be the main focus for new developments. New buildings, structures and supplementary facilities in open countryside will be refused with the exception of a development which is permitted under another policy within the Plan.

POLICY C4 – ADAPTING BUILDINGS FOR RE-USE - Proposals to adapt buildings for re-use rather than demolition will be approved provided specific criteria can be met involving the suitability of the building, visual considerations, design and impact on the vitality of nearby towns and villages.

POLICY CH33 – SAFETY ON ROADS AND STREETS - Development proposals will be approved if they can conform to specific criteria regarding the vehicular entrance, the standard of the existing roads network and traffic calming measures.

POLICY D5 – SPECIAL LOCATION NEEDS - In exceptional cases, proposals to locate an industrial or business development on sites that have not been designated or safeguarded for business/industry will be permitted, provided the development has genuine 'special location needs' which cannot be met in an existing designated High Quality Employment or Industrial Site.

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POLICY D7 – RURAL WORKSHOPS OR SMALL-SCALE INDUSTRIAL UNITS/BUSINESSES OUTSIDE DEVELOPMENT BOUNDARIES – Proposals will be approved if it can be shown that the development site is the most suitable location to meet the need and comply with criteria relating to using existing buildings the scale, type and design of the development, reducing the visual impact of the development, and no need for a new dwelling to serve the development.

POLICY D8 – EXPANSION OF EXISTING ENTERPRISES - Proposals involving the expansion/extension/intensification of existing industrial and business or other enterprises will be approved provided that certain criteria can be met involving the suitability of the existing use in terms of the surrounding area and nearby uses and its relationship with the existing work.

POLICY D10 - CONVERSION OF BUILDINGS FOR INDUSTRY OR BUSINESS USE - Proposals for change of use of buildings for small-scale industry or business uses will be approved provided the chosen location can be justified and all the criteria met involving the scale and nature of the development and the relationship of the development with nearby buildings/uses.

### 2.3 National Policies:

Planning Policy Wales, Edition 7, July 2014

TAN 6 – Planning for Sustainable Rural Communities (2010)

TAN 9 – Planning Control Enforcement (1997)

TAN 12 – Design (2009)

TAN 18 – Transport (2007)

TAN 22 – Sustainable Buildings (2010)

### 3. Relevant Planning History:

- 3.1 C05D/0704/33/LL – Change of use of an agricultural building into a commercial garage on the site of Gallt y Beren – Approved with conditions – 30-01-2006
- 3.2 C09D/0124/33/YA – Construct an agricultural shed on the site of Hendre Wen - Approved 1 June 2009
- 3.3 C11/0927/33/LL – Change of use of agricultural shed to an MOT centre (B2) – Withdrawn 22 February 2012
- 3.4 C12/1628/33/LL – retain building as constructed to be used as a garage/MOT centre with part of it to be retained for agricultural use on the site of Hendre Wen – Refused 20-02-13
- 3.5 Enforcement Notice – No planning permission to construct a building and change of use from agricultural use to a commercial garage and MOT centre along with associated car park, creating hard standing areas and installing oil tanks – Issued 24 July 2013 and came into force on 23 August 2013 and a period of three months was granted to comply with the requirements of the notice.
- 3.6 Planning and Enforcement Appeal - An appeal was lodged to the Planning Inspectorate against the enforcement notice and the planning refusal on 13 August 2013; both appeals were refused by a decision dated 2 May, 2014. The enforcement notice was amended to extend the compliance period to 12 months that would end on 4 May, 2015.

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#### 4. Consultations:

Community/Town Council:	Support
Transportation Unit:	No objection to the proposal and offering standard conditions regarding the work to the entrance.
Natural Resources Wales:	Advise that any planning permission granted should include a condition to ensure that there is no pollution of water courses as a result of the business on the site. Note that the waste produced as a result of the business on the site should be disposed of in an appropriate manner and a consultation should be sent to the Council's ecologist to ensure that the development does not have a detrimental effect on any protected species.
Welsh Water:	Not received.
Biodiversity Unit:	Not received.
Public Protection Unit:	Not received.
Public Consultation:	A notice was placed on the site and nearby residents were informed. The advertising period ended and correspondence was received objecting on the following planning grounds:

- The building was constructed without planning permission;
- Approving the building would set a dangerous precedent for other similar businesses / developments to establish;
- The building is an eyesore and should be demolished;
- The business could relocate to a purpose built building/site locally;
- The matter had been through the appeal process and the decision to refuse a previous planning application and to issue an enforcement notice has been supported by the Planning Inspectorate.
- No objection to the existing business but concern that the business would grow to sell vehicles and as a consequence the site would become untidy.

In addition to the above, objections were received that were not valid planning objections and included the following:

- The building does not satisfy the necessary standards for industrial buildings;
- Dissatisfied with the standard of service;

A large number of correspondence was received in support of / providing observations on the application on the grounds of:

- The building is not an eyesore and does not spoil the area more than any other agricultural building;
- Support should be given to businesses in the countryside which provide full-time and part-time jobs for local people;
- The service offered by the business is of a high standard;
- The Council should support successful family businesses;
- The business contributes positively to the local economy;

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- The business is a means of agricultural diversification and is necessary for the success of the original farming business;
- The location of the business is convenient and sustainable for local customers;
- The business has been relocated from its original location in Gallt y Beren because it was not possible to expand the business on that site and this site improves the provision for customers;
- Closure of the garage would lead to job losses;
- The proposal does not have a detrimental effect on the amenities of residents as it is located in the countryside far away from any private dwellings;
- The business is neat and tidy;
- Landscaping and an alternative finish to the building would assist in concealing the impact of the building on the landscape;
- The local community supports the application;
- The improvements to the entrance means that it will not have an impact on road safety;
- An agricultural building was approved previously on the site and there is almost no change when comparing the building that was given permission at that time with the building which is the subject of this application;

## **5. Assessment of the relevant planning considerations:**

### **Principle of the development**

- 5.1 When considering this application, it is necessary for us to consider the decision to refuse the appeal by the Planning Inspectorate for a previous application and enforcement notice. For information, a copy of the appeal is attached to this report.
- 5.2 Policy C4 and D10 of the GUDP approves proposals to adapt buildings for re-use rather than demolishing them depending on compliance with criteria. As it is obvious that the building has not been constructed in accordance with the plans of the agricultural decision and has never been used as an agricultural shed, policies C4 and D10 of the GUDP are not relevant to the application in hand and the content of the appeal decision confirms this view.
- 5.3 In his statement to support the application, the applicant states that it is necessary to relocate the business as a commercial garage from the existing building near the farm buildings in Gallt y Beren. Furthermore, he states that he has moved to the building which was the subject of the application and agricultural decision in 2009 following amendments and a reduction in the size of the holding and farm business which meant that there was no further need for that building for the agricultural business. Paragraphs 12 and 13 of the appeal decision, which has already been referred to, notes that the building constructed as a commercial garage was of a different design to the agricultural building on the decision and that it was used from the start as a commercial garage. In addition, the Inspector stated that the applicant's reliance on a previous decision for an agricultural building is not relevant and, furthermore, the Inspector considers that relying on the decision in question is a misuse of permitted development rights under Part 6 of the Town and Country Planning Order (General Permitted Development Rights) 1995. Consequently, it is considered that this business is an industrial business in a new building in open countryside.

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- 5.4 As the development is an industrial one, it is crucial to consider whether the development has special location needs under policy D5 of the GUDP, but there are no exceptional needs here to locate a business on this specific site, bearing in mind that the applicant has an established business in a shed on the family farm adjacent to the current site approximately 280 metres from the site. It is noted in the applicant's statement that he intends to expand his business to a larger building and he states that relocating to a purpose-built industrial estate locally is not an option. He also refers to other sites in the Dwyfor area which are available for various reasons but he notes that these sites are not ideal for several reasons such as location and rental costs or the costs of purchasing such an unit. Also, reference is made to other commercial garage businesses that exist in the area, several of these are businesses that are located either within development boundaries in the Gwynedd Unitary Development Plan or are long-established. The applicant alleges that this site is more sustainable than other sites locally because of the location of his clients and the business provides employment for three full-time and three part-time workers. Despite this, there is no justification why such a development cannot be located within development boundaries in local towns or villages nearer to those clients. In addition, the applicant states that the development is a means of agricultural diversification but as has already been stated, no evidence was submitted of this on the previous applications and on the appeal and there is no evidence to show why there is a need to locate the business on this site and not on a more suitable alternative site.
- 5.5 No evidence or justification has been submitted (in addition to what was submitted to the Inspector during the appeal), to convince the Council that this site is suitable for such an industrial development and the applicant's desire to expand the enterprise is not a sufficient reason to justify a new industrial unit in open countryside. Whilst recognising that the building in Gallt y Beren is unsuitable for a business of this type, this commercial garage has no specific 'special location needs' that could not be met on other purpose-built employment/industrial sites in the region. Therefore, the proposal is contrary to policies C7, D5 and D8 of the GUDP.
- 5.6 Policy D7 of the GUDP states that proposals for workshops/industrial units will be approved on a small scale if it can be shown that the site of the development is the most suitable location to meet the need and if they fit in to the area. The policy encourages using sites near to groups of buildings or sites that have been previously developed. In addition, they should be in-keeping with the rural background. In this case, there is no close connection to similar buildings as it stands alone, except for the farmhouse, in a prominent position on a hilltop with such an industrial finish that it stands out as an incongruous feature in the countryside. The applicant has provided a landscape statement from AAH Planning Consultants, noting that the visual impact of the development could be mitigated by means of planting and landscaping and changing the design and finish of the building. The landscape statement shows that the proposals suggested in the statement would go part of the way in negating the impact of the development. However, the site is not located near a group of buildings and it is not previously used land as defined in Planning Policy Wales. Although the applicant states that the previously used building in Gallt y Beren is to be returned to agricultural use, it is not considered that this in itself would overcome the negative effects of the development and as already noted, planning permission is not required to change this specific use. Also, paragraph 6.2.22 of Policy D7 states specifically that the Local Planning Authority will consider applications to convert buildings that are permitted under agricultural use rights carefully in order to prevent the misuse of permitted planning development rights. Therefore, it is considered that the development is contrary to policy D7 of the GUDP.

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### **Transportation**

5.7 A private road serves the site with the entrance joining the class 2 county road, namely the B4415 to Rhydyclafdy. The applicant has provided a plan to show modifications to the entrance to the site by locating it to the east of its existing location. In addition, the applicant has submitted a traffic assessment (this was submitted to the appeal also), which confirms that a visibility splay of 70m is required in each direction. In his appeal decision the Inspector stated that there would be a need to remove the hedge and a tree to ensure the necessary visibility and the Inspector was of the opinion that this would have a detrimental effect on the character and appearance of the area. The hedge and the tree in question have already been removed from the site. In response to the consultation, the Council's Transportation Unit state that they have no concerns regarding the proposal in terms of road safety and they offer standard conditions regarding the standard of the entrance should the application be approved. Although it is realised that this work would provide the sufficient visibility, it is considered that this work would have a detrimental effect on the character and appearance of the area, contrary to Policies B10 and CH33 of the GUDP.

### **Visual Amenities**

5.8 The building, which is of an industrial appearance, stands on its own, except for two farmhouses, in an elevated and open position on a prominent hill within a Landscape Conservation Area. The site and local area is typical of the character and undulating landscape of the Llŷn area which is of a medium standard according to the LANDMAP landscape assessment method. As noted above, it is considered that the work of landscaping and planting and changing the finish to a dark green colour would possibly negate some of the impact of the development but it is considered that it would continue to stand out prominently as an industrial feature which is incompatible with the type of buildings expected on a farm in a countryside location and in a Landscape Conservation Area. The statement submitted with the application refers to a building on a nearby site in Bodsela which has been finished in light-grey corrugated sheeting and it is confirmed that a condition was imposed on that planning permission for an alternative colour and this is the subject of action by the Planning Service's Enforcement Unit. In addition, the appeal decision states that a proposal to landscape the boundary would not outweigh any of the objections to the visual impact of the development. As noted above, the site is not located well in relation to other buildings and the existing development boundary. Therefore, it is considered that the proposal is contrary to policies B10, B22, B25 and D7 of the GUDP.

### **Residential Amenities**

5.9 The aim of policy B23 of the GUDP is to safeguard the amenities of the local neighbourhood by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and amenities of the local area. It is understood that the applicant lives in the dwelling known as Hendre Wen near the application site. There are no other residential houses located in the area. Therefore, it is not considered that there would be any adverse effect on the amenities of nearby residents. Also, no observations were received from the Council's Public Protection Service. Taking this into consideration, it is considered that there would be no unacceptable impact on the amenities of nearby residents and the proposal complies with policy B23 of the GUDP.

### **Biodiversity**

5.10 Policy B20 of the GUDP states that proposals will be refused if they are likely to create a disturbance or unacceptable harm to protected species and their habitats, and the site in question is not located within or in close proximity to any recognised



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conservation designations. The response of the Council's Biodiversity Unit was not to hand when completing this report but a response was received from Natural Resources Wales proposing standard conditions should the Council wish to approve the application. The Inspector did not raise any concerns in the recent appeal regarding biodiversity matters. Taking this into account, there are no concerns regarding the impact of the development on biodiversity and it is considered that the development complies with policy B20 of the GUDP.

### **The response to the public consultation**

5.11 It is apparent from the response to the public consultation, the response of the Local Councillor and the Community Council that there is strong support for the business in the local area as it provides a service locally and provides employment. Whilst the Council supports local business development and employment, it must be ensured that such developments are located sensitively and in compliance with the policies listed above. Some of the correspondence that was received raised matters that are not material to planning, such as family circumstances, the standard of service and whether the building in question complies with building standards and safety for such buildings. However, it is considered that the observations dealing with planning matters have received due consideration as part of this assessment.

## **6. Conclusions:**

6.1 Following consideration of the relevant planning policies, it is considered that the proposal will have an unacceptable impact on the character of the area and there is no justification for locating the development on this site. Consideration has been given to the fact that local and national planning policies in general support economic growth and employment in the countryside. Despite this, in this case, the advantages of the development do not outweigh the damage to the landscape and its location in an unsustainable site. It is considered that the development does not comply with relevant policies of the GUDP or the guidelines provided in Planning Policy Wales.

It is crucial to emphasise also that the decision of the Planning Inspectorate on behalf of Welsh Ministers to refuse the application supports the view of the Council in this case to refuse an appeal against the refusal of the previous planning application and enforcement notice, and no additional evidence has been submitted with this application that would lead to reversing the Inspector's decision.

## **7. Recommendation:**

7.1 Refuse - reasons

1. It is considered that the proposal is tantamount to constructing a new industrial building in the countryside and it is impossible to consider this proposal as changing the use of an existing building. There is no justification for its location in open countryside and no special location needs exist for this development. Therefore, the proposal is contrary to policies D5, D7, D8 and C1 of the Gwynedd Unitary Development Plan (July 2009).
2. The building as it was constructed and because of its colour, openings and finishes is prominent as an obvious industrial feature that does not respect and is not in keeping with the character of such open countryside that has been designated as a Landscape Conservation Area. Also, the work to the entrance would have a detrimental effect on the character and appearance of the area. Therefore, it is considered that the proposal does not comply with the requirements of policies B10, B22 and B25 of the Gwynedd Unitary Development Plan (2009).

## Penderfyniadau ar Apêl

Gwrandawriad a gynhaliwyd ar 17/12/13  
Ymweliad â safle a wnaed ar 17/12/13

**gan Iwan Lloyd BA BTP MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 2 Mai 2014**

## Appeal Decisions

Hearing held on 17/12/13  
Site visit made on 17/12/13

**by Iwan Lloyd BA BTP MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 2 May 2014**

**Appeal Ref: APP/Q6810/C/13/2203352**

**Site address: Land at Hendre Wen, Rhydyclafdy LL53 7YP**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Arwel Bryn Parry against an enforcement notice issued by Gwynedd Council.
- The Council's reference is G13/0076.
- The notice was issued on 24 July 2013.
- The breach of planning control as alleged in the notice is without planning permission the erection of a building and change of use of land from agricultural use to use as commercial garage and MOT station together with associated car parking; formation of hard standings and installation of oil interceptor tanks.
- The requirements of the notice are to:
  - i. Cease the use of the building the approximate extent of which is shown crosshatched black on the Plan as commercial garage and MOT station;
  - ii. Cease use of the land the approximate extent is shown outlined green on the Plan for the purpose of associated car parking for the commercial garage and MOT station;
  - iii. Remove all vehicles, tools and apparatus used in connection with use of the land as commercial garage and an MOT station from the land;
  - iv. Demolish the building the approximate extent of which is shown cross hatched on the Plan and remove all resulting materials and rubble from the land;
  - v. Remove all hardstanding and interceptor tanks from the land;
  - vi. Restore the land to its condition prior to the breach in planning control taking place.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

**Appeal Ref: APP/Q6810/A/13/2202625**

**Site address: Hendre Wen, Rhydyclafdy, Pwllheli LL53 7YP**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Arwel Parry against the decision of Gwynedd Council.
- The application Ref C12/1628/33/LL, dated 14 December 2012, was refused by notice dated 21 February 2013.
- The development proposed is change of use of part of agricultural shed to garage and MOT

station, B2 class usage in order to move and expand my current business from Gallt y Beren, Rhydyclafdy.

## **Decisions**

### **Appeal Ref: APP/Q6810/C/13/2203352**

1. I direct that the enforcement notice be varied by the substitution of "12 months" for "3 months" as the period for compliance.
2. Subject to this variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Appeal Ref: APP/Q6810/A/13/2202625**

3. The appeal is dismissed.

### **The ground (a) appeal, the deemed application and the planning appeal**

4. The main issues in this case are whether the development is justified in the countryside having regard to the provisions of the development plan, and the effect of the development on highway safety.

#### *Character and appearance*

5. The development is located on a brow of a hill to the west of Rhydyclafdy on the south side of the B4415 at Hendre Wen. Gallt-y-Beren farm which the use was moved from is located a short distance down the road on the north side of the B4415. The appeal site is situated in the countryside outside of recognised settlement boundaries as defined in the Gwynedd Unitary Development Plan (UDP).
6. The Appellant's submission is that planning policies support the change of use of rural buildings to commercial and industrial uses in the countryside as rural enterprises and diversification schemes provide a valuable service to rural customers in the area, which is regarded as sustainable, and it also creates and sustains employment. The building was erected for agricultural purposes and there was a genuine intention to use the building for these purposes.
7. Prior approval was granted for an agricultural shed for storage purposes at Hendre Wen on 1 June 2009. The plan accompanying the application showed four bay doors on the front elevation, a blank rear and side elevation. Works commenced on the ground preparation and foundations of the building a short period after the approval was given.
8. However, in September 2009 the Appellant had to sell some 60Ha of land and livestock as the bank reclaimed a loan on the farming business. At the hearing, the Appellant indicated that the original holding was some 182Ha, but about a third was auctioned to pay back the loan. As the farm land holding was reduced the farming enterprise could no longer support the number of animals on the farm and they were also sold. This change in circumstance removed the requirement for space provided by the building. Work had stopped on the building and only the frame was in place at that time.
9. In September 2010 a planning application was submitted for the change of use of the agricultural building to a garage and MOT station. At the hearing, the Appellant clarified that the actual date of submission was 14 October 2011. The planning

officer's site visit photographs from the visit on 16 November 2011 revealed only the frame of the building was in place with no sheeting panels installed. The planning application was later withdrawn on 22 February 2012.

10. On 14 December 2012 a planning application the subject of these appeals, was submitted for change of use of agricultural shed to garage and MOT station. The Council's requisition for information reveals that the alleged use began on 7 January 2013. The proposed plans showed a small area of the building was to be used for agricultural purposes the remainder for the industrial use. The Appellant clarified at the hearing that there was no agricultural component for the building's use, and that work had progressed on the building from February 2012 to January 2013 when it was substantially completed.
11. The Appellant maintains that at the time of the prior approval there was a genuine agricultural need for the building, but circumstances changed, and planning applications were submitted for consideration for a change of use.
12. However, by the time of the submission of the planning applications there was no change of use of the building, as the Appellant's own evidence at the hearing and the response to the requisition for information testifies that the building was erected and used from the outset as a garage/MOT station. Reliance on UDP Policies D10 and C4 has limited relevance to the development as built. These deal with proposals for adapting buildings for re-use. In addition, the Appellant concedes that the intended appearance of the building granted prior approval differed from the development as built. Shutter doors in the constructed building are located in a different position from that shown on the prior approval, and new smaller windows and doors have been installed, resulting in a building with a different character to that of an agricultural building.
13. The Town and Country Planning (General Permitted Development) Order (GPDO) 1995, as amended, Schedule 2, Part 6, A.2 (2) (v) (aa) states that where prior approval is required, it shall be carried out in accordance with the details approved. Article 3(5) of the GPDO states that permission granted by Schedule 2 shall not apply if the building operations involved in the construction of that building are unlawful. I consider that reliance on the prior approval development does not apply to a building used and constructed for a commercial garage use. I therefore consider the development as a new build industrial business located in the countryside. I note the suggestion that advice was given to pursue and application for a change of use, but that informal advice is not binding on the Council to take enforcement action.
14. UDP Policy D7 permits workshops or small scale industrial business units outside development boundaries. This is provided that it can be shown that the proposed site is the most suitable location to fulfil that need. Preference in the policy is given to existing buildings being used but an exception is allowed where there are no existing suitable buildings available, and the site is physically related to an existing development boundary and adjoins an existing group of buildings or is a previously developed site. The criteria of the policy also relate to the scale of the development being appropriate, that the development includes boundary treatment, and that a dwelling is not needed to serve the development. UDP Policy C1 seeks to ensure that new development is located in a sustainable place in towns and villages and on land within development boundaries.
15. The Appellant indicates that the authorised re-use of a building as a commercial garage on the Gallt-y-Beren farm site, was too small to accommodate the needs of the

enterprise, and there was a requirement to provide additional services. MOTs were previously outsourced to a garage in Llanbedrog some 4.8km away. This was considered costly and unsustainable, due to the additional journeys created, and because the Appellant was seeking to expand to provide MOT testing for Class 7 vehicles (vehicles between 3000kg and up to an including 3500kg in gross weight). The Appellant indicates that this larger type vehicle is increasingly popular with the farming community and building trades, and require larger buildings and equipment than which was available at Gallt-y-Beren.

16. The Appellant claims that the location of the development at Hendre Wen is sustainable and has submitted the locations of his client base in the area, and provided letters in support of the development. He maintains that the development improves the diversity of the economic base in the area, and provides work for two full-time workers, and part-time administrator and cleaner (2 additional workers from the previous site). The business also provides trade and benefits to other local businesses in the area.
17. I have concluded that the development does not utilise an existing building, but is a new building facilitating the use instigated at the outset of the construction. The Appellant indicates that there were no suitable premises available in the locality. The location of Pwllheli's industrial park was discounted because the Appellant would no longer provide a local service to meet the needs of his clients. However, in looking at the client base maps provided, there is a concentration of customers in local centres such as Pwllheli, Efailnewydd, Llanbedrog and Rhydyclafdy. These locations appear to me more sustainable for the pattern and spread of clients than the appeal site, due to the concentration of potential and existing customers.
18. In my view, the Appellant has not shown sufficient evidence to persuade me that the development site is the most suitable location to fulfil the need, and that there are no existing suitable buildings available. I recognise that the existing building at Gallt-y-Beren is no longer suitable for the needs of the business, but the location of the commercial garage has no particular 'special location needs' which cannot be met on an existing designated employment/industrial site. The development is therefore contrary to UDP Policies D5, D7 and C1.
19. The site is not well located to an existing development boundary, and generally does not adjoin a group of buildings. There are existing buildings on Hendre Wen, the residential dwelling and other farm or domestic buildings, but it does not relate well to these or to the buildings at Gallt-y-Beren, since it is located on a promontory landform overlooking Rhydyclafdy and the B4415. The proposal to landscape the boundary would not overcome this objection in terms of the harm caused to the character and appearance of the area. The proposal does not protect and enhance the Landscape Conservation Area and does not respect the site and surrounding area, in conflict with UDP Policies B10 and B22.
20. I consider the proposal would fail these UDP policies and would not meet the guidance contained in Planning Policy Wales. I conclude that demand for the use could be met elsewhere where such development would cause less harm, in line with the sustainability credentials of locating development in local service centres or towns.
21. I conclude that the development is not justified in the countryside having regard to the provisions of the development plan.

### *Highway safety*

22. The Appellant has provided speed surveys showing the 85<sup>th</sup> percentile wet weather speed, resulting in a requirement for 70m visibility either side of the access. The west side visibility requirement would result in the removal of the hedge, embankment and tree if at least 2m of the minor arm of the road junction is to be met. The required visibility to the east is achieved.
23. The land required to achieve the visibility to the west is in separate ownership. The Appellant indicates that agreement has been reached and has provided a letter from the adjoining landowner. As a result, there is a prospect that the development could provide the required visibility within the lifetime of any permission which may be given.
24. However, the works are not minor in terms of their impact. I therefore conclude that the works required to achieve the visibility would by itself have a harmful effect on the character and appearance of the area, in conflict with UDP Policy B10, which seeks to protect and enhance the Landscape Conservation Area, and is not a development which would be in keeping with the local area, as required by Policy CH33.

### **The appeal on ground (g)**

25. The Appellant's case is that 3 months is too short a period to find alternative premises and seeks 18 months, as the period for compliance. The Appellant maintains that there is a lack of suitable premises in the area that could accommodate the business, and is concerned that the logistical problems of re-locating would cause considerable issues for the staff and the future viability of the business. The Council has indicated that it could relax the compliance period to 6 months.
26. In view of my findings on the ground (a) appeal and the planning appeal, and the circumstances of this business enterprise, a period of 12 months would allow time to find alternative accommodation, so that this could be planned and managed over the relevant period. The period of 12 months is tolerable in the interests of the public when considering the considerable burden which is placed on the Appellant.
27. To this limited extent, the appeal on ground (g) succeeds.

### **Conclusion**

1. I have found against the development in relation to its impact on the character and appearance of the area, and the justification for the development at this location having regard to the development plan. I have had regard to the overall thrust of national and local planning policy which seeks to support economic growth and employment alongside social and environmental considerations within the context of sustainable development.
2. However, in this instance, I conclude that the benefits in terms of a contribution to economic growth, rural enterprise and employment do not outweigh the harm which is caused to the landscape character and appearance of the area, and the need to ensure new development is located in a sustainable place.
3. In this case the balance is such that permission should not be granted. For these reasons, and taking into account all matters raised, including a reported case of a similar development in Flintshire, and local representations in favour of the development, I conclude that the appeals should not succeed.

4. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application, the ground (a) appeal, and the planning appeal.

*Iwan Lloyd*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr B Owen DipTP MRTPI MRICS	Appellant's agent
Mr J Bradshaw BA MSc MRTPI	Assisting the agent
Mr A Parry	Appellant
Ms S Davies	Supporting the appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr G Evans MSc MA	Planning Enforcement Officer
Ms M Davies BA MSc	Planning Officer
Mr G Roberts B.Eng Civ Eng	Senior Development Control Officer Transportation Unit

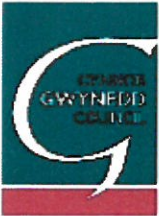
### INTERESTED PERSON:

Cllr A Davies	County Councillor
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## **DOCUMENTS SUBMITTED AT THE HEARING**

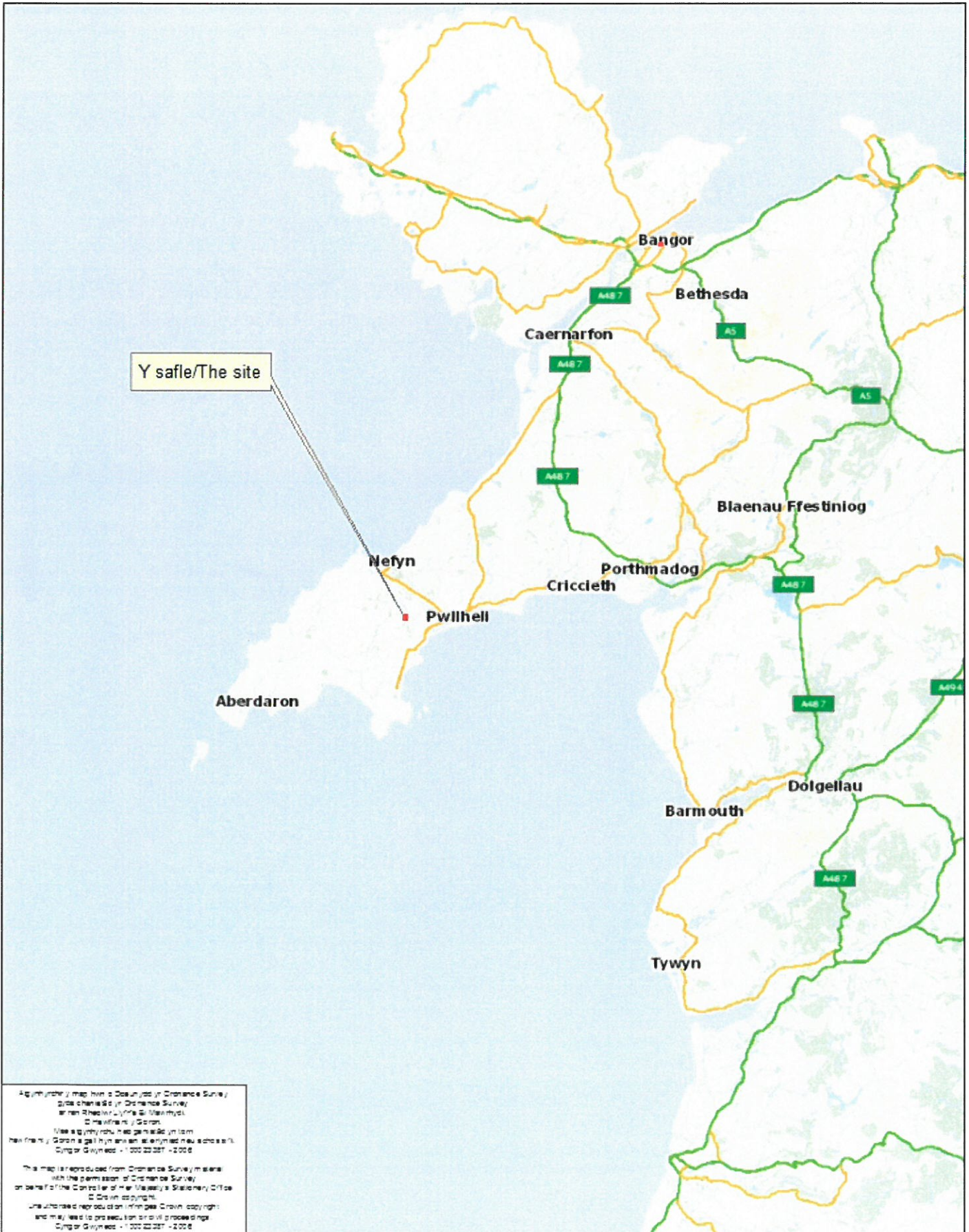
1. Council's notification letter
2. Two maps plotting where customers travel from to the garage.



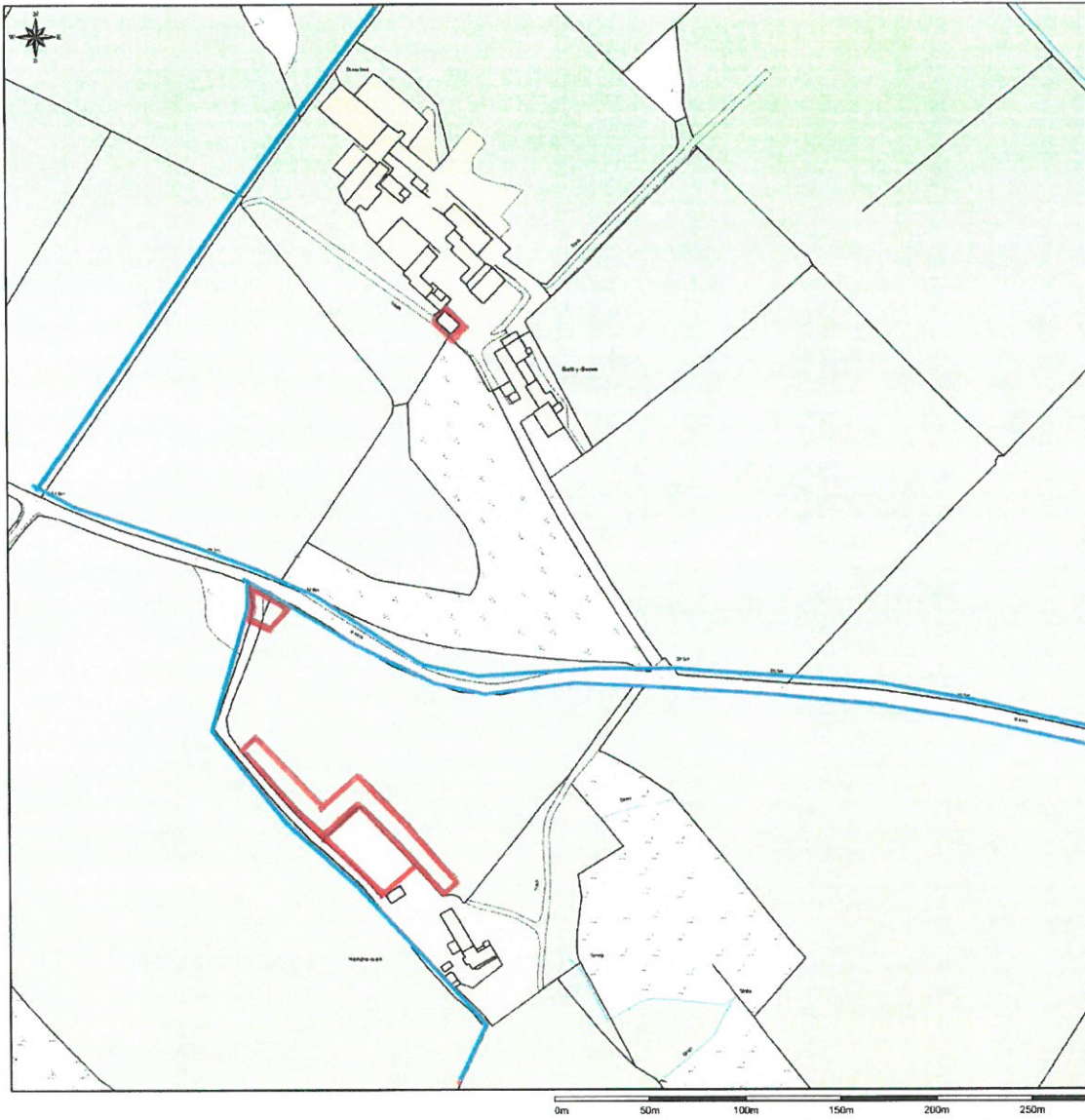


Rhif y Cais / Application Number : C15/0162/33/LL

Cynllun lleoliad ar gyfer adnabod y safle yn unig. Dim i raddfa.  
Location Plan for identification purposes only. Not to scale.





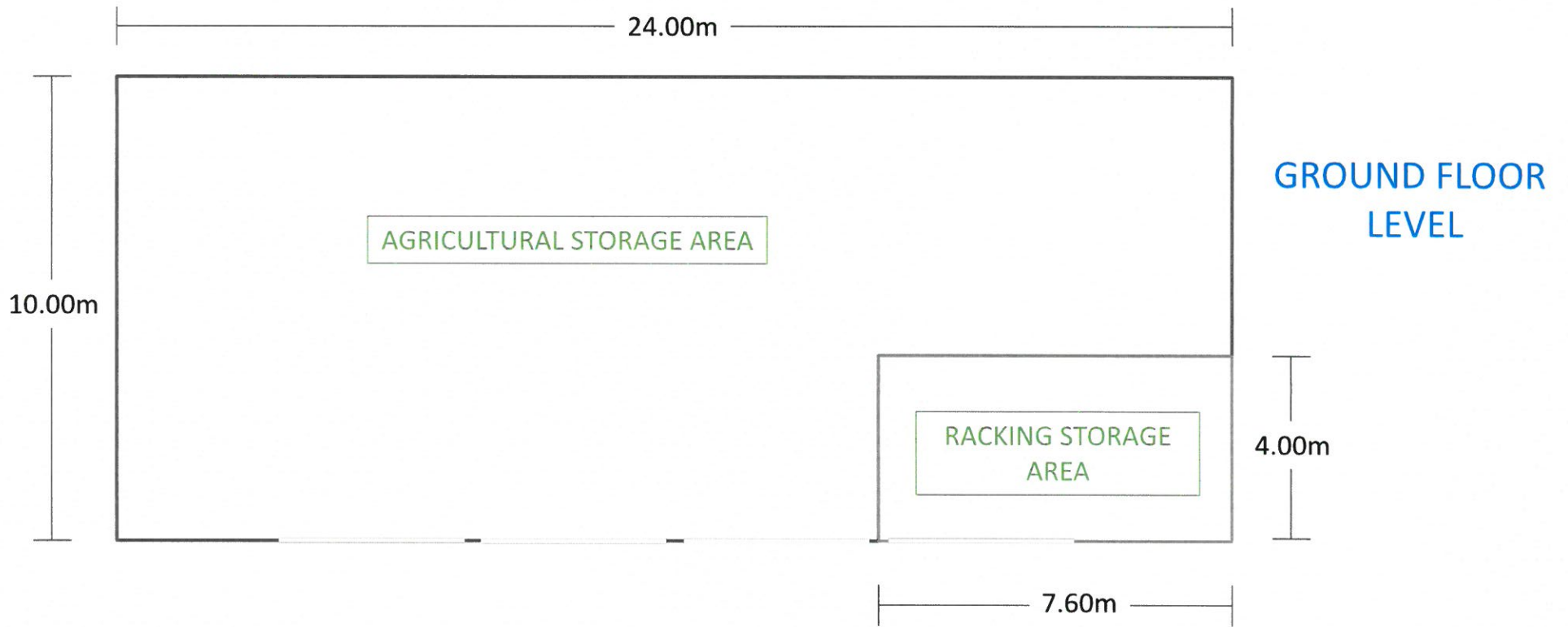


Scale: 1:2500, paper size: A3

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**plans ahead** by **emapsite™**

Prepared by: Dylan Evans, 26-02-2015

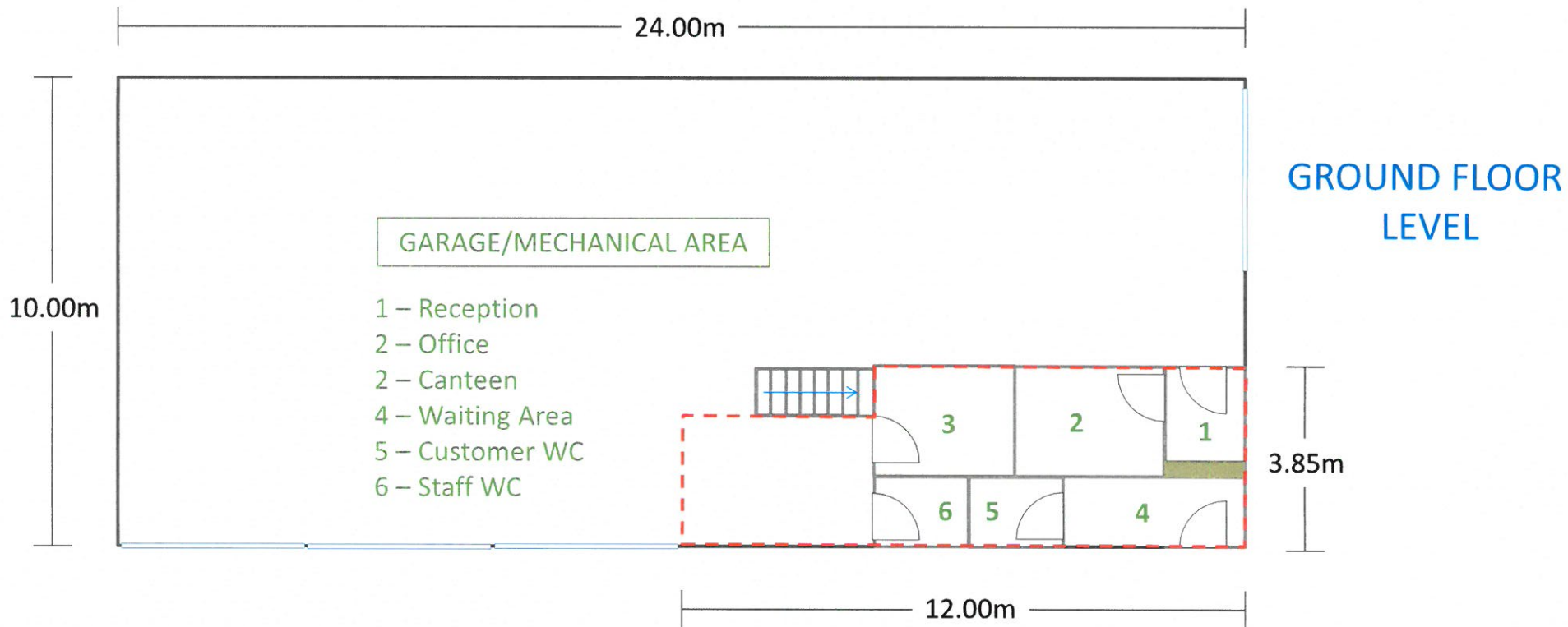


PERMITTED FLOOR PLAN

AGRICULTURAL STORAGE PORTAL  
FRAME BUILDING  
(AS APPROVED IN APPLICATION NO. 09D/0124/33/YA)

SCALE 1:100

RETROSPECTIVE CHANGE OF USE INCLUDING  
PLANNED IMPROVEMENT WORKS AT  
GALLT-Y-BEREN FARM, RHYDYCLAFDY



AS BUILT FLOOR PLAN

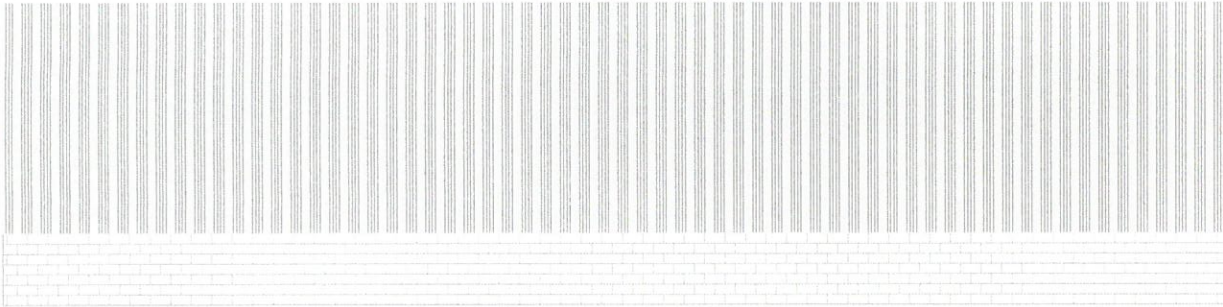
B2 VEHICLE REPAIR GARAGE PORTAL  
FRAME BUILDING

SCALE 1:100

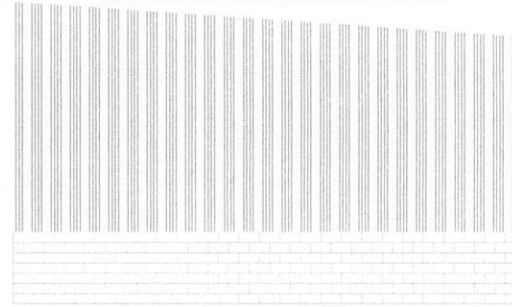
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GALLT-Y-BEREN FARM, RHYDYCLAFDY



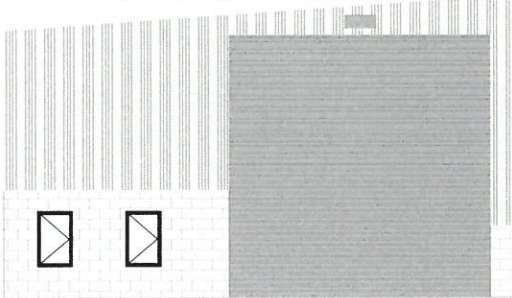
EXISTING SOUTHWESTERN ELEVATION



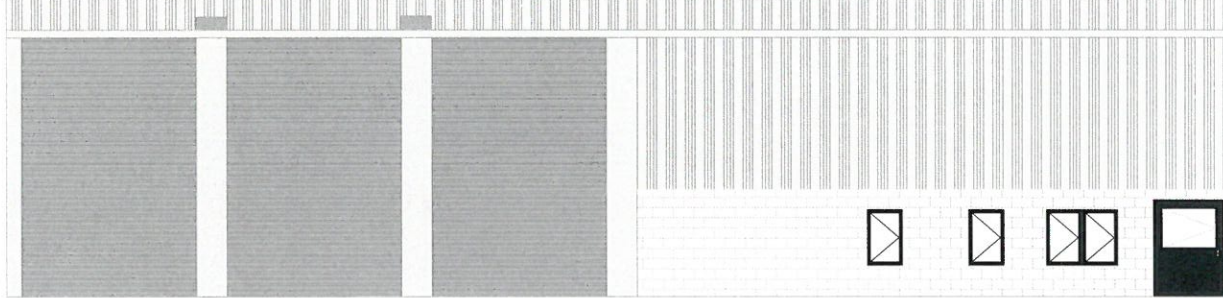
EXISTING SOUTHEASTERN ELEVATION



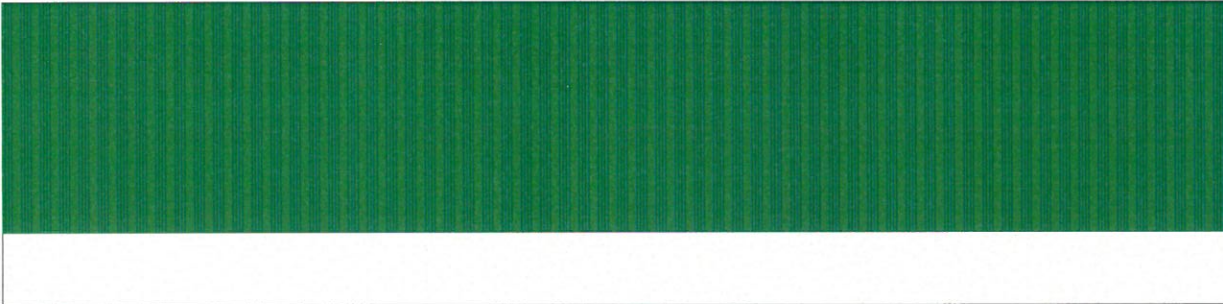
EXISTING NORTHWESTERN ELEVATION



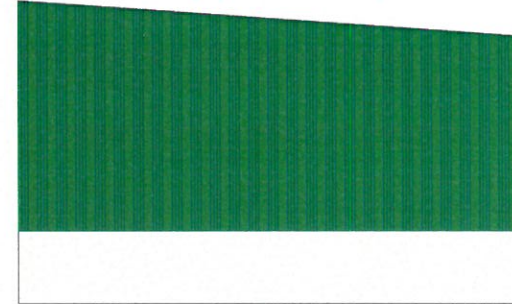
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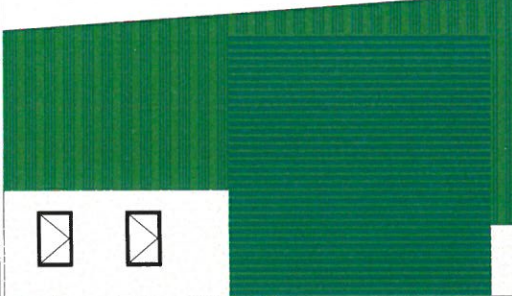
PROPOSED SOUTHWESTERN ELEVATION



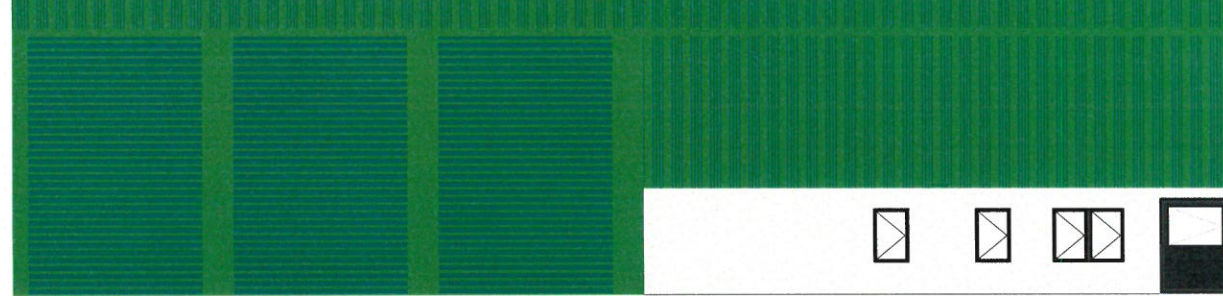
PROPOSED SOUTHEASTERN ELEVATION



PROPOSED NORTHWESTERN ELEVATION



PROPOSED NORTHEASTERN ELEVATION



CLEIENT/CLIENT :

NODIADAU/NOTES

1. All dimensions in millimetres unless otherwise stated.
2. All levels in metres above Ordnance Datum.
3. All changes in metres.

COMMENTS:

- a. All external flood lights to be removed
- b. External cladding to be coloured in Juniper Green

REF NO.

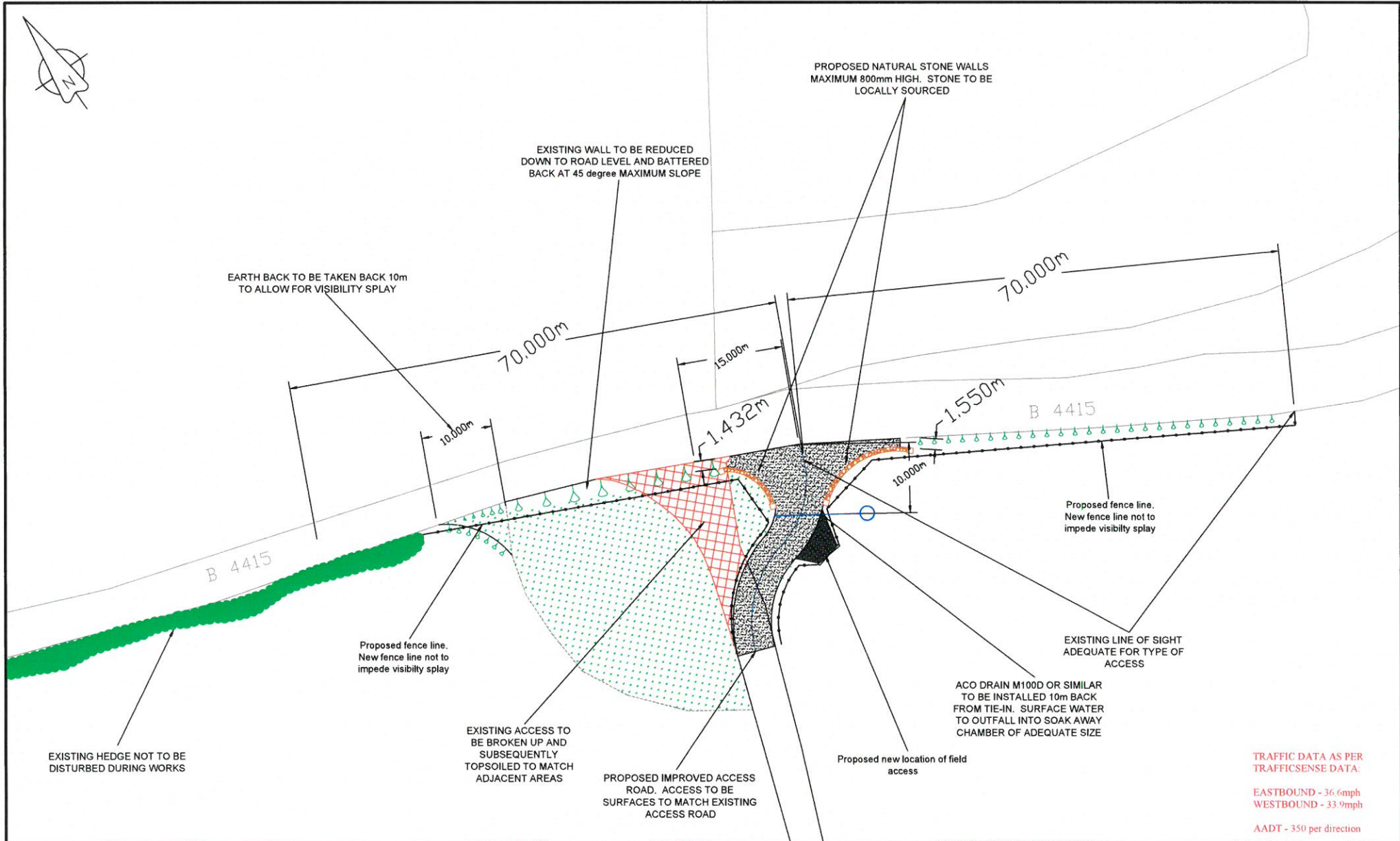
HENDRE WEN MODURFAC



CYNLLUN/SCHEME :  
MOT TESTING FACILITY AT  
HENDRE WEN  
RHYD Y CLAFDY

TEITL LUNNAD/DRAWING TITLE :  
EXISTING AND PROPOSED ELEVATIONS

DARLUNWYD GAN : DRAWN BY : DRP	DYDDIAD DARLUNWYD : DATE DRAWN : 1/1/2013
GWIRIWO GAN : CHECKED BY : ABP	DYDDIAD GWIRIWO : DATE CHECKED : 1/1/2013
Formen Sheet 1 of 1	GRADDFETOD : SCALES : 1:50 @ A1
Rhif Llundad Drawing No. ABP/MI/107	



TRAFFIC DATA AS PER TRAFFICSENSE DATA:  
 EASTBOUND - 36.6mph  
 WESTBOUND - 33.9mph  
 AADT - 350 per direction

Tel : 01758 740407  
 Moduron Arwel Parry Motors  
 Diagnostic, Air conditioning, Servicing

CYNLLUN/SCHEME :  
 MOT testing facility at Hendre Wen, Rhyd Y Clafdy  
 TEITL LLUNIAD/DRAWING TITLE :  
 Proposed access improvement

DARLUNWYD GAN : DRAWN BY :	DRP	DYDDIAD DARLUNWYD : DATE DRAWN :	12/07/2014
GWIRIWDYD GAN : CHECKED BY :	ABP	DYDDIAD GWIRIWDYD : DATE CHECKED :	12/07/2014
Taflen Sheet	1 of 1	GRADDFEYDD : SCALES :	1:500 @ A3
Rhif Lluniad Drawing No.		ABP/Access/2	
		CYWJ REV D	