

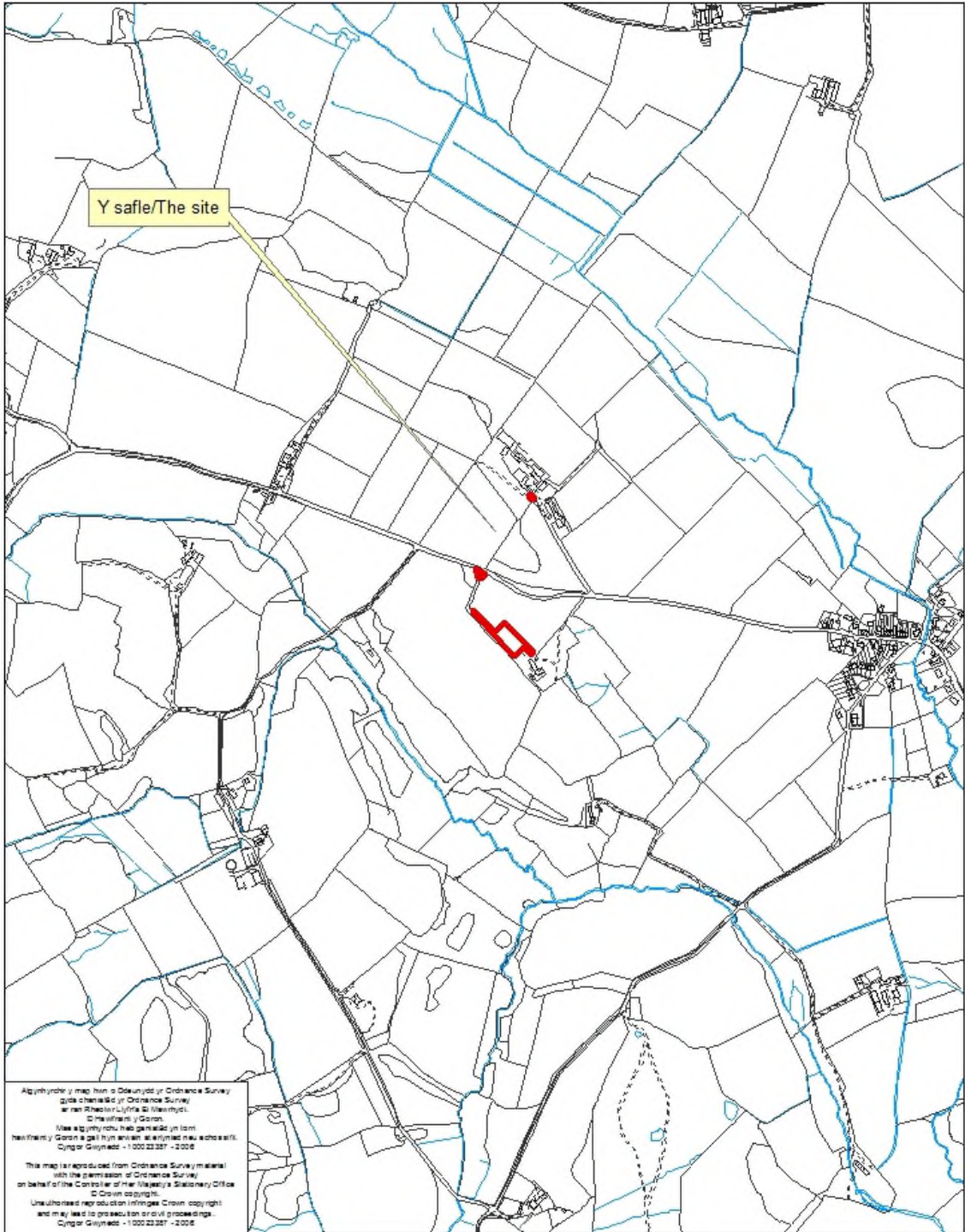
Number: 7

Appendix 2



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.



PWYLLGOR CYNLLUNIO	DYDDIAD: 27/04/2015
ADRODDIAD UWCH REOLWR GWASANAETH CYNLLUNIO AC AMGYLCHEDD	GWYNEDD

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.

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- 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 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.

POLISI 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

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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.

**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.

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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.

#### 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:

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- 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;
- 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

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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.

- 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

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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.

### **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.



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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 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

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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).