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| <b>PLANNING COMMITTEE</b>                     | <b>DATE: 15/01/2024</b> |
| <b>REPORT OF ASSISTANT HEAD OF DEPARTMENT</b> |                         |

**Number: 2**

**Application Number: C23/0864/04/LL**

**Date Registered: 29/10/2023**

**Application Type: Full**

**Community: Llandderfel**

**Ward: Llandderfel**

**Proposal: Construction of new agricultural dwelling (Resubmission)**

**Location: Parc Y Derw Goed, Llandderfel, Gwynedd, LL23 7HG**

**Summary of the Recommendation: TO REFUSE**

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## 1. Description:

- 1.1 This application is for erecting a new agricultural dwelling and detached garage on a plot of land in Parc y Derw Goed, Llandderfel. It would be a single-storey, pitch-roof dwelling with a finish of black corrugated panelling, and a double garage of the same finish. The dwelling would contain an open kitchen/living room, three bedrooms, a bathroom, a utility room and office, and it would measure approximately 97m<sup>2</sup> internally with the garage measuring approximately 37m<sup>2</sup> internally. The work would involve creating an opening to the plot and installing a private sewage treatment system.
- 1.2 The site lies within an elevated position, far outside any recognised development boundary and is therefore a site in open countryside, near the lake known as Llyn Maes y Clawdd. The site is served by a byway track, and public footpath number 42 Llandderfel runs to the north of the site. There is one other dwelling in the site's vicinity, namely Tyn y Bwlch. The site is within a Special Landscape Area designation and has been recognised as a Phosphate Special Area of Conservation (SAC). The fields to the south of the site have been recognised as Local Wildlife Sites.
- 1.3 The application is a resubmission of application no. C23/0409/04/LL for exactly the same proposal. The application was refused on 17 July 2023 as the Local Planning Authority were not convinced that the proposal met the locational needs for an agricultural dwelling because of its distance from the farm.
- 1.4 A Design and Access Statement, letters of support from NFU Cymru and the Agri Advisor Service, together with a Business Plan from Farming Connect (confidential) were submitted as part of the application.
- 1.5 The application is submitted to the Planning Committee at the Local Member's request.

## 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 planning decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Local Development Plan.
- 2.2 The Well-being of Future Generations (Wales) Act 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the seven well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the 'sustainable development principle', as set out in the 2015 Act. In reaching the recommendation, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 2.3 **Anglesey and Gwynedd Joint Local Development Plan 2011-2026, adopted 31 July 2017**  
PS 1: The Welsh Language and Culture  
PS 2: Infrastructure and developer contributions

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TRA 2: Parking standards

TRA 4: Managing Transport Impacts

PS 5: Sustainable Development

PS 6: Alleviating and adapting to the effects of climate change

PCYFF 1: Development Boundaries

PCYFF 2: Development Criteria

PCYFF 3: Design and place shaping

PCYFF 4: Design and landscaping

PCYFF 6: Water Conservation

PS 16: Housing provision

PS 17: Settlement strategy

PS 19: Conserving and where appropriate enhancing the natural environment

AMG 2: Special Landscape Areas

AMG 5: Local Biodiversity Conservation

AMG 6: Protecting sites of Regional or Local Significance

Supplementary Planning Guidance – Affordable Housing (April 2019)

Supplementary Planning Guidance – Maintaining and Creating Distinctive and Sustainable Communities (July 2019)

#### 2.4 **National Policies:**

Planning Policy Wales, Edition 11 (2021).

Future Wales: The National Plan 2040

Technical Advice Note (TAN) 6: Planning for sustainable rural communities

Technical Advice Note (TAN) 12: Design

Technical Advice Note (TAN) 18: Transport

Technical Advice Note (TAN) 20: Planning and the Welsh Language

Letter of the Welsh Government's Minister for Climate Change, dated 11 October 2023 announcing an update to chapter 6 of Planning Policy Wales with immediate effect.

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### 3. Relevant Planning History:

C23/0409/04/LL Construction of new agricultural dwelling: Refused 17 July 2023

Y23/0057 – A pre-application enquiry for erecting an agricultural dwelling. The applicant appeared to satisfy the requirements, but concern was expressed regarding the location of the unit away from the existing farm.

### 4. Consultations:

Community/Town Council: The application was discussed in our recent meeting, and there was unanimous support for it. It was felt that it is important to ensure there are opportunities for local families to stay in our rural communities.

Transportation Unit: I refer to the above application and wish to state that I do not intend to submit a recommendation as it is assumed that the proposed development will not have a detrimental impact on any road, or proposed road.

Biodiversity Unit: Ecological Report  
The applicant has not provided an Ecological Report. The site appears to be agriculturally improved grassland from photographs and aerial imagery, therefore an ecological report may not be required.

#### Site & Habitats

- Dry stone wall with bryophytes and lichens
- Mature tree within 10 meters
- 1.4km from Afon Dyfrdwy SAC
- Wildlife Site 80 metres to south: Ty'n y Bwlch 1323, this is a wetland habitat, a peat bog.

#### Ecological Impacts

The proposed plans show the retention of most of the dry stone wall except for removing part of it to create an entrance.

Although the footprint of the development is not within wetland habitat of the Wildlife Site, it is sensitive to nutrients and pollution.

River Dee is sensitive to nutrients and pollution especially phosphates.

#### Wildlife Site

The Wildlife Site to the south of the proposed house and septic tank.

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In an email (27th July 2023) to the applicant's architect/planning agent I recommended that a hedge be planted between the septic tank soakaway and the Wildlife Site to reduce nutrients, pollution and especially phosphate entering the Wildlife Site and the stream which flows into the River Dee.

#### Biodiversity Enhancement

Under section 6 of the Environment Act 2016 all public bodies such as Cyngor Gwynedd, have a duty to maintain and enhance biodiversity as well as ensuring ecosystem resilience.

I recommend that the applicant provides a biodiversity enhancement features as part of the development plan such as a native hedge around the site, and bat and bird boxes on the buildings.

#### Afon Dyfrdwy SAC & Habitats Regulations Assessment

Under the Conservation of Habitats and Species Regulations 2017 (as amended), Cyngor Gwynedd is the competent authority and is required before determining planning applications to consider the likely significant effects of a development proposal on a Special Conservation Area. This development proposal is 1.4km from the River Dee (as the crow flies) and there is a stream (tributary of the River Dee) within 170 meters of the development. If a hedgerow was planted this would ensure that the likelihood of pollution entering the SAC is reduced.

#### Requirements

- Amended Plan showing hedge planting.
- Management of Wildlife Site

Rights of Way Unit:

Public right of way Llandderfel (rb) Number 41 (Restricted Byway) crosses the front of development site, this right of way must be kept unobstructed and available to users during and following the completion of this development.

Water and Environment Unit  
YGC:

Since 7 January 2019, sustainable drainage systems (SuDS) are needed to control surface water for every new development of more than 1 dwelling or where the construction area with drainage implications is 100m<sup>2</sup> or more. Drainage systems must be designed and constructed in accordance with the minimum standards for sustainable drainage as published by Welsh Ministers.

These systems must be approved by Cyngor Gwynedd in its role as SuDS Approval Body (SAB) prior to commencement of the construction work.

Due to the size and nature of the development, an application will

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need to be provided to the SuDS Approval Body for approval before construction work commences. No surface water drainage details have been provided, and until an application is made to the SAB there remains some uncertainty that the site layout would enable compliance with the full suite of national SuDS standards. Early consultation with the SAB is recommended.

<https://www.gwynedd.llyw.cymru/cy/Trigolion/Cynllunio-a-rheolaeth-adeiladu/Cynllunio/System-Draenio-Cynaliadwy.aspx>

#### Natural Resources Wales:

We have concerns regarding the application as submitted because insufficient information has been provided to support the proposal. To overcome these concerns, you should request more information from the applicant regarding protected sites. Should this information not be provided, NRW would object to this planning application. Further details are provided below.

#### Protected Sites

We note that the proposed site is within the Afon Dyfrdwy and Llyn Tegid Special Area of Conservation (SAC). As you are aware, on 21 January 2021, we published an evidence pack outlining the phosphorus levels for every fluvial SAC across Wales. In accordance with our Planning Advice (August 2023), under the Habitats Regulations, Local Authorities must consider the phosphorus impact of proposed developments on water quality within river catchment areas of SACs. Therefore, we advise you to consider whether the proposals, as submitted, would increase the volume of foul drainage that is released from the site in planning terms.

We note from the information submitted that a new septic tank will be installed to provide foul drainage for the development, it therefore has the potential to increase how much phosphorus is released from the site. We therefore refer you to our Planning Advice, and advise you to ask for further information from the applicant. We advise you to ask for more information as is noted in the section titled 'What does this mean for development proposals that contain private sewage treatment systems' of that advice.

As long as this advice is followed and you are able to come to the conclusion that the development is unlikely to significantly impact the SAC, we would have no objection to the proposal. However, if you conclude that the proposed development is likely to have a significant impact on the SAC, please consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

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### Protected Species

We note that there is no information regarding protected species with the application and therefore we presume that your Authority has screened the application and has concluded that there is no reasonable likelihood of protected species being present on the site.

Welsh Water:

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

SEWERAGE As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation. If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrcymru.com](mailto:developer.services@dwrcymru.com)

Public Consultation:

A notice was placed on the site and nearby residents were informed. The advertising period has ended and one letter of support for the application was received from the closest neighbours:

- Need to support young farmers to have housing, it is an important vocation which helps the local economy
- The site's location is within reach of the farm

### 5. Assessment of the material planning considerations:

5.1 In light of the need to protect and conserve the countryside, very special justification is required to approve the construction of new dwellings there. Therefore, new dwellings in the countryside will only be approved in exceptional circumstances. Those exceptional circumstances under which new dwellings in the countryside may be approved are included in Technical Advice Note 6 (TAN6): Planning for Sustainable Rural Communities – July 2010, prepared by the Welsh Assembly Government.

5.2 Paragraph 4.3.1 of TAN6 states that one of the few circumstances in which a new isolated residential development in open countryside can be justified is where accommodation is required to enable rural enterprise workers to live at, or close to, their workplace. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. TAN 6 also notes that Local Planning Authorities should carefully assess applications for planning permission for new

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rural enterprise dwellings to ensure that a departure from the usual policy of restricting development in the open countryside can be fully justified by reference to robust supporting evidence.

- 5.3 A Business Plan was submitted as part of the application, prepared by Farming Connect, which confirms that the applicant has been farming in partnership with his father since 2012. The Business Plan provides the background of the enterprise together with details about the size of the holding, stock numbers, labour requirements and financial details about the enterprise's viability. This would therefore be a second dwelling on an established farm, with the applicant running the farm with his father.
- 5.4 Paragraph 4.4 of TAN 6 notes that new permanent dwellings to support established rural enterprises should not be permitted unless the following criteria have been met, namely:
- a) *there is a clearly established existing functional need; (See paragraph 4.8.1).*
  - b) *the need relates to a full-time worker, and does not relate to a part-time requirement; (See paragraph 4.7.1) (See paragraphs 4.5.1 – 4.5.3 for exceptions to the policy).*
  - c) *that the enterprise concerned has been established for at least three years, profitable for at least one of them, and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so; (See paragraphs 4.10.1 - 4.10.3).*
  - d) *the functional need could not be fulfilled by another dwelling or by converting an existing suitable building that is already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned; (See paragraphs 4.11.1 – 4.11.2), and*
  - e) *other normal planning requirements, for example location and access, are satisfied. (See paragraphs 4.12.1 – 4.12.2).*
- 5.5 From the information submitted, it appears that the applicant meets the requirements of tests a), b) and c) noted above. We also note that there are no suitable traditional buildings that could be converted into a dwelling on the holding to meet test d).
- 5.6 In terms of meeting the requirements of test e), we must question the choice of location for the proposed agricultural dwelling. The applicant was advised in pre-application advice to consider other sites for locating the dwelling which would be closer to the farm buildings. Despite this, planning application C23/0409/04/LL was submitted later on for an agricultural dwelling on this precise location, and it was refused because of its distance from the farm and its lack of physical connection to the farm's activities. The application to hand is a resubmission of exactly the same proposal, with a little more information.
- 5.7 An explanation was contained in the Design and Access Statement accompanying this application of their rationale for selecting the site, and referencing another seven sites that they disregarded for various reasons, such as steep lands, no convenient access, a site being too close to a slurry pit, wet lands near a small river, cutting and grazing fields that are essential for silage production, windy sites, and sites that are visible in the landscape. The explanation argues that none of the seven options would enable the applicants to protect and keep an eye on their stock in the Llyn Maes y Clawdd fields. It states that the proposed dwelling needs to be located on the site in question in order to protect and monitor stock in the fields near the lake, and for supervision purposes since incidences of dog attacks on stock have been proved recently and people driving over the fields and creating a mess. It notes that the site in question is poor quality agricultural land, where there is an existing track and a water and electricity supply in proximity. It is argued

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that the site nestles naturally behind a hillock, is well-screened and where biodiversity can be improved. They want to avoid locating the dwelling in a prominent position in the landscape, and consider this to be a sheltered, well-screened location. The site is around 650 metres as the crow flies from Derw Goed farmhouse and the associated farm buildings. Paragraph 4.12 of the SPG states "*The siting of the proposed dwelling should relate closely to the activities for which there is a need. In most cases this will mean that the new dwelling should be sited in close proximity to existing buildings and in the case of dwellings for agricultural enterprises, should not be isolated from the farmstead or in locations that could encourage farm fragmentation.*"

- 5.8 Whilst their explanation is appreciated, the Planning Authority has not been fully convinced that it would not be possible to develop on some of the disregarded locations, such as on land near the farmhouse or on other locations not shown in the valley closer to the farm. It is considered that there are other options available for monitoring the land, such as CCTV. We believe that the applicant's wish is to locate the dwelling in the proposed location, because it is a pleasant location in the landscape. It is believed that the location of the proposed dwelling encroaches unreasonably into the countryside and is excessively detached from the farm holding which would encourage fragmentation of the farm, and is therefore contrary to sections 4.7.1 and 4.12 of TAN 6.
- 5.9 Any new dwelling should reflect the need of the essential worker, therefore its size, design and future affordability should be considered. The size of the proposed dwelling should reflect the needs of the enterprise, rather than the wishes of the individual concerned. With regard to size, the Local Planning Authority is of the view that a second dwelling on an established farm should be kept close to what is expected to be an affordable dwelling, with some flexibility in terms of being able to provide a multi-purpose area for the farmer and office facilities which would be essential for a farm worker. The need to remain similar to the size of an affordable dwelling also relates to the requirement in the standard rural enterprise condition that is now imposed on agricultural dwellings, where the second clause requires them to be eligible to be considered for affordable housing should the agricultural needs cease.
- 5.10 The proposed plans show a single storey dwelling with three bedrooms and a detached double garage. It is noted from the information with the application that the applicant has a partner and that they wish to live together, but it does not appear that they have a family at present. The Supplementary Planning Guidance – Affordable Housing provides guidance on the assumed size of affordable housing in Appendix 5. A floor area of 58m<sup>2</sup> is suggested for a two-bedroom bungalow, and 88m<sup>2</sup> for a three-bedroom dwelling, with garages approximately 20m<sup>2</sup>.
- 5.11 We note that the proposed single storey dwelling measures (roughly) 97.9m<sup>2</sup> internally, with the double garage measuring roughly 37.44m<sup>2</sup> (internally) which is greater than the internal size recommended for affordable housing. In this case, we believe that a dwelling on a three-bedroom scale can be accepted for a young couple, with some flexibility in the size in order to provide a utility room for the farmer to change from his work clothes and an office to undertake the farm's administrative work. The garage is larger, but it seems that this is partly to provide a space to house a sustainable heating system, which is encouraged in policy PS 5 of the LDP.
- 5.12 Due to the distance of the site and its lack of physical connection to the farm and the current activities, coupled with the fact that the dwelling would stand in a desirable location with pleasant views over the hills and valley of Llandderfel, it is questioned whether the location in mind could ensure that the property remains affordable to the future. Certainly, it would be possible to split and detach it from the farm without any difficulty. No open market valuation (red book) was received as part of the application. Policy TAN 6 states that new dwellings in the countryside will

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only be approved in exceptional circumstances. The Local Planning Authority has not been truly convinced that this is the most suitable location for an agricultural dwelling without assurance that the property will be affordable in the long term. The proposal is therefore contrary to Policy PCYFF 1 and PS17 of the Anglesey and Gwynedd Joint Local Development Plan and sections 4.7.1, 4.12 and 4.13 of Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010) which ensures that new dwellings in open countryside may only be permitted in specific and exceptional circumstances.

### **Design and visual amenities**

- 5.13 Policies PCYFF 3: Design and Place Shaping and PCYFF 4 Design and Landscaping that relates to building design and landscaping, are amongst the main considerations of the application. Policy PCYFF 3 requires proposals to show a high-quality design that gives full consideration to its context in the natural, historic and built environment. The dwelling is simple in design and of a black-coloured corrugated steel finish, providing a contemporary appearance. In this instance, we believe the proposed finish may be acceptable, as it is similar to the features and form of an agricultural building. Ideally, we would have wished to see a slate roof on the property, but we believe that we can accept a corrugated roof to complement the rest of the walls in a countryside location such as this, which is likely to blend into the landscape. The plans state the intention to retain the existing stone boundary wall and landscape either side of the curtilage with a native hedge. The area of Llandderfel is recognised as a Special Landscape Area, and any developments should be respectful of the landscape, appropriate in scale, and ensure that they will not harmfully affect the landscape. Overall, it is considered that the proposal's design, scale and finish could be acceptable to comply with the requirements of policies PCYFF3 and AMG2 of the LDP.

### **Residential Amenities matters**

- 5.14 As this would be a dwelling in the countryside, the effect on the amenities of other local occupiers is likely to be limited. In respect of the closest dwelling to the application site, namely Tyn y Bwlch, it is considered that there is sufficient distance separating them so that there would be no significant impact on their amenities. The residents of this property have stated their support to the application. The proposal is therefore considered to satisfy the requirements of policy PCYFF 2 of the LDP.

### **Roads Matters**

- 5.15 The site is served by a class three county road and a byway track leading to the application site. As there are existing roads serving the site, there is no significant concern about road safety arising in this case. The access would be located on a straight stretch with visibility in both directions. Parking provision is shown within the curtilage. Based on the proposed site, it is considered that the requirements of policies TRA 2 and TRA 4 of the LDP can be met.

### **Biodiversity Matters**

- 5.16 The site is within the catchment of the River Dee Special Area of Conservation and within 80 metres of a site that has been identified as a Local Wildlife Site, Tyn y Bwlch, which was selected for its boggy features. The bog is to the south of the application site with a stream watercourse leading to the River Dee. The private sewage treatment plant would be fairly close to the Wildlife Site and the stream. It is noted in the Biodiversity Officer's comments, should a hedge be planted between the septic tank and the stream, this would ensure that the likelihood of pollution entering

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the SAC is reduced. The site plan shows a proposal to plant the rear boundary of the property as well as a buffer hedge further back behind the sewage treatment system, and a condition could be imposed to secure the planting. The Biodiversity Officer is also requesting that management of the Wildlife Site is implemented, and that biodiversity enhancements are offered. The site plan shows a proposal to plant trees in the garden and install a nesting box on the mature tree nearby. The Biodiversity matters could be controlled through Planning conditions, and we believe there is sufficient information in the application to satisfy the requirements of policy PS 19 of the LDP that relate to conserving and enhancing the natural environment, together with the Letter of the Welsh Government Minister for Climate Change, dated 11 October 2023 which announced an update to chapter 6 of Planning Policy Wales relating to the green infrastructure and the phased approach.

### **Drainage Matters**

- 5.17 We note that Natural Resources Wales have expressed concern regarding the proposal's sewage treatment measures, stating that insufficient information has been submitted. The site is within the catchment of the Afon Dyfrdwy and Llyn Tegid Special Area of Conservation (SAC), where there are concerns about the impact of phosphate levels on water quality within the river's catchment area. NRW is therefore requesting further information regarding this matter, as it is noted that the sewage treatment plant could potentially increase how much phosphate is released from the site. They therefore refer the developer to their standard advice regarding private sewage systems. They note that, provided this advice is followed and we can conclude that the development is unlikely to have a significant impact on the SAC, they would have no objection to the proposal. The Council's Biodiversity Unit has already undertaken an Appropriate Assessment under Regulation 63 of the Habitats and Species Conservation Regulations 2017 (as amended) and has concluded that should planting be carried out between the sewage tank and the stream, there would be a reduced chance of pollution entering the SAC. In light of the observations, it is considered that the drainage concerns can be overcome in this case.

### **The Welsh Language**

- 5.18 In accordance with the Planning (Wales) Act 2015, it is a duty when making a decision on a planning application to consider the Welsh language where it is relevant, and this is further endorsed in Planning Policy Wales and also Technical Advice Note 20.
- 5.19 Developers are required to submit a Welsh Language Statement or a Report on a Welsh Language Impact Assessment on some specific types of development, and thresholds have been set in Policy PS1 of the LDP and Diagram 5 of the Supplementary Planning Guidance (SPG) 'Maintaining and Creating Distinctive and Sustainable Communities'. This one dwelling development does not reach the thresholds where a Welsh Language Impact Assessment is required. Considering the nature of the application for a rural enterprise dwelling or an affordable dwelling, it is not considered that the proposal is likely to have an adverse impact on the Welsh language, thus it is not contrary to policy PS 1 of the LDP.

## **6. Conclusions:**

- 6.1 Having weighed up the proposal against the relevant policies and given full consideration to the responses to the consultations, we conclude that the proposal remains contrary to the locational needs that are set out in TAN 6 because the agricultural dwelling would be too separate from the current farm. It is also questioned whether this location can ensure that the property can be affordable in the long term, should the agricultural use cease. The previous application for exactly the same proposal was refused, and although a little more justification has been presented on the current application, we have not been truly convinced that this is the most suitable location for an agricultural dwelling. Although some matters relating to amenities and roads are

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acceptable, the proposal does not meet all the relevant policy considerations. These concerns were stated in our response to the pre-application enquiry and in our previous refusal, but the applicant decided to proceed to resubmit the application. Based on the above assessment there is no option but to refuse the application.

**7. Recommendation:**

7.1 To refuse – reason

1. The Local Planning Authority is not convinced that this proposal meets the locational need for an agricultural dwelling, due to its separational distance from the existing farm and its lack of physical connection away from farming activities. The location would encourage farm fragmentation without any guarantee that the dwelling, in this isolated position, would meet the need to ensure its affordability into the future. The proposal is therefore contrary to policy PCYFF1 and PS 17 of the Anglesey and Gwynedd Joint Local Development Plan and part 4.7.1, 4.12 and 4.13 of Technical Advice Note 6 Planning for Sustainable Rural Communities (2010) which ensures that new dwellings can only be permitted in open countryside in exceptional and specific circumstances.