

25/2018/1216 & 25/2018/1217

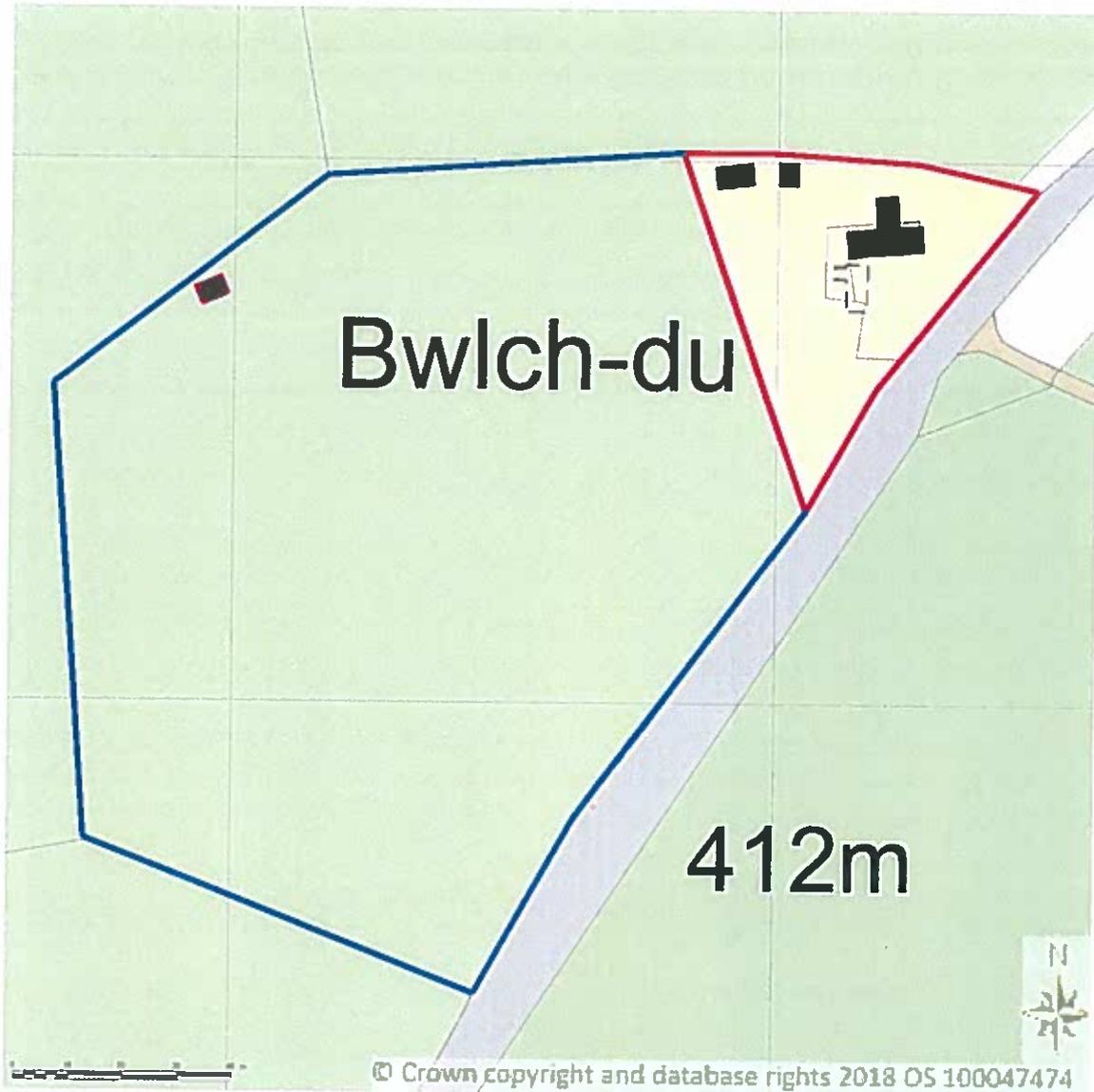
Scale: 1:25000

Printed on: 26/6/2019 at 16:32 PM



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SITE LOCATION PLAN
AREA 4 HA
SCALE 1:1250 on A4
CENTRE COORDINATES: 298659, 358328

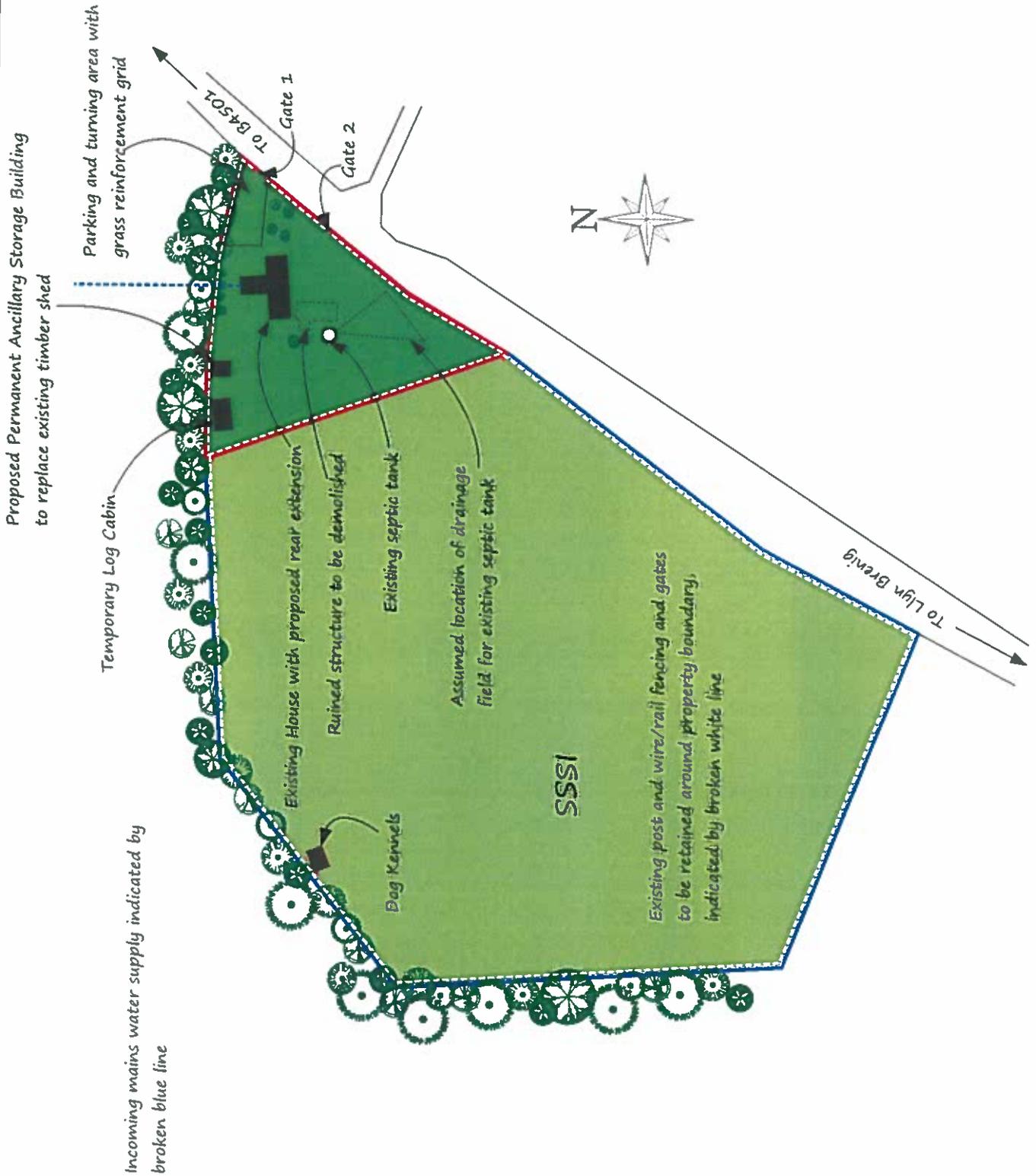


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16/01/2019 11:19:11

GENERAL ARRANGEMENT PLAN



Project	Bwlch Du
Author	LNJ
Checked By	TJN
Drawing Description	General arrangement of buildings, landscaping and amenity areas
Drawing Number	DWG 19 V2
Date	7th April 2019
Scale	1:1250 @ A4



BWLCH DU PROPOSED FLOOR PLAN



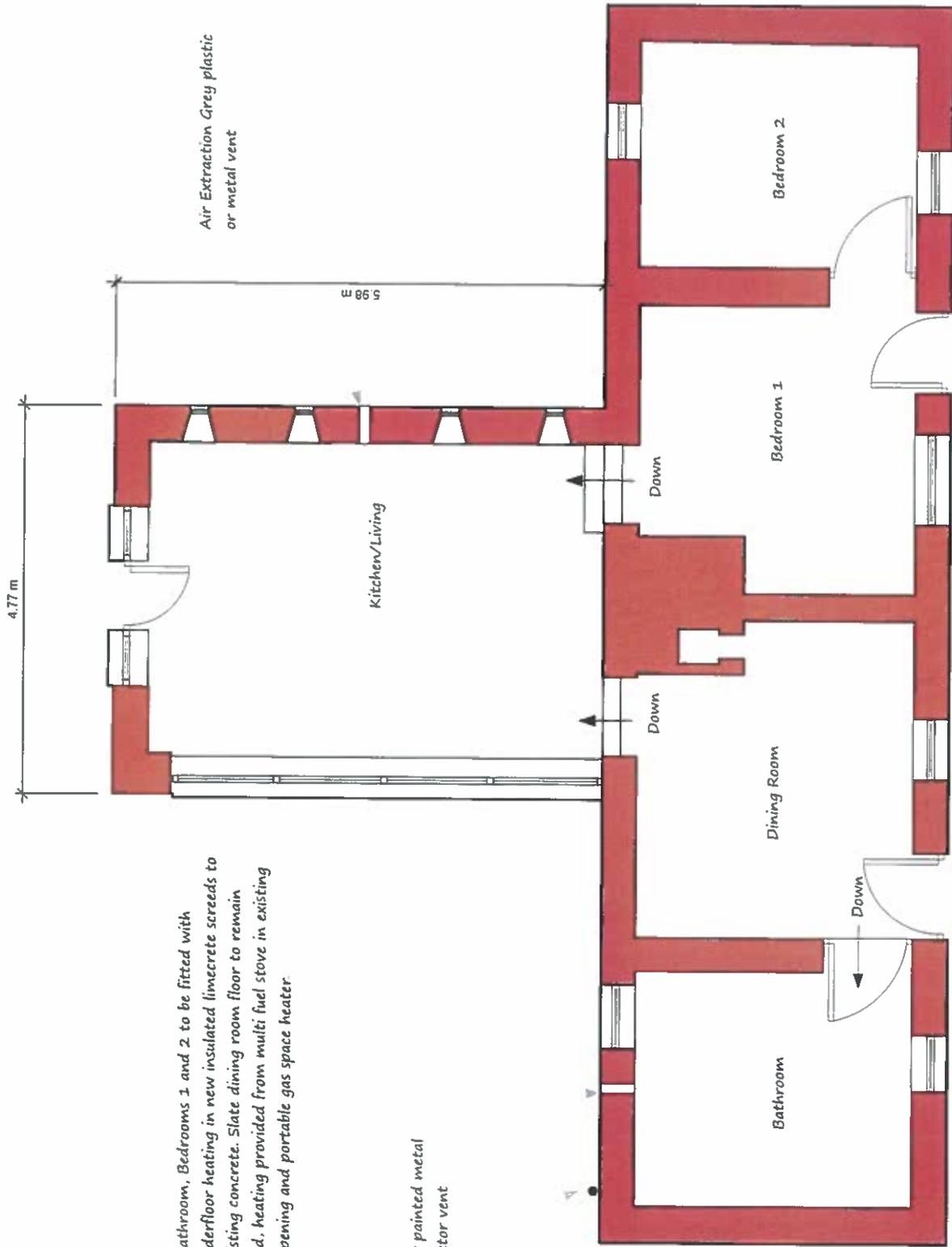
	
Project	Bwlch Du
Author	LNJ
Checked by	TJN
Drawing Description	Bwlch Du Floorplan As Proposed
Drawing Number	DWG10V2
Date	5th April 2019
Scale	1mm:50mm @ A3

Floorplan As Proposed

Kitchen, Bathroom, Bedrooms 1 and 2 to be fitted with electric underfloor heating in new insulated limecrete screeds to replace existing concrete. Slate dining room floor to remain undisturbed. Heating provided from multi fuel stove in existing fireplace opening and portable gas space heater.

Grey plastic or painted metal cover to extractor vent

Cast iron SVP



Air Extraction Grey plastic or metal vent

See DWG 12 for sash window details

8 Metres

4

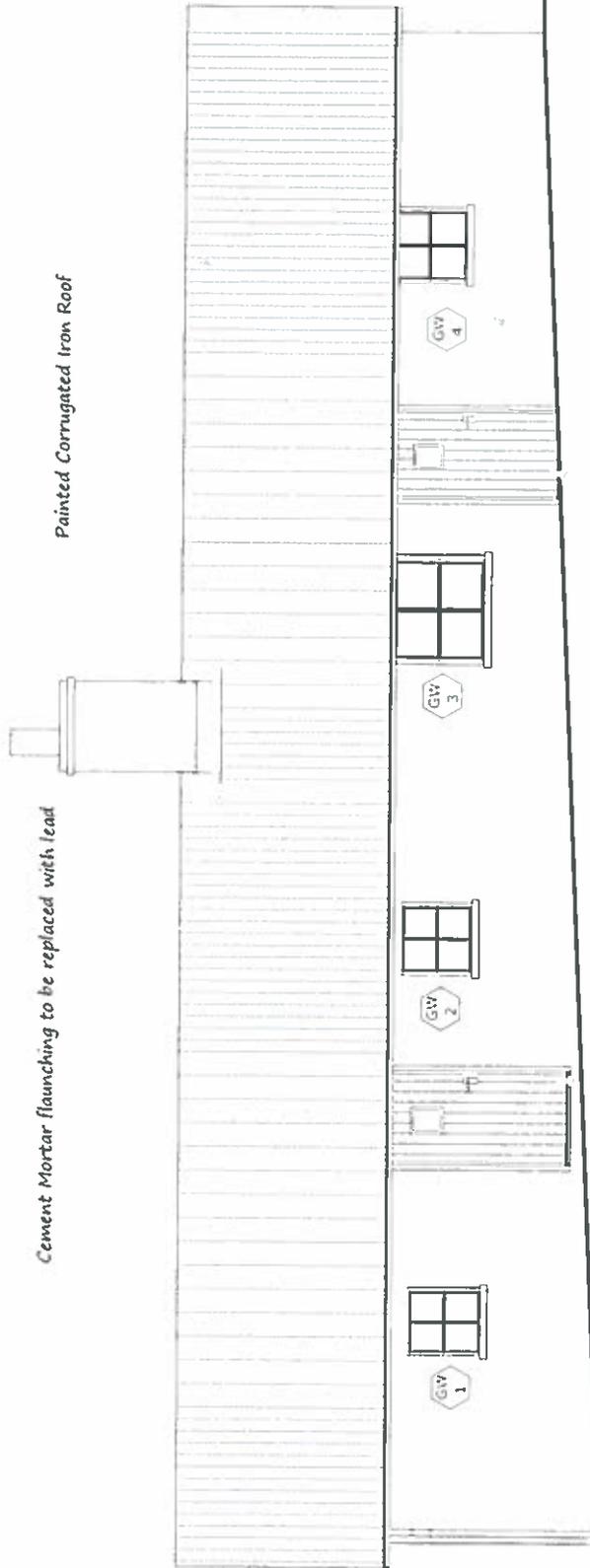
2

1

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BWLCH DU PROPOSED SOUTH ELEVATION

South Elevation As Proposed



Cement Mortar flashing to be replaced with lead

Painted Corrugated Iron Roof

Cast iron gutters and downpipes to sookaways

Doors to be painted hardwood

Windows GW1 - 4 are to be painted hardwood frames, vertical sliding sashes with 12mm double glazed units, 6mm sightline, outer pane to be conservation grade glass

Solid rubble masonry to be re-pointed where required with NHL 3.5/ sharp sand 1:3 all elevations to be given minimum 3 coats of lime wash.



	
Project	Bwlch Du
Author	LANJ
Checked by	TJN
Drawing Description	Bwlch Du South Eleva As Proposed
Drawing Number	DWG13V2
Date	5th April 2019
Scale	1mm 50mm @ A3

BWLCH DU PROPOSED NORTH ELEVATION

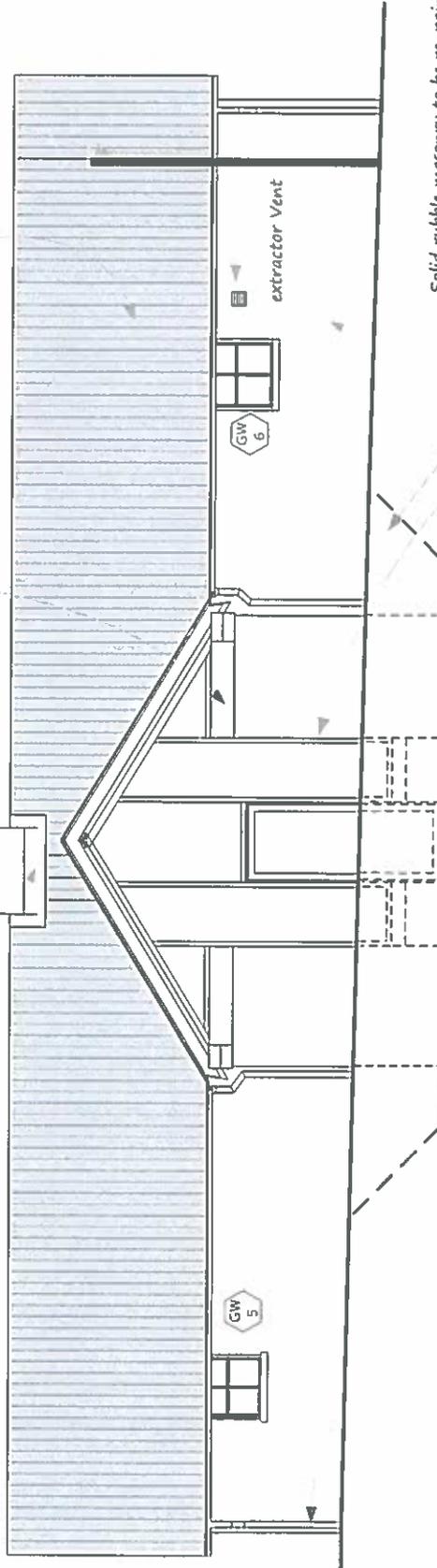
	
Project	Bwlch Du
Author	LNJ
Checked by	TJN
Drawing Description	Bwlch Du North Elevation As Proposed
Drawing Number	DWG14V2
Date	5th April 2019
Scale	1mm:50mm @ A3

All projecting masonry elements including, sills, heads, gable end kneeler stones to be new locally obtained limestone tooled finish.

Cement Mortar flaunching to be replaced with lead

Painted Corrugated Iron Roof

SVP



Solid rubble masonry to be re-pointed where required with NHL 3.5/ sharp sand 1:5 all elevations to be given minimum 3 coats of lime wash.

Base of wall may require consolidating where ground has been excavated, precise details to be subject engineers inspection and report, and agreement with DCC Conservation Officer.

Extension to include thermally broken powder coated aluminium frame with double or triple glazed units

Ground excavated to facilitate lowered extension roof line. Perimetre path around extension to be finished with limestone chippings, perforated drainage pipes to be installed, these to discharge to the south of the house, details to be agreed on site and in consultation with NRW.

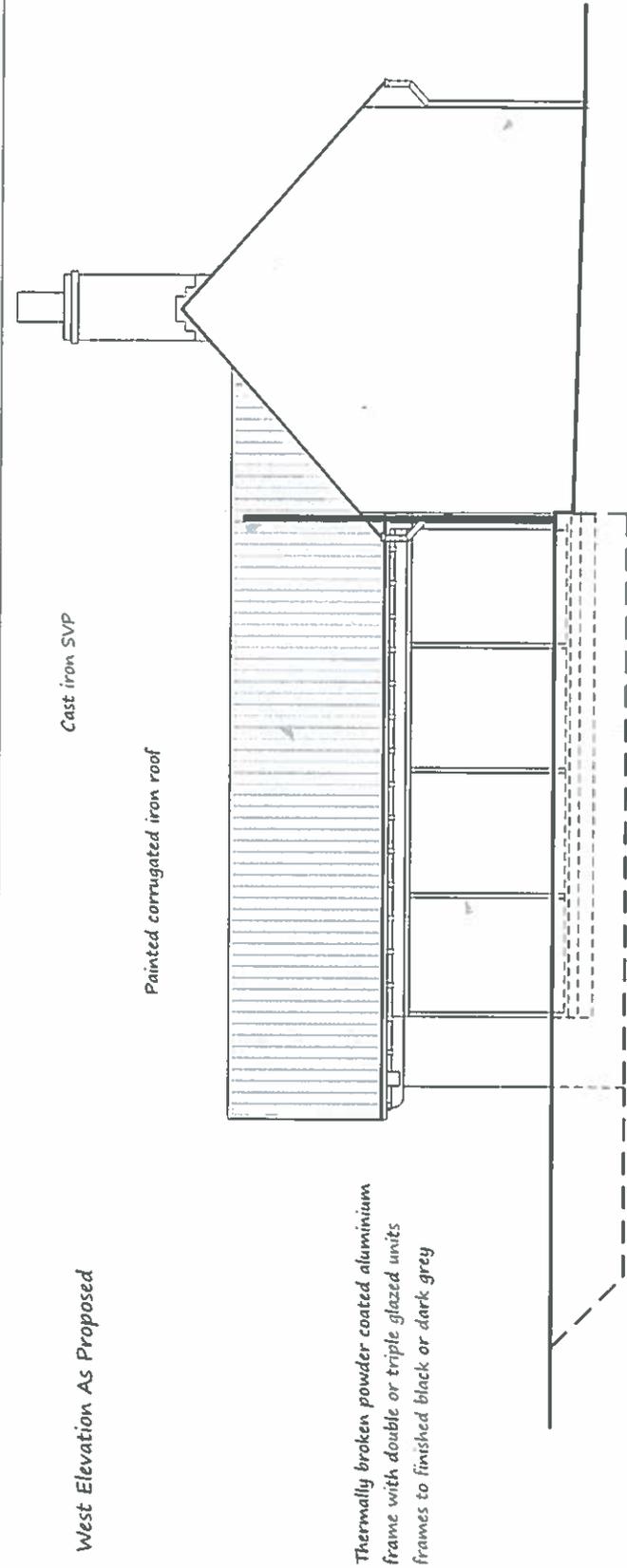
Windows GW5 and GW6 are to be painted hardwood frames, vertical sliding sashes, with 12mm double glazed units, 6mm sightline, outerpane to be conservation grade glass.

Cast iron gutters and downpipes to soakaways



BWLCH DU PROPOSED WEST AND EAST ELEVATION


Project Bwlch Du
Author LNJ
Checked by TJN
Drawing Description Bwlch Du West and East Elevations As Proposed
Drawing Number DWG15V2
Date 5th April 2019
Scale 1mm:50mm @ A3



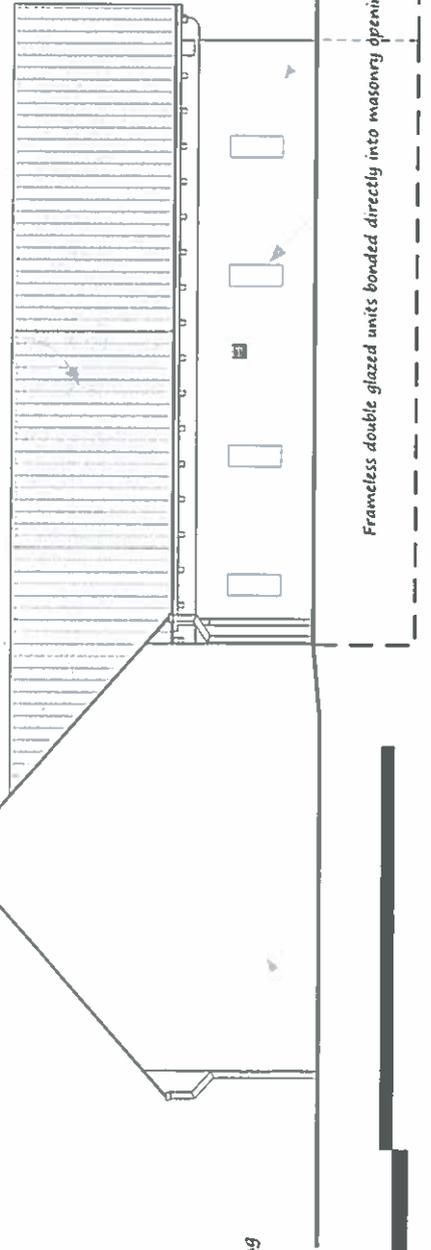
Solid rubble masonry as existing

Chimney to be lime washed to match external walls

Painted corrugated iron roof

East Elevation AS Proposed

All extension walls constructed from insulating block, solid rubble masonry externally to be salvaged from ruined building to south of property and remain unpainted



Solid rubble masonry as existing

Framless double glazed units bonded directly into masonry openings



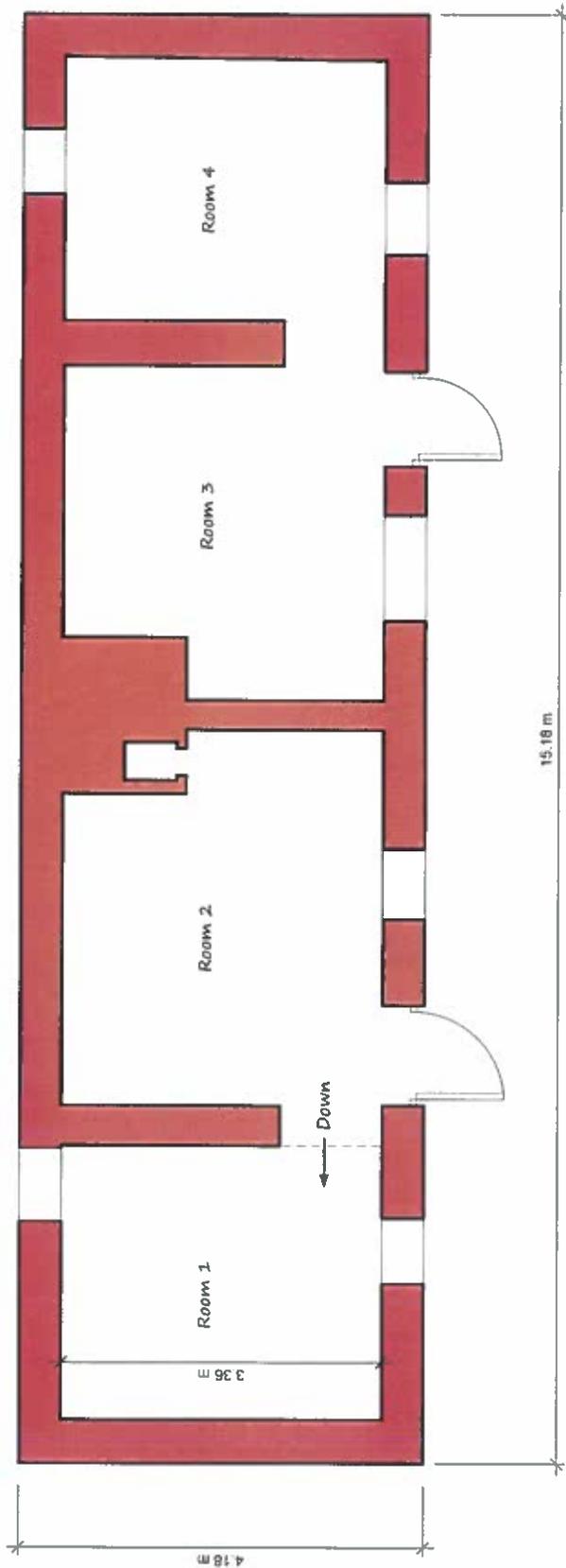
8 Metres

BWLCH DU EXISTING FLOOR PLAN



Project	Bwlch Du
Author	LNJ
Checked by	TJN
Drawing Description	Bwlch Du Floorplan AS Existing
Drawing Number	DWG1
Date	23rd November 2018
Scale	1mm:50mm @ A3

Bwlch Du Farmhouse Floorplans As Existing



BWLCH DU EXISTING SOUTH ELEVATION



Project
Bwlch Du
 Author
LNJ
 Checked by
TJN

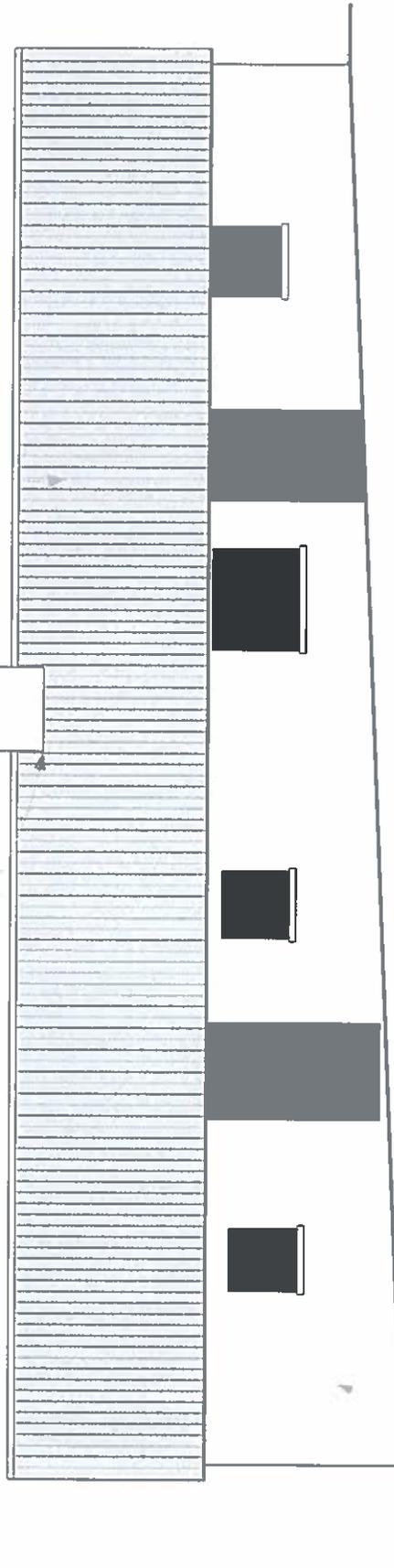
Drawing Description
**Bwlch Du South Elev
 As Existing**
 Drawing Number
DWG2
 Date
23rd November 201
 Scale
1mm:50mm @ A3

South Elevation AS Existing

Cement mortar flashing at base of chimney

Corrugated Asbestos Roof

Guttering and downpipes absent



Solid Rubble Masonry

Modern boarded windows and doors

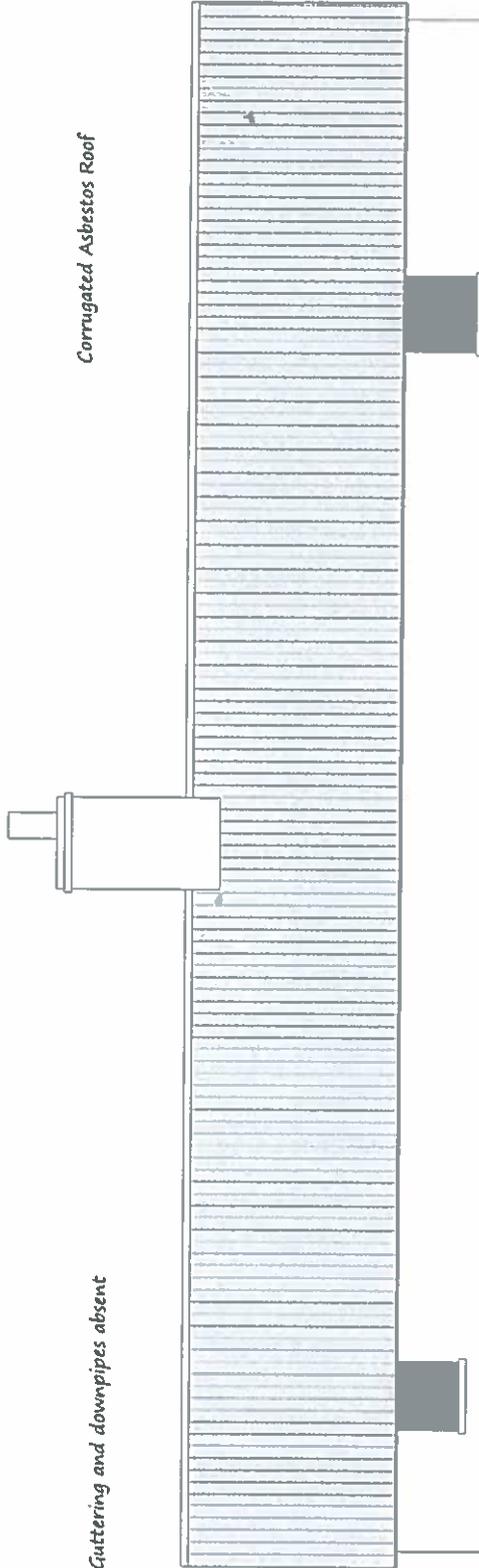


BWLCH DU EXISTING NORTH ELEVATION

	
Project	Bwlch Du
Author	LNJ
Checked by	TJN
Drawing Description	Bwlch Du North Elevation AS Existing
Drawing Number	DWG5
Date	23rd November 2018
Scale	1mm:50mm @ A3

North Elevation As Existing

Cement mortar flaunching at base of chimney



Guttering and downpipes absent

Corrugated Asbestos Roof

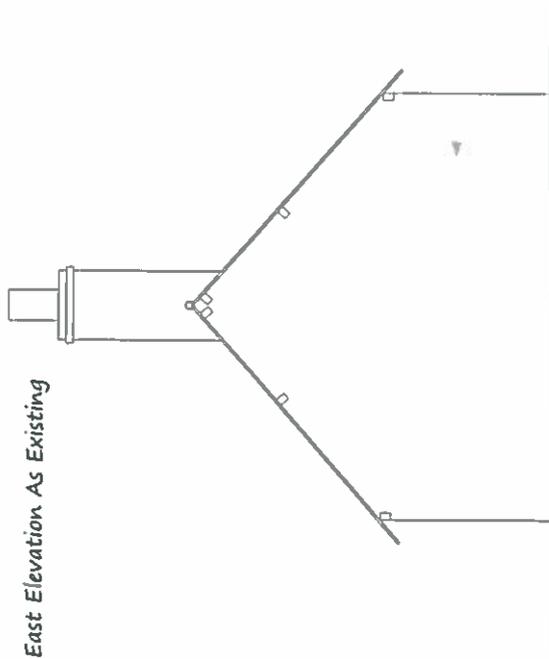
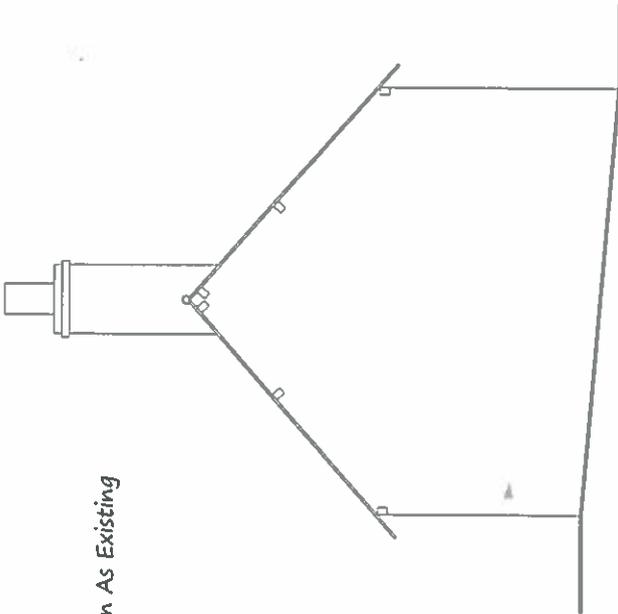
Solid Rubble Masonry

Modern boarded windows



BWLCH DU EXISTING WEST AND EAST ELEVATION

 Nashburn Price Associates
Project Bwlch Du
Author LNJ
Checked by TJN
Drawing Description Bwlch Du West and East Elevations As Existing
Drawing Number DWG4
Date 23rd November 2018
Scale 1mm:50mm @ A3

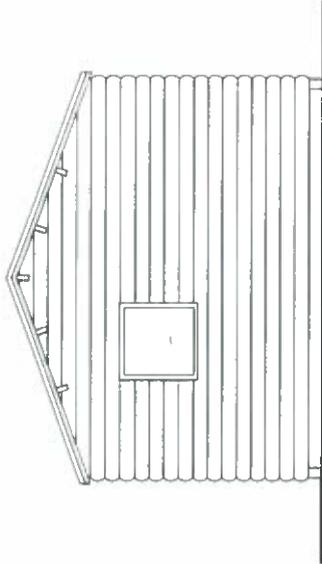


LOG CABIN

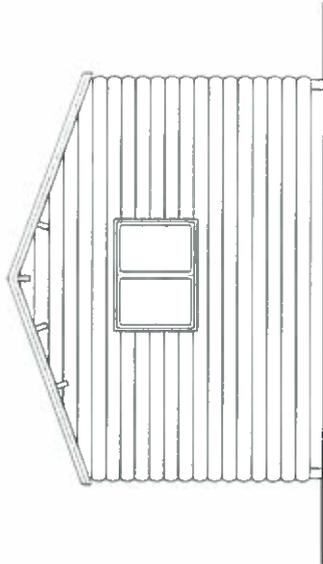


Project	Bwlch Du
Author	LNJ
Checked by	TJN
Drawing Description	Log Cabin As Existing
Drawing Number	DWG8
Date	23rd November 2018
Scale	1mm:50mm @ A3

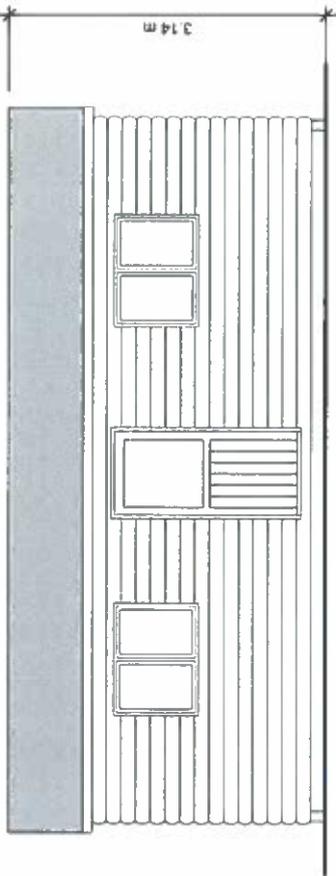
East Elevation



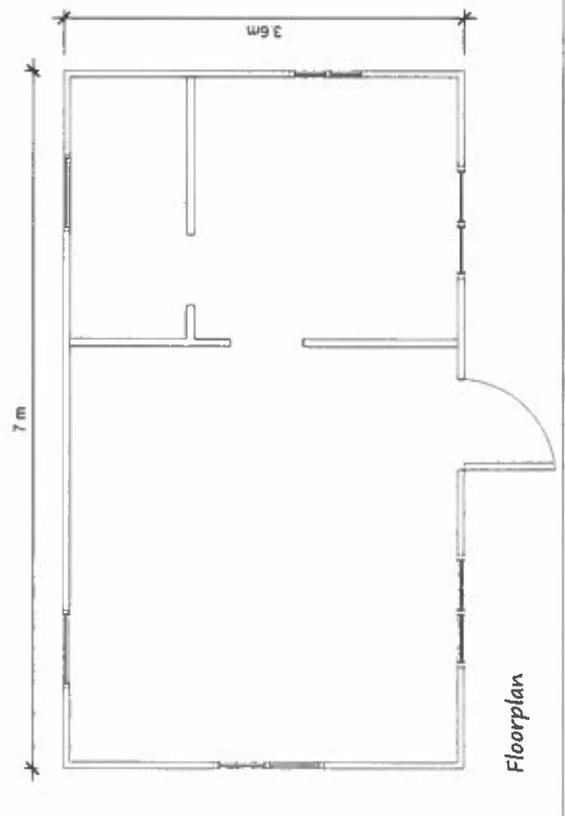
West Elevation



South Elevation



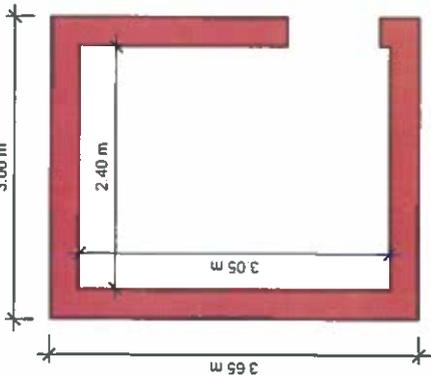
North Elevation



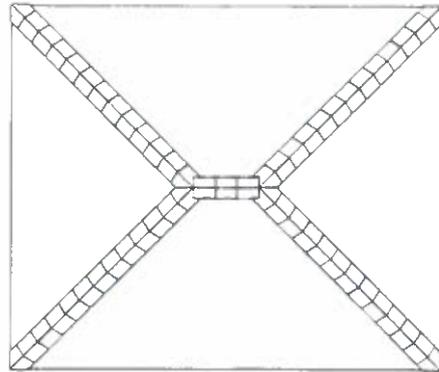
Floorplan



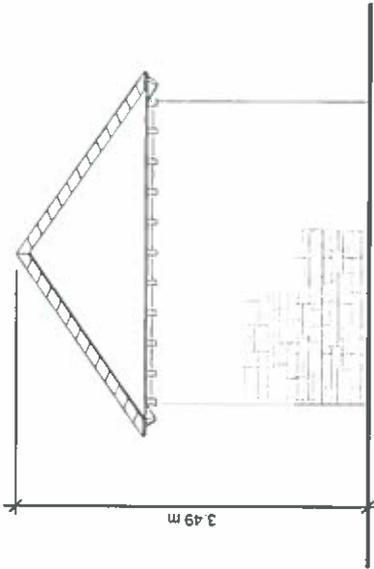
Floorplan As Proposed



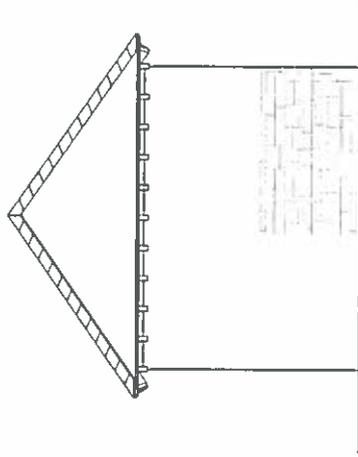
Roofplan As Proposed



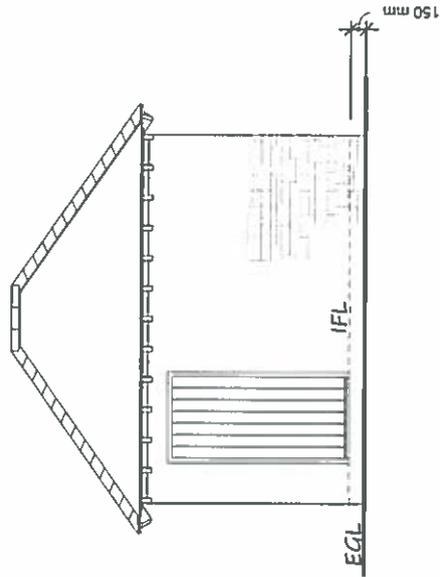
South Elevation As Proposed



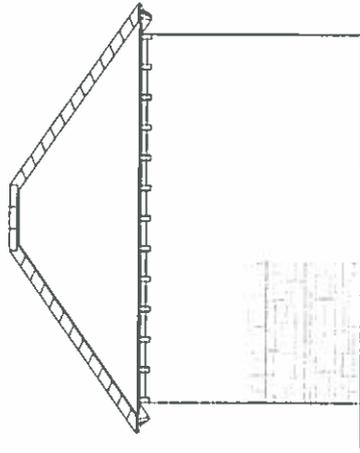
North Elevation As Proposed



East Elevation As Proposed



West Elevation As Proposed



Reclaimed Welsh slate roof, butt jointed ridge tiles
Solid walls constructed from stone salvaged from
demolished ruin adjacent to house. Painted timber
traditional style boarded door to East.



8 Metres



Project	Bwlch Du
Author	LNJ
Checked by	TJN
Drawing Description	New Ancillary Storage Building As Proposed
Drawing Number	DWG18 V2

Date	16th January 2019
Scale	1mm 50mm @ A3

PROPOSED STORAGE BUILDING

WARD : Llanrhaeadr Yng Nghinmeirch

WARD MEMBER: Councillor Joseph Welch (c)

APPLICATION NO: 25/2018/1216/PF

PROPOSAL: Alterations and rear extension to existing building, demolition of curtilage structure, erection of ancillary building, retention of log cabin (for temporary period), boundary fencing and gates, and provision of on-site parking and turning area

LOCATION: Bwlch Du Nantglyn Denbigh LL16 5RN

APPLICANT: Miss Ashley Trengove

CONSTRAINTS: SSSI
Listed Building

PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - No
Neighbour letters - No

**REASONS APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2**

- Recommendation to refuse – 4 or more representations of support received
- Member request for referral to Committee
- Referral by Head of Planning / Development Control Manager

CONSULTATION RESPONSES:

NANTGLYN COMMUNITY COUNCIL –
“No objection”.

NATURAL RESOURCES WALES –
Raised initial concerns on 21 February 2019 at the lack of a protected species survey, then subsequently confirmed no objection by letter dated 24 April 2019 on the basis of the ecological report lodged on 23 April 2019.

DWR CYMRU / WELSH WATER –
No objection.

CLWYD POWYS ARCHAEOLOGICAL TRUST –
Note that the barn structure is proposed to be completely removed and object to this as it was an integral part of the curtilage of the cottage buildings along with another wholly demolished barn to the south, both of which are visible on the first and second edition OS mapping. The ruinous walls could usefully be lowered and retained as a stub wall to represent the original outline of the barns. The interior may include a flag floor which should be retained as e.g. a garden patio area with planters.

CADW –
No objection.

SPAB (SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS) –
Object to the loss of internal features and demolition of the adjacent ruined barn.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –
Highways Officer –

No objection.

Senior Technical Environmental Health Officer –

Noise

The planning status of the property is relevant to noise considerations, as a suitable noise assessment and details of noise mitigation measures may be necessary, should they be required as indicated by the assessment, to ensure the residential amenity of the occupiers is not compromised by potential noise disturbance from the adjacent Brenig Windfarm.

Water Supply

The current situation regarding the water supply to the application site is unclear. Should the existing spring be used, no further comment. If a borehole is installed on site, the borehole will be required to be a minimum of 50 metres from the septic tank and soak away. The applicant should notify the Council in relation to installation of a borehole so records can be updated. If the applicant intends to have a utility company mains water supply to the site, should notify proof of connection.

Conservation Officer –

Original comments were to express support for the proposal to renovate the listed building and proposals in general but had concerns regarding the following items;

- ' 1) The existing fireplace and bread oven is an important feature of the building and needs to be retained as existing. I strongly object to any alterations to the structure and fabric and suggest an alternative means of access is made from the new extension to the other side of the building.
- 2) The large dog kennel is sited a fair distance from the property in the adjacent field within the SSSI area and in my opinion unacceptably stands out with the design and materials not being appropriate for the surrounding area. I would suggest siting the kennel within the curtilage of the property in the least prominent location at the rear and painted in a suitable colour to blend in
- 3) The log cabin, solar panels, shed and wind turbine will need a condition stating the time period these structures are allowed to be retained on site as currently they are detrimental to the setting of the listed building and surrounding area. I object to them being on site but will be agreeable to temporary siting for a relatively short period of time for the reasons given in the application.'

Confirmed in further response dated 20 May 2019 that there was no objection subject to the amended plans and the removal of the dog kennels from the scheme.

In relation to the derelict outbuilding, notes it was the preference to retain the remains and consolidate the walls of the outbuilding but if a future application is submitted (as has been suggested) to rebuild the structure to its original form and appearance, would be supportive of this proposal in principle subject to approval of details.

Ecologist –

Initially raised an objection to the effect on the designated features of the Mynydd Hiraethog SSSI and other protected species of conservation. Having reviewed the details of the bat survey lodged on 23 April 2019, considers the assessment of the building as having negligible potential to support roosting bats is incorrect given that the surrounding habitat is of high potential to support bats and the photographs of the building appear to show features which are suitable for roosting bats, which would require further surveys.

Notes that the bat report states *"There are no roof voids and no insulation beneath the asbestos panels, the rooms extend to the ridge, all areas are accessible"* however, the Construction Details and Photographs document includes photos from inside the building which appears to contain a number of features which are potentially suitable for roosting bats, along with a completely different internal structure than that described above. The building appears to contain wooden boarding underneath the asbestos roofing sheets which could be utilised by roosting bats, and also stop the building from being fully surveyed internally.

Based on the inaccuracies within the report, it is recommended that emergence surveys are undertaken to ensure that no bat roost is present and that the proposed development will not result in negative impacts to protected species. In addition, there has still been no submission relating to common reptiles so it is still not possible to determine the impacts on these species or ensure that the proposed development will not result in an offence.

Recommends that this application is rejected until such time that the bat and reptile surveys outlined above have been completed, and the results of these compiled with in appropriate reports and submitted to the local planning authority for review and approval.

RESPONSE TO PUBLICITY:

In support

Representations received from:

Helen Job, 2 Maes Garnedd, Peniel
David Hall, 13, Valdene Drive, Worlsey
Michael Grzegorzewski, Carreg-y-Fran
Michael Skuse, Caenant, Llangynhafal

Summary of planning based representations in support:

- Proposals should be supported as the scheme allows for the renovation and retention of a Grade II listed building / It is Council policy to encourage owners to convert redundant buildings for holiday, tourism, residential use / The proposed conversion of the building into a residential property, carefully done, would improve and enhance the site.
- The residential use has not been abandoned, Bwlch Du retains its roofs and walls and structural integrity, has been boarded up (indicating it was always intended to be restored)/ has had Council tax paid on it consistently
- Bat survey undertaken was comprehensive and to ask the applicant to undertake another seems excessive / dry heathland is unlikely to support protected reptile species
- History of the house is significant / its survival should be cherished / failure to allow this sympathetic and modest proposal to extend and restore would amount to cultural vandalism

In objection

Representations received from:

Natural Power, by letter dated 9 May 2019 which reads as follows:

“Our comments do not focus on the design detail of the application but the more basic point that the applicant relies on the assumption that Bwlch Du is a dwelling that they are seeking to alter and extend, whereas we consider the property to be a derelict building that would require change of use to be reinstated as a dwelling.

Brenig Wind Farm is an operational wind farm adjacent to the property which was consented by Denbighshire County Council in 2009. A further consent was granted on appeal for an increased tip height in 2016, though this consent was not implemented.

At the time of the grant of the 2009 planning permission, the related application was supported by an Environmental Statement. That Environmental Statement included an assessment of noise impacts at nearby sensitive receptors (i.e. residential properties) to demonstrate that appropriate noise limits could be met at those properties. This was accepted by DCC, Dick Bowdler (the external noise consultant appointed by DCC), and other consultees. The list of properties assessed was scrutinised by DCC, an independent noise consultant acting on behalf of DCC, DCC’s environmental health officer and was publicly available to the community and interested parties. It was not challenged.

The then owner of Bwlch Du, a Mr Hebblethwaite who lived in Chester, attended a public consultation event at Nantglyn and I remember speaking to him and his daughter. He told me that the property was used occasionally for summer picnics but had not been lived in for a long time. It would seem reasonable to think that he would have raised the issue of its use as a dwelling had it been the case.

The local ward member, Cllr Richard Walsh was opposed to the wind farm and would surely have raised the issue of Bwlch Du being a dwelling had he considered it to be the case.

Subsequently there was a second planning application for a wind farm with an increased tip height at Brenig. This was refused by DCC but granted on appeal in 2016. Again there was no dispute by any consultee, local representative or other party that Bwlch Du should be considered as a noise sensitive party. Once again the local ward member, Cllr Joe Walsh on this occasion, opposed the application but did not flag up any deficiency in the noise assessment due to the omission of Bwlch Du. Once again Dick Bowdler acted for DCC in advising them on the noise assessment.

In both instances the scope of the noise assessment was agreed with DCC, was scrutinised by an external expert acting on their behalf, and it appears that no issue was raised with it either during the application or the appeal process. Further scrutiny was added by the planning inspector who attended a site visit prior to granting the appeal. It is reasonable therefore to conclude that all parties regarded it as a robust assessment of the impacts of the proposed Brenig Wind Farm on all relevant noise receptors at the time at which planning permission was granted.

The Coflein website <https://www.coflein.gov.uk/en/site/26899/details/bwlch-du> describes Bwlch Du as “now derelict”. Photos on the page clearly show the property as derelict, having no door or windows and with sheep freely entering the building.

In summary, this was because both the applicant, DCC, its advisors and other consultees considered that Bwlch Du was not a residential property. To the extent that it may have been in the past, it appears to have been common ground between the applicant and the Council that such use had been abandoned in planning law terms.

In support of my client’s position I would ask you to consider the conclusions of the Court of Appeal in Hughes v Secretary of State for the Environment Transport and the Regions (see attached – and in particular the criteria at paragraph 4 to 8 and paragraph 23).

Any application for residential use should cover both the “existing” dwelling and the proposed extension and therefore that the application in its current form should be refused or amended.”

EXPIRY DATE OF APPLICATION: 12/03/2019

EXTENSION OF TIME AGREED: 21/06/2019

REASONS FOR DELAY IN DECISION (where applicable):

- delay in receipt of key consultation responses
- additional information required from applicant
- protracted negotiations resulting in amended plans
- re-consultations / further publicity necessary on amended plans and / or additional information
- awaiting consideration by Committee

PLANNING ASSESSMENT:

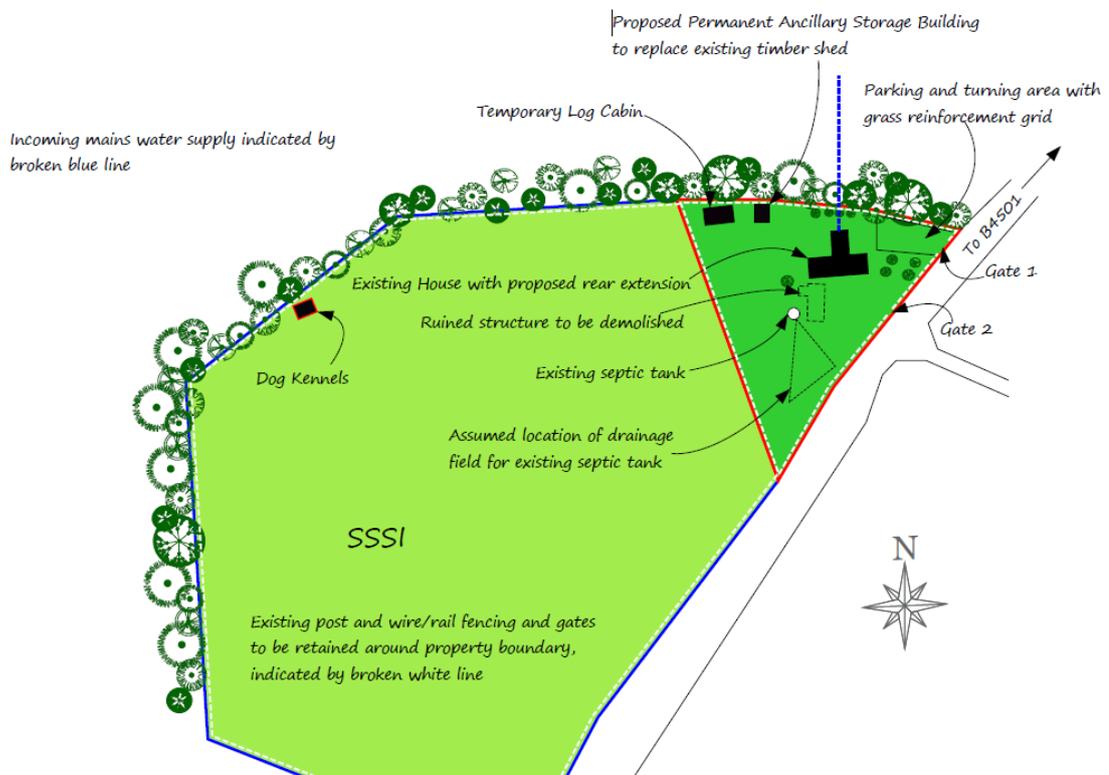
1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks planning consent for a number of developments at the property Bwlch Du:

- a) Alterations and rear extension to existing building
- b) Demolition of curtilage structure
- c) Erection of ancillary building
- d) Retention of log cabin (for temporary period)
- e) Boundary fencing and gates
- f) Provision of on-site parking and turning area

1.1.2 The location of the above elements is shown on the site plan extract provided below for ease of reference. The applicants confirmed in May 2019 that the proposals for dog kennels were to be removed from the application:



1.1.3 The alterations to the existing building were revised by amended plans on 8 April 2019 following discussions with Council officers, to limit impact on the internal features of the existing building, primarily the central fireplace. The works now proposed would add a single-storey extension to the rear (north) of the building to accommodate a kitchen/living area with the remainder of the building being laid out to provide two bedrooms, a bathroom and a dining room. The extension would utilise stonework/render and a painted corrugated iron roof to match the host building.

1.1.4 The rear extension would have a footprint of 6.0 metres by 4.8 metres, adding a floor area of 29 sq m to the existing structure which has an existing floor area of 64 sq m, thereby representing an increase in floor area of 45%.

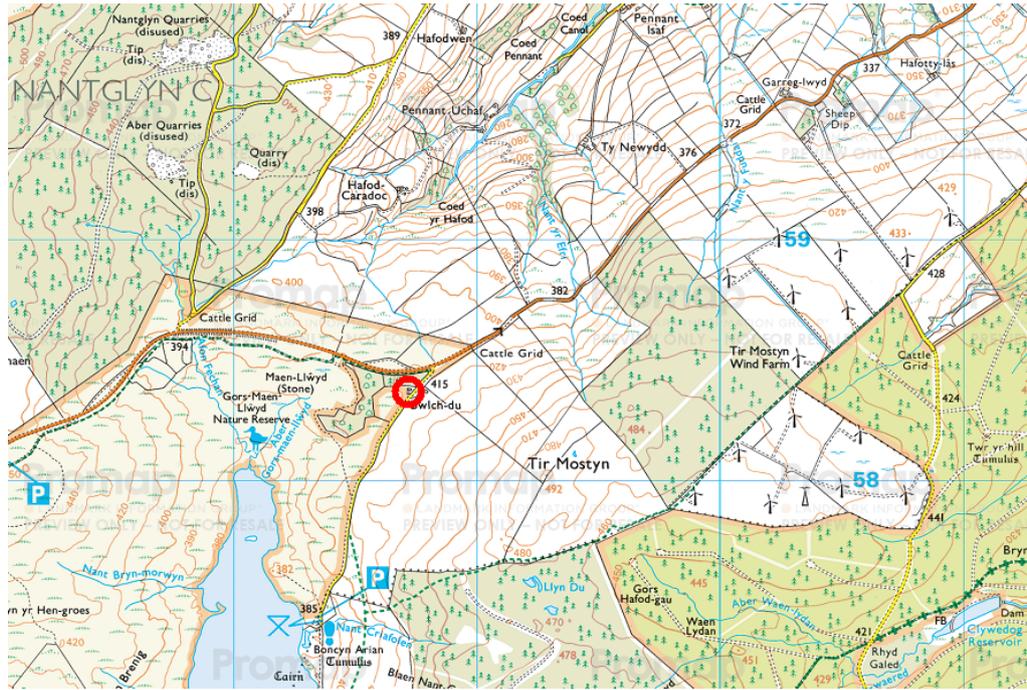
1.1.5 The existing building has the remains of a former barn located to its southern side which is proposed to be demolished as part of the scheme. During discussions with the agent and at a case officer site visit on 5 March 2019 it was confirmed that it was

feasible to retain the base element of this former structure as some form of patio area should it be considered prudent to do so by the Council, although no plans or details of how this could be achieved have been provided.

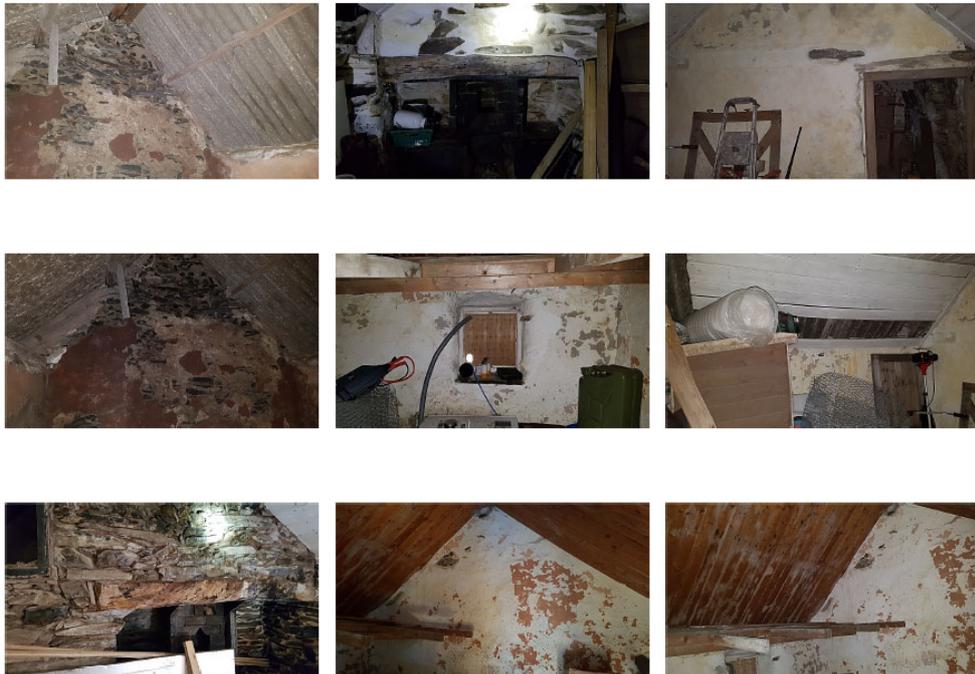
- 1.1.6 The proposed ancillary storage building would be located adjacent to the northern boundary of the site with a footprint of 3.0 metres by 3.65 metres with a hipped roof over up to a height of 3.5 metres. The structure would utilise a slate roof and stonework for its walls, salvaged from the remains of the ruined barn to be demolished.
- 1.1.7 The log cabin which is currently in place at the site has a footprint of 7.0 metres by 3.6 metres with a ridge of 3.1 metres, and is located adjacent to the northern boundary as indicated on the site plan extract earlier in this report. It is proposed to be retained for a maximum period of five years until works on the main building have been completed. The log cabin is being utilised without the benefit of planning consent as a dwelling by the applicant and her partner, and has been subject to enforcement action requiring its removal.
- 1.1.8 The extent of the boundary fencing which has been put in place around the perimeter of the site including the road frontage is indicated on the site plan and takes the form of post and wire fencing. Two gates have been provided on the south eastern side, one of which leads into a parking/turning area which has been created within the north eastern corner of the site and will be laid out as a reinforced grid system to allow grass to grow and provide a natural appearance. The extent of this parking/turning area is indicated on the site plan. As the fencing and gates have already been put in place, permission for this element of the scheme is sought retrospectively.
- 1.1.9 When initially submitted, the application also proposed the retention of a substantial dog kennel building standing in the adjacent field. This element was confirmed by the agent for the scheme on 7 May 2019 as being no longer included and has been omitted from the description of development.
- 1.1.10 The main points of the applicants / agents submissions in relation to key elements of the proposals are referred to in the main planning considerations sections of the report.
- 1.1.11 The plans at the front of the report illustrate the different elements of the scheme.

1.2 Description of site and surroundings

- 1.2.1 The application site is located 4km south west of Nantglyn, adjacent to a road junction on the B4501, to the east of which lie the Brenig and Tir Mostyn wind farms. Llyn Brenig lies around 700m to the south west of the site, as indicated on the location plan provided below. The site location is denoted by a red circle:



- 1.2.2 The site slopes from the southern boundary up to the north where it abuts a ribbon of tree planting, with a farm building across the minor road to the east and an open field to the south west which slopes down towards Llyn Brenig.
- 1.2.3 The main existing building at Bwlch Du appeared to be in use for storage purposes at the time of the case officer site visit on 5 March 2019. It is a single-storey building with stonework walls and a pitched corrugated asbestos roof. The interior of the building was sub-divided into two main rooms (one at each end) either side of a central fireplace/oven feature.
- 1.2.4 Photographs taken on 5 March 2019 of the interior of the building and the site are shown below:





- 1.2.5 The recently constructed Brenig windfarm is located on land to the east / south east of Bwlch Du, with the turbines at Tir Mostyn further to the east.

1.3 Relevant planning constraints/considerations

- 1.3.1 The existing building is a Grade II Listed property, described within the official Cadw listing as follows:

History:

Late C18 or early C19 encroachment smallholding farmstead, built on the edge of the moors.

Exterior:

Long, single-storey small farmhouse of whitened rubble construction with corrugated asbestos roof, probably formerly thatched; modern purlins visible at the gable ends. The farmhouse is in two sections, a 2-window living section to the R and a 2-window brewhouse section to the L; a large central chimney divides the two. The latter has weather-coursing and C20 brick corning. C20 boarded doors, the brewhouse section flanked by small, plain late C19/early C20 sliding sashes and the main section with similar sash to the R and a larger 12-pane sliding sash to the L; projecting slate sills throughout.

Interior:

The interior was not inspected at the time of survey.

Reasons for Listing:

Listed for its special interest as a small late C18 or early C19 encroachment homestead in an isolated moorland location.

- 1.3.2 The site lies outside of any development boundary and is adjacent to an SSSI designation as shown in the Denbighshire Local Development Plan. For planning policy purposes it is in open countryside.

- 1.3.3 The site lies within the boundary of Strategic Search Area A – Clocaenog Forest in Welsh Government's Technical Advice Note 8: Planning for Renewable Energy. This is one of seven areas designated as suitable for large scale onshore wind developments, to assist achievement of Welsh Government's targets for onshore wind production.

1.4 Relevant planning history at the site

- 1.4.1 The Development Management Section's recent records reveal the submission of applications in 2017 in relation to developments at Bwlch Du, which were not considered valid, and have not been pursued by the applicants.
- 1.4.2 The current planning and listed building submissions were received in late December 2018.
- 1.4.3 An Enforcement Notice was served in 2018 in relation to breaches of planning control at the site including the siting of the timber cabin, the boundary fencing and gates, a wind turbine, an electrical plant storage shed, solar panels, a poultry shed and the kennel building. The Notice was the subject of an appeal in early 2019. This appeal was dismissed by the Planning Inspectorate in May 2019 and the enforcement notice upheld.

1.5 Developments/changes since the original submission

- 1.5.1 The application has been subject to extensive discussions with the original agent (Nicholson Price Associates) and the latest agents (Richard Buxton Solicitors, who were appointed on 15 May 2019), along with the applicant Ashley Trengove and her partner Dean Turner, who has also been authorised by the applicant to correspond on the case.
- 1.5.2 These discussions have led to the submission of revised plans on 8 April 2019 which showed the repositioning of the extension to allow the central fireplace to be retained, the provision of further bat information on 23 April 2019, and the removal of the dog kennels from the scheme as confirmed on 7 May 2019 by the original agent and on 13 May 2019 by Mr Turner.
- 1.5.3 Further information has been received throughout the period of the consideration of the case by the Council, and is referred to later in the report.

1.6 Other relevant background information

- 1.6.1 The proposals relating to the extension and alterations of the listed building and the demolition of the curtilage structure are the subject of a separate listed building consent application, which is presented in the following report on the agenda, application reference 25/2018/1217/LB.

2. DETAILS OF PLANNING HISTORY:

2.1 25/2018/1217/LB – Alterations and rear extension to existing building and demolition of curtilage structure: Undetermined at the time of this report.

2.2 Enforcement Appeal ref APP/R6830/C/18/3203539: dismissed on 23 May 2019.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD3 – Extensions and alterations to existing dwellings

Policy PSE4 – Re-use and adaptation of rural buildings in open countryside

Policy VOE1 – Key areas of importance

Policy VOE5 – Conservation of natural resources

Policy VOE9 – On-shore wind energy

Policy VOE 10 – Renewable energy technologies

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Access For All

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity

Supplementary Planning Guidance Note: Listed Buildings

Supplementary Planning Guidance Note: Parking Requirements In New Developments

Supplementary Planning Guidance Note: Renewable Energy

Supplementary Planning Guidance Note: Residential Development

Supplementary Planning Guidance Note: Residential Development Design Guide

Supplementary Planning Guidance Note: Residential Space Standards

Supplementary Planning Guidance Note: Re-use and adaptation of rural buildings

3.2 Government Policy / Guidance

Planning Policy Wales (Edition 10) December 2018

Development Control Manual November 2016

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)

TAN 8 Renewable Energy (2005)

TAN 12 Design (2016)

TAN 24 The Historic Environment (2017)

Circulars

3.3 Other material considerations

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. This guidance is consistent with the statutory requirement to determine planning applications in accordance with the development plan unless material considerations indicate otherwise (s.38(6) Planning and Compulsory Purchase Act 2004). It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 10 (December 2018) and other relevant legislation.

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Lawful use of the property
- 4.1.2 Principle
- 4.1.3 Visual amenity and landscape impact
- 4.1.4 Residential amenity
- 4.1.5 Ecology and the SSSI
- 4.1.6 Drainage
- 4.1.7 Highways
- 4.1.8 Impact on the Listed Building
- 4.1.9 Implications on Brenig Wind Farm / TAN 8 Strategic Search Area

4.2 In relation to the main planning considerations:

4.2.1 Lawful use of the property

Officers consider the critical starting point for the assessment of the application is inevitably the lawful use of the existing main building, as this dictates the key planning policies at local and national level that should be applied.

The applicant's position

A summary of the applicant's view is that the heritage listing for the property estimates that the cottage was erected in the late 18th or early 19th century and the agent contends that it has been utilised for the majority of its lifetime as a dwelling connected to the wider farmstead.

It is stated in paragraph 7.2 of the submitted 'Revised Heritage Impact Statement and Supplementary Information' dated 7 April 2019 that occupation of the cottage *'may well have continued until the recent past'* but paragraph 7.3 accepts that the cottage is currently unoccupied although this period of vacancy was *'always intended by the previous owners to be temporary'*. No evidence has been provided to endorse this assertion.

Paragraph 7.4 asserts that comparatively minor extensions, alterations and repairs are needed for the building to continue to function for modern habitable living. Paragraph 7.6 concludes that 'the residential use has not been substantively abandoned and the site still possesses an authorised use as a dwelling and curtilage'.

Individual representations

Comments received on the application contend the residential use has not been abandoned, and refer to the fact that Bwlch Du retains its roofs and walls and structural integrity, it has been boarded up, suggesting it was always intended to be restored, and has had Council tax paid on it consistently.

The Council's position

The Council's evidence in relation to the recent enforcement appeal notes that there is no history of planning permissions at the property. The main stone building is a derelict and uninhabitable farmstead, with no evidence of occupation or renovation works for a number of decades.

There is useful archive information on Bwlch Du on the Coflein online mapping service, which records built heritage in Wales. This contains an entry for the building from an inspection in July 2007 of: 'Now derelict. This is reported to have remained roofed with heather until the mid-19th century'. The Coflein site contains the following photographs taken in 1954 and 2008.



Bwlch Du 1954- Coflein



Bwlch Du -September 2008- Coflein

Other 2008 photographs on the Coflein record show the interior of the property as having an earth floor and with all windows and doors having been removed.

By way of background, a request for submission of a lawful use certificate to assist consideration of the residential use status was made to the applicant in May 2017 but as no application was submitted, the status of the land and the building remains at issue. The Inspector in the recent enforcement appeal decision letter made no definitive comments in regard to the lawful use of the building.

Officers have no grounds to dispute that the building was originally constructed as a dwelling and was utilised as such for much of its long lifespan. It is however unclear as to exactly when permanent occupation ceased and this is considered to be a critical matter in relation to the current application.

It was evident from the internal inspection of the building made by the case officer on 5 March 2019 that it had not been lived in for some time, with the photograph from 1998 provided above further evidencing this fact.

Marketing particulars dating from 2016 from Rightmove, after which the applicant purchased the site, describe the building as being a 'detached house for sale', but this sheds no useful light on the issue as the description is purely informative and not evidenced within the particulars.

The Council Tax section have records that payments were made by the previous owner from 1996 to 2016, but this was stopped once the applicant purchased the property. Payment of Council tax does not confirm occupation or use of a property or the lawfulness of its use in planning terms.

Available water supply records refer to the property as a holiday cottage in 1976 with a further record in 2005 stating the building was derelict and used as a sheep shelter, which lends weight to the view that it was not occupied, or capable of being occupied.

Abandonment

Through case law, Officers are aware that the relevant factors to be taken into account when considering whether the use of a dwelling has been abandoned are:

- 1) *Physical condition of the building;*
- 2) *Length of time for which the building has not been utilised for residential purposes;*
- 3) *Whether the building has been utilised for any other purposes;*
- 4) *The intentions of the owners.*

The above factors are assessed below. It should be recognised that none of these factors are in themselves determinative. They should be considered in the round and in light of the overarching question: whether a reasonable man with knowledge of all the relevant circumstances would conclude that the house had been abandoned.

- Physical condition of the building

The main building is in a poor condition and has suffered from neglect over a long period of time, having no door or window frames and no internal fittings. It is in a clearly uninhabitable state. However, whilst a structural survey has not been provided as part of the application package and the building has not been inspected by any qualified surveyor, it is the opinion of the case officer and the conservation officer from an internal and external inspection of the property that the building is not in a dangerous condition. There was no readily apparent visual evidence of structural instability in the main walls or roof at the time of the site visit on 5 March 2019, which is apparent from the photographs provided elsewhere in the report.

It is not considered that the physical condition of the building provides conclusive evidence either way on the matter of abandonment of the residential use.

- *Length of time for which the building has not been utilised for residential purposes*

The Council's proof of evidence for the recent enforcement appeal confirmed that there is no history of planning permissions at the site. It refers to the property being a derelict and unoccupied farmstead dating from the late 18th or early 19th Century, and that the main building has not benefitted from any renovation works for a number of decades.

The photograph provided earlier in the report dating from 1954 depicts the building with a thatched roof, and containing windows and doors but provides no firm evidence as to the use of the building at that time with no internal views being available.

When the issue of the lawful use was raised with the current applicant, a response was lodged which included the following information:

"The council is in possession of evidence, including full council tax records, proving Bwlch Du's residential status, therefore, again, I find it unreasonable that officers are again questioning this, and asking my planning agent to provide a statement.

There have been no intervening uses of Bwlch Du, no previous applications for a change of use since it was last lived in, the state of the building, even according to CADW, is well preserved and the intentions of the previous owner were to retain its residential status – why else would the previous owner pay tens of thousands of pounds in council tax and even travel a two hour round trip from his home in Chester to attend a community meeting regarding the Brenig Windfarm (admission from the previous Brenig project manager at Natural Power). Bwlch Du was also purchased as a residential property.

To be clear, the residential status of Bwlch Du has not been abandoned. Should the council wish to challenge this further, they should apply the four tests of abandonment and formally challenge this through the judicial system. Holding our property informally "in limbo" and saying the residential status remains "unresolved" without even, according to Chief Executive, Judith Greenhalgh, formally challenging this, is both unreasonable and unlawful."

In regard to Council Tax payments, it is confirmed by the Council tax section that this was paid by the previous owner from 1996 to 2016, but payments were stopped following challenge from the current owners and now applicant. E-mail correspondence from the owners in support of the challenge included the following dated 15 April 2016:

"On 3 November 2015 we purchased the above property in the knowledge that it has been derelict for decades and requires major structural repair, therefore rendering it unfit for human habitation... With the property being so dilapidated and unfit for human habitation, I queried with council tax bill in the first place, and have now applied to the Valuation Office Agency to have the property deleted from the banding system while in its current state."

Information on water supplies for the property held by the Council's Public Protection section is also of assistance in regard to establishing the length of time for which the building has not been occupied. The 1976 file describes the building as a 'weekend cottage' without any bathroom or toilet. A further note in 1992 reiterates the lack of bathroom facilities, with a note in 2005 describing the building as being derelict and used as a sheep shelter.

The Electoral Services Officer has confirmed that an application was received in 2017 for registration on the electoral roll at the property, but that historical paper registers dating back to 1974 have no-one registered at Bwlch Du.

Taking all the above available evidence into account, it would appear that the building has not been utilised as a permanent residential property since at least the 1950s, its deteriorating physical condition since this time rendering it uninhabitable as a dwelling.

The applicant/agent have been requested to put forward their own evidence to endorse their opinion that the property remains a lawful dwelling, but have not provided any documentary evidence to contradict the Council's records and overall opinion that the building ceased to be utilised as a permanent dwelling more than 60 years ago.

On this basis, it is Officers' view that the property has not been used for residential purposes for a considerable period of time, and consideration of this factor points strongly to the conclusion that the use of the building as a dwelling house has been abandoned.

- *Whether the building has been utilised for any other purposes*

There is no clear evidence to show there has been any 'intervening' use of Bwlch Du since its last use as a dwelling. Whilst it has been noted in the past that animals have been seen using it as a shelter, Officers would not consider this would constitute a 'positive' alternative use established over time.

Officers' conclusions are that consideration of this factor is neutral in the overall judgment as to whether the dwellinghouse use has been abandoned.

- *The intentions of the owners*

It seems from the information in front of the Council that prior to the most recent change of ownership in 2016, the owner of Bwlch Du had no clear intention to utilise the building as a permanent dwelling, evidenced by the fact that little or no efforts were made over a considerable period of time to maintain the basic structure, and by the time of consideration of the windfarm application in 2007, it was in a dilapidated and totally uninhabitable condition.

Whilst it is recognised that the current applicant's intentions are to renovate Bwlch Du as a dwelling, this is not considered of significance to consideration of the issue of abandonment, as the test has to be applied over the owner's intentions over a period of time. Indeed, it could be argued that if a property's use as a dwellinghouse has already been abandoned, the intentions of the current owners should be given limited, if any, weight.

Taking into account the evidence of the intentions of previous owners of the property, Officers conclude that this particular factor supports a conclusion that the use of the building as a dwellinghouse has been abandoned.

Conclusions on the planning status of the property

The available evidence confirms that the property was originally constructed as a dwelling and appears to have remained in use as such until the 1950s, after which time it may have been utilised occasionally as a weekend cottage. Its physical condition has declined, and it has been evidenced in use as an animal shelter. There is no evidence of any intention of the previous owner to use or maintain Bwlch Du as a dwelling over a considerable period of time.

Having regard to the evidence available and the factors set out earlier in this report Officers conclude that a reasonable man with knowledge of all the relevant circumstances would conclude that the house has been abandoned. The property therefore has no lawful use. The proposals before the Council should therefore be considered to be for the adaptation of a redundant rural building for use as a

dwellinghouse. The remainder of this report therefore considers the other relevant issues on this basis.

4.2.2 Principle

In terms of the national planning policy context in respect of development in open countryside, Planning Policy Wales 10 (December 2018) paragraph 3.56 states that this should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. It also advises that new buildings in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.

Representations received on the application suggest the principle of the development should be supported as the scheme allows for the renovation and retention of a Grade II listed building, which is encouraged by planning policy and would improve and enhance the site. There is also reference to the significance of the history of the house which suggests its survival should be cherished.

In Officers' opinion, having regard to the background history, the proposal should properly be considered as one involving the conversion of a disused building in the open countryside to a dwelling, with the ancillary developments. Local Development Plan Policy PSE 4, Re-use and adaptation of rural buildings in open countryside, allows for such conversions where the scheme of conversion makes a positive contribution to the landscape, any architectural features of merit are retained, and two tests are met :

- 1) an employment use has been demonstrated not to be viable; and
- 2) the dwelling is affordable to meet local needs.

The development proposes conversion and extension works on the main building, with the extension as revised adjudged to retain the internal features of architectural merit of the structure

Having regard to the tests of policy, there is no information in the submission to show that the re-use of the disused building is unviable for employment use or that the proposed dwelling would be affordable to meet local needs. It is the view held by officers that the applicant has not submitted evidence on these criteria because she does not consider them to be relevant given her view that the dwellinghouse use has not been abandoned.

Overall, the development is considered to be contrary to the requirements of LDP Policy PSE 4 and the advice of PPW10 in regard to development in the countryside.

4.2.3 Visual amenity and landscape impact

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a material consideration.

PPW 10 Section 6.3.3 states 'All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic,

environmental and cultural benefits they provide, and to their role in creating valued places.’

Having regard purely to the physical impacts of the different elements of the proposals:

The scale, siting and detailing of the proposed extension to the existing building is considered to be appropriate in respect of the character of that building, with the new post and rail fence and gates also relatively small-scale changes to the appearance of the site.

If the existing building were held to be a lawful dwelling, the minor extension to the residential curtilage is also not considered unreasonable.

However, the retention of the log cabin for any period of time and the siting and scale of the proposed ancillary building are adjudged to have a clear adverse visual impact as they are alien structures within the landscape which have no required relationship to the listed building or the wider open countryside.

These elements of the development are therefore considered contrary to PPW10 in regard to harm to the landscape and also guidance in Paragraph 9.4.3 of the Development Management Manual.

4.2.4 Residential amenity

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The works as proposed are not considered likely to give rise to harm to existing residential amenity of occupiers of any nearby dwellings, given the absence of any dwellings in the immediate locality.

The matter of granting the permission sought in relation to the impact of the nearby wind farm on the amenity of any future residential occupiers of Bwlch Du is addressed later in this report.

4.2.5 Ecology and the SSSI

Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests.

This reflects policy and guidance in Planning Policy Wales (Section 6.4), current legislation and SPG 18 – Nature Conservation and Species Protection, which stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

Planning Policy Wales also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The ecological impacts of development should therefore be regarded as a potential material consideration.

There is key guidance is provided in Technical Advice Note (TAN) 5: Nature Conservation and Planning on the consideration to be given to the presence of protected species. Paragraph 6.2.2 and 6.3.7. These include the following:

“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted”; “Planning permission should not be granted subject to a condition that protected species surveys are carried out and, in the event protected species are found to be present, mitigation measures are submitted for approval”; and “It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 licence are likely to be satisfied”.

The guidance also warns that “bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of them being present”

There are individual representations on the application which contend that the bat survey undertaken was comprehensive and it is excessive to require the applicant to undertake further survey, and it is suggested the dry heathland is unlikely to support protected reptile species.

The detailed comments of the Council’s ecologist set out earlier in this report highlight concerns over the adequacy of information in relation to reptiles and bats, in particular its lack of a robust analysis of bat habitat, roosts and emergence surveys. The ecologist points to parts of the building structure which could be utilised by roosting bats, and also stop the building from being fully surveyed internally. The clear conclusion is that emergence surveys need to be undertaken to ensure that no bat roost is present and that the proposed development will not result in negative impacts to protected species. In relation to common reptiles, the absence of any survey means it is still not possible to determine the impacts on these species or ensure that the proposed development will not result in an offence.

Prior to the receipt of the final comments from the Council’s Ecologist, the applicants expressed concerns at the suggestion that additional bat surveys may be necessary, pointing to their own Consultant’s findings and information in the Brenig Windfarm Environmental Statement in 2007 which indicated Bwlch Du was not a suitable habitat for bats. Their agents have been made aware of the Ecologist’s final comments in an email dated 1 July 2019 and have responded as below:

‘We are hoping to obtain some further comments from Mr Bennett on the points raised by Mr Walley but he is currently away and we do not know when he will be able to respond. If any further information is forthcoming from Mr Bennett in advance of the meeting, we trust that this will be accommodated given the very significant delay in Mr Walley’s response (which was provided well after the consultation period and in fact after the original date that the application was intended to be heard). In any event it seems clear that if there are any outstanding issues by the time of the hearing, these can be dealt with by conditions.’

Any additional representations received from the agents between the drafting of this report and the day before the Planning Committee meeting will be referred to in the late information sheets.

In respecting the applicant's previous comments, on the basis of the Ecologist's clear response it is considered that insufficient information has been submitted to demonstrate that the proposed development would not adversely impact on protected species. In circumstances where it is not possible to be satisfied that a proposal would not adversely affect a protected species or that NRW would be able to grant a regulation 44 permit, the matter of impact on protected species is not something which can be conditioned as it requires resolution prior to any approval being issued. The grant of planning permission would risk breaching the requirements of the Habitats Regulations. The proposal is therefore considered to be contrary to the requirements of TAN 5, Policy VOE5, SPG18 and paragraph 9.4.3 of the Development Management Manual.

4.2.6 Drainage

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The drainage and flood risk impacts of development should therefore be regarded as a potential material consideration.

Planning Policy Wales (PPW 10) Section 6.6.9 states 'The adequacy of water supply and the sewage infrastructure should be fully considered when proposing development, both as a water service and because of the consequential environmental and amenity impacts associated with a lack of capacity'.

On the basis of consultation responses, the scheme as a whole is not considered to raise any significant concerns in regard to drainage impacts or water supply. In the event of permission being granted, it would be necessary to include suitable conditions and notes to applicants requiring further details of the drainage proposals, to ensure impacts on a sensitive environment are mitigated to an acceptable level.

4.2.7 Highways

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. These policies reflect general principles set out in Planning Policy Wales (PPW) and TAN 18 – Transport, in support of sustainable development.

The Parking Standards in New Developments SPG sets out the maximum parking standards for new developments.

The highway officer raises no objections to the proposals, and it is not therefore considered that the proposals raise any negative highway related issues.

4.2.8 Impact on the Listed Building

Local Development Plan Policy VOE1 seeks to protect sites of built heritage from development which would adversely affect them, and requires that development proposals should maintain and wherever possible enhance them for their characteristics, local distinctiveness and value to local communities.

Planning Policy Wales (PPW 10) Section 6 'Distinctive and Natural Places' refers specifically to the need to ensure the character of historic buildings is safeguarded from alterations, extensions, or demolition that would compromise their special architectural and historic interest.; and 6.1.10 indicates that where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building or its setting, and any features of special architectural or historic interest which it possesses.

Whilst it is concluded that the extension and alterations to the listed building are acceptable developments in terms of visual impacts and the character and appearance of the listed building, and are supported by the Conservation Officer, the impacts of the ancillary buildings on the setting of the listed building are not considered to be acceptable, and fail to preserve that setting, in conflict with policy and guidance on the historic environment, TAN 24, Planning Policy Wales, The Historic Environment Act, Policy VOE 1 of the Denbighshire Local Development Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.2.9 Implications on Brenig Wind Farm / TAN8 Strategic Search Area

The presence of windfarms in close proximity to Bwlch Du raises separate considerations in relation to this application. These are outlined in the response submitted by Natural Power, which is included at the front of the report.

The planning policy context is set in Technical Advice Note 8, which outlines considerations Welsh Government require to be given to proposals for and impacting on windfarms. Of particular interest is Paragraph 2.10, which encourages Local Planning Authorities to take an active approach to developing local policy for Strategic Search Areas in order to secure best outcomes. It refers to local issues which could be addressed, including:

- 'Safeguarding wind farm sites. Local Planning authorities should be aware that other developments could sterilise land for wind power proposals, and bear this in mind during policy formulation and decision making'.

The TAN8 requirement is relevant to the application as the grant of permission for the proposals to reinstate a residential use at Bwlch Du has potential to impact on the Brenig windfarm, and potentially others in the vicinity as the introduction of sensitive developments such as residential properties in close proximity to operational and consented windfarms could prejudice the functioning of windfarms due to adverse effects from noise and shadow flicker. No information has been provided with the application to demonstrate the property is capable of achieving a satisfactory standard of amenity for future occupiers, and accordingly there is insufficient information to conclude that the future occupiers of the property would enjoy an adequate level of residential amenity, having regard to the proximity of the property to an operational wind farm. Officers have concerns the proposal would not be compatible with windfarm developments on adjoining land.

The Natural Power response explains the background to the grant of permission for the Brenig (and other) windfarms in this area, and the involvement of the County Council, the Planning Inspectorate at appeal, and the Secretary of State in relation to the Clocaenog windfarm. In summary, the Environmental Impact Assessments (EIAs) submitted with the windfarm applications have included detailed noise assessments to establish impacts at identified sensitive receptors (i.e. residential properties), to demonstrate that appropriate noise limits could be met at those properties. Bwlch Du was not recognised in any of the windfarm applications as a sensitive residential

receptor as it was in a derelict and uninhabitable condition. This was public information open to challenge from any party with an interest in the applications (County Council, Community Council, consultees, private individuals, Councillors, and the property owner). There is no evidence this was ever challenged. Applications refused by the County Council which have been subject to appeal have been scrutinised by Planning Inspectors, and again there has been no reference to the need for inclusion of Bwlch Du as a sensitive residential receptor. This lack of any challenge is a relevant indicator of the abandonment of the property, although not determinative.

The relevance of this is that Bwlch Du is within 2km of a number of operational and consented windfarms including Tir Mostyn / Foel Goch windfarm, the Brenig Windfarm, Clocaenog Forest windfarm and the Pant y Maen windfarm. The property was not considered to be a residential receptor in any of the EIAs for the windfarm planning applications, and at no point did the decision makers or any party expressing interest in the applications consider it to be residential. As noted, the decision makers on these applications have been the County Council, the Planning Inspectorate on appeal decisions, Welsh Ministers and the UK Secretary of State.

The grant of permission would run contrary to the requirement in TAN8 that consideration has to be given to safeguarding windfarm sites in making planning decisions.

Other matters

Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 The Bwlch Du proposals raise significant issues of principle. Officers do not consider the property has a lawful use as a dwelling, evidenced by the background history, hence it is contended that the proposals before the Council are for the re-use and adaptation of a redundant rural building for residential use, with ancillary developments. On this basis, the development is considered to be unacceptable in principle. The ancillary developments cause visual harm to the locality, impacting adversely on the setting of the listed building.

5.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The subject case fails to comply with the development plan as a whole, having regard to its failure to comply with Policies PSE4, VOE1 and VOE5.

5.3 Additionally, the grant of permission would not safeguard wind farm sites from a development which could negatively impact on them, and it has not been demonstrated that the dwelling would be capable of providing a satisfactory standard of amenity for future occupiers due to the proximity to operational and consented windfarms. The submission also fails to provide sufficient details to allow for an adequate assessment of the potential impact on protected species.

5.4 Whilst the benefits of the renovation and retention of the listed building are recognised, this is not in itself considered to be of sufficient strength to outweigh the harm caused when taken in the overall planning balance. It is not considered that the use of conditions would be sufficient to make the development acceptable given the objections raised within this report regarding the matters of abandonment, the conversion of the building to a dwelling, adverse visual impact and impact on the setting of the listed building, lack of information regarding protected species, and the windfarm impact. Accordingly, there are insufficient material considerations that displace the presumption in favour of the development plan in this case.

RECOMMENDATION: - REFUSE for the following reasons:-

1. The existing building does not have a lawful use as a dwelling, having regard in particular to the length of time for which it has not been in use for residential purposes and the absence of any clear intention of the previous owner to use or maintain the building as a dwelling. As the residential use of the property is considered to be abandoned, the proposal is therefore considered to be for the re-use and adaptation of a rural building in open countryside. The proposal to re-use and adapt the buildings to use as a dwelling conflicts with the tests of Policy PSE4 of the Denbighshire Local Development Plan, as it has not been demonstrated that its use is unviable for employment purposes or that the proposed dwelling would be affordable to meet local needs. Additionally, it has not been demonstrated that the dwelling would be capable of providing a satisfactory standard of amenity for future occupiers due to the proximity to operational and consented windfarms, a factor which is a material planning consideration in line with the guidance in Section 9.4 of the Development Management Manual.
2. The log cabin and the siting and scale of the proposed ancillary building have an adverse visual impact in an area of remote open countryside, and fail to preserve the setting of a listed building, contrary to Planning Policy Wales 10 with respect to harm to the landscape and also the guidance in Paragraph 9.4.3 of the Development Management Manual, TAN 24, Planning Policy Wales, The Historic Environment Act and Policy VOE 1 of the Denbighshire Local Development Plan and is contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. There is insufficient information submitted to demonstrate that the proposed development would not adversely impact on protected species. The proposal is therefore contrary to guidance in TAN5 paragraphs 6.2.2 and 6.3.7, Policy VOE5 of the Denbighshire Local Development Plan along with the guidance in the Council's adopted Supplementary Planning Guidance note 'Conservation and Enhancement of Biodiversity' and paragraph 9.4.3 of the Development Management Manual.
4. The site is located within Welsh Government's Strategic Search Area A, as defined in TAN 8: Renewable Energy. As the grant of permission would in effect convey residential use status to Bwlch Du, this is considered to conflict with the requirement on Local Planning Authorities in TAN 8 paragraph 2.10 to safeguard wind farm sites from other developments which could sterilise them, and it has not been demonstrated that the dwelling would be capable of providing a satisfactory standard of amenity for future occupiers due to the proximity to operational and consented windfarms, a factor which is a material planning consideration in line with the guidance in Section 9.4 of the Development Management Manual.

