



CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Heading:

REFERENCE NO. 40/2012/0456/PF
 PENGWERN FARM
 NANT Y FAENOL ROAD, BODELWYDDAN

3

Graham Boase
 Head of Planning & Public Protection
 Denbighshire County Council
 Caledfryn
 Smithfield Road
 Denbigh
 Denbighshire LL16 3RJ



Application Site

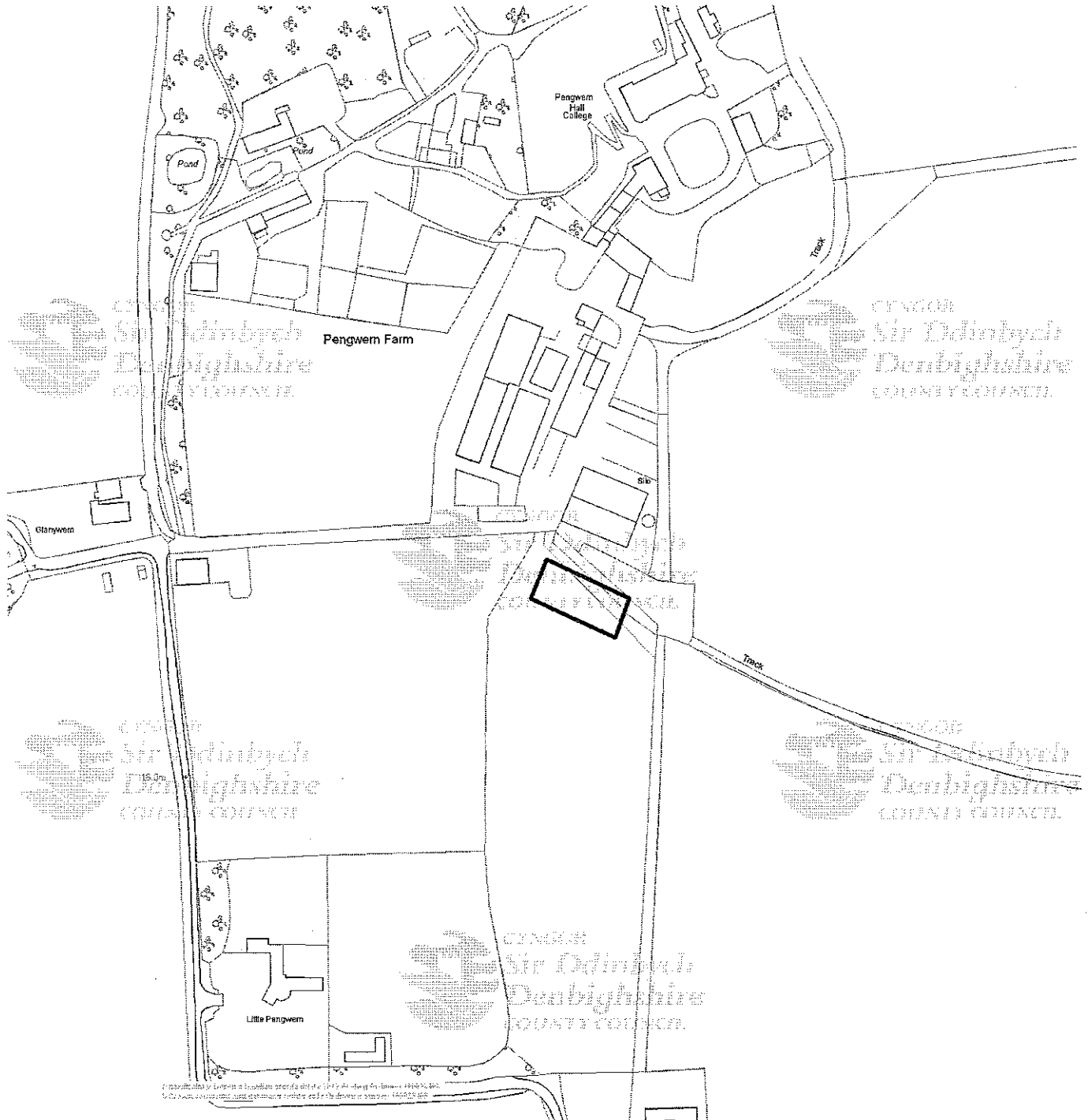


Date 3/10/2012

Scale 1/2500

Centre = 301862 E 376409 N

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



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ITEM NO: 3
WARD NO: Bodelwyddan
APPLICATION NO: 40/2012/0456/ PF
PROPOSAL: Erection of a loose housing building for cattle
LOCATION: Pengwern Farm Nant Y Faenol Road Bodelwyddan Rhyl
APPLICANT: Mr Huw Jones
CONSTRAINTS: PROW
PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - Yes
Neighbour letters - Yes

**REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2**

- Application submitted by son of County Councillor

CONSULTATION RESPONSES:

BODELWYDDAN COMMUNITY COUNCIL:
No response received

COUNTRYSIDE COUNCIL FOR WALES:
No objections subject to a condition relating to great crested newt surveys.

RAMBLERS ASSOCIATION:
An objection was raised to the initial scheme on the basis that the proposed building would be on a (disputed) public right of way. There has not yet been a response to the revised position of the building which is not on the public right of way.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:
FOOTPATH OFFICER:
No objection subject to conditions/notes to applicant ensuring that the public right of way is not obstructed.

BIODIVERSITY OFFICER:
No objections

PUBLIC PROTECTION:
Response to be reported

RESPONSE TO PUBLICITY:
None

EXPIRY DATE OF APPLICATION: 17/06/2012

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant
- protracted negotiations resulting in amended plans
- re-consultations / further publicity necessary on amended plans and / or additional information

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Planning permission is sought for the erection of an agricultural building to house cattle. The additional loose housing is stated to be needed to increase the cow numbers, and progress the business.
- 1.1.2 The building would measure approximately 46 metres by 15 metres, and feature a pitched roof with a ridge height of 5.8 metres.
- 1.1.3 Construction materials would be steel stanchions, with concrete panels to the rear and side elevations to a height of 2 metres, above which would be timber boarding. The front (north east) elevation would be open to allow the cattle to feed. The roof would be constructed using fibre cement sheeting.
- 1.1.4 The building would be located approximately 20 metres to the south of the existing yard.

1.2 Description of site and surroundings

- 1.2.1 The existing yard features a wide range of buildings including cow accommodation, silage storage, milking parlour, and slurry lagoon.
- 1.2.2 Further north of the farm yard are the buildings which comprise Pengwern Hall, west are the dwellings 1 and 2 Glan y Wern and to the south lies Little Pengwern and Llys Menyn. The rest of the surrounding area is characterised by open fields in agricultural use.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside, and adjacent to public right of way no.8.

1.4 Relevant planning history

- 1.4.1 None relevant to this application.

1.5 Developments/changes since the original submission

- 1.5.1 Since the original submission Officers and the applicant have been involved in lengthy discussions as to whether or not the building as originally shown would have been located on a public right of way. Officers, using the 'Definitive Rights of Way Map' have advised that to build the building in the original location would have obstructed a Public Right of Way, and on that basis could not support the application.
- 1.5.2 The applicants, having good local knowledge over many years, do not agree that there is a public right of way in the location shown on the 'Definitive Rights of Way Map'. However, a planning application is not the forum to dispute the existence or otherwise of a Public Rights of Way, and the

application must be considered on the basis of what is shown on the 'Definitive Rights of Way Map'. The applicants have accepted this and agreed to site the building in a location 4 metres south of the original location.

- 1.5.3 The applicants wish it to be known that in relocating the building, they are not accepting the validity of Public Footpath No. 8 as shown on the Definitive Rights of Way Map.

1.6 Other relevant background information

- 1.6.1 Pengwern Farm is a dairy farm with about 300 dairy cows and dairy heifers are reared as replacements. The farm extends to about 400 acres with the majority in grassland.

2. DETAILS OF PLANNING HISTORY:

- 2.1 None

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

- 3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 3 – Development Outside Development Boundaries
Policy GEN 6 – Development Control Requirements
Policy EMP 13 – Agricultural Development

3.2 GOVERNMENT POLICY GUIDANCE

- Planning Policy Wales 2011
TAN 6 – Planning for Sustainable Rural Communities

4. MAIN PLANNING CONSIDERATIONS:

- 4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
4.1.2 Impact on Visual Amenity
4.1.3 Impact upon Public Right of Way
4.1.4 Protected Species

- 4.2 In relation to the main planning considerations:

4.2.1 Principle:

Policy GEN 3 allows for certain types of development outside development boundaries, criterion vi) permits agricultural development providing there is no unacceptable impact on the social, natural and built environment. EMP 13 relates specifically to agricultural development, the aim of this policy is to ensure agricultural development has no unacceptable impact on the environment. Proposals must comply with four criteria relating to; the need for the development, the use of alternative existing buildings, the impact of development on the character and appearance of the countryside and the siting relating well to the existing complex. The building is to increase the cow numbers, and progress the business. It is noted there are no existing buildings which could currently accommodate this need. It is therefore considered that the proposal complies with criteria i) and ii) of EMP13 and is acceptable in terms of principle and need. Other detailed matters of consideration are dealt with below.

4.2.2 Impact on Visual Amenity:

Policy GEN 6 contains general criteria which seek to ensure that development does not harm visual amenity. Policy EMP 13, more specifically, requires agricultural development proposals to be well sited in relation to the existing farm complex, and to not result in harm to the character/appearance of the area.

The proposed building is sited within close proximity to the existing buildings, and would be seen in this context. The size and scale of the proposed building is comparative to the existing complex, and in terms of height is comparable to the existing development.

In terms of visual amenity, it is considered that the building would not result in injury to the visual amenity of the area. Accordingly it is considered that the proposal meets the aims of Policies EMP 13 and GEN 6 and is therefore acceptable in respect of visual amenity.

4.2.3 Impact on Public Right of Way:

Policy TRA 10, Public Rights of Way, requires careful assessment of the impact of development upon public rights of way. Welsh Office Circular 5/95 advises on how Public Rights of Way should be taken into account when determining planning applications.

Since the initial submission the proposal has been amended so that potential users of public footpath no.8 may pass unhindered along its route which would run between the proposed new building and the existing loose yard (as shown on the Definitive Public Rights of Way Map). The County Council's Public Footpath Officer has removed his objection to the proposal on this basis.

It is considered therefore that the proposal would not have an adverse impact on the public right of way and the proposal complies with Policy TRA 10 and accords with Welsh Office Circular 5/95.

4.2.4 Protected Species:

Unitary Plan policies, Welsh Government guidance and national legislation oblige due consideration of impact on ecological interests, and in particular protected species, (Unitary Plan policies ENV 1, ENV 6 and GEN 6). This approach is supported by SPG 18 – Nature Conservation and Species Protection.

The Countryside Council have responded that Great Crested Newts may be present within the site. Subject to a scheme of reasonable mitigation measures being agreed and implemented there are no objections to the proposal. Such reasonable mitigation measures are expected to be the erection of a 1-way amphibian fence prior to and throughout the duration of construction operations.

With regard to the requirements of ENV 6 and GEN 6, and the comments of the Countryside Council for Wales, it is not considered that the proposal as conditioned would result in a harm to the longevity of a protected species.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The proposal is considered acceptable under the relevant planning policies and it is therefore recommended that planning permission be granted.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

2. **PRE-COMMENCEMENT CONDITION**

Prior to the commencement of the development, provision for the presence of Great Crested Newts shall be made in the form of a reasonable avoidance measure scheme which shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed strictly in accordance with such approved details and recommendations implemented.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To ensure no harm to protected species at the site.

NOTES TO APPLICANT:

You are advised that a public right of way lies adjacent to the development. The right of way must not be disrupted during the duration of building works.