

Application No.	Application Type	Date Valid	Expiry Date	Extension of Time Date
P/2022/0343	Lawful Use Certificate (Existing)	11/04/2022	06/06/2022	

Applicant	Agent Name and Address
PAUL MARTIN MTN FARMING LTD WOOD VIEW FENNSWOOD SY13 3PD	MR PAUL MARTIN MTN FARMING LTD WOOD VIEW FENNSWOOD FENNS BANK SY13 3PD
Description of Development	Location of Development
TYSTYSGRIF DATBLYGIAD CYFREITHLON AR GYFER DEFNYDD PRESENNOL - GOSOD TWNEL POLYTHEN / LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING USE - SITING OF POLYTUNEL	WOOD VIEW FENNS WOOD FENNS BANK WHITCHURCH SY13 3PD

Relevant History	P/2019/0275 Agricultural building Refused 16/1/2020 ENF/2016/00432 Enforcement Notice served Appeal Dismissed
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Constraints	Applicable	Acceptable	Not Acceptable
Outside settlement	✓		
Inside settlement			
Conservation Area			
Listed Building/ setting			
Green Barrier			
Special Landscape Area	✓		
Flood Risk			
Within Buffer Zone or affecting SAC*	✓		✓
World Heritage Site			
AONB			
Phosphates			
SSSI/Ramsar	✓		

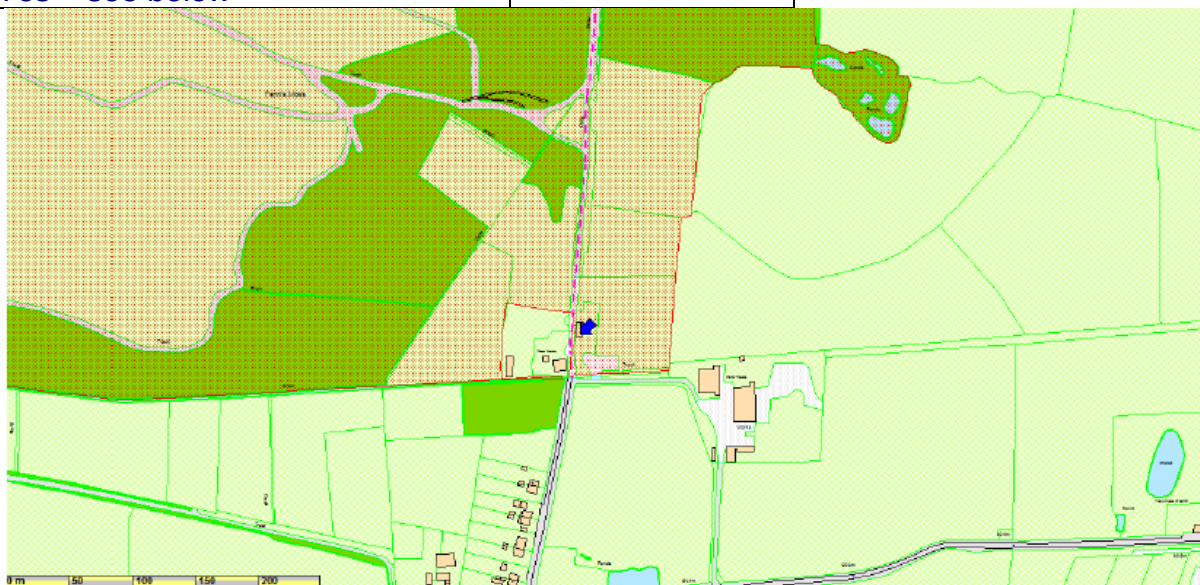
Local Planning Guidance	Acceptable	Not Acceptable
TAN5		✓

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Key Issues	Acceptable	Not acceptable	Observations Below	N/A
Residential Amenity				✓
Design				✓
Highway safety				✓
Parking				✓
Conservation/LB				✓
Ecology		✓	✓	
Trees				✓
Other				✓

KEY PLANS AND PHOTOGRAPHS (All plans and photos on Civica file)

None – see Civica for details	
Yes – see below	✓









APPLICANTS SUPPORTING STATEMENT

It is claimed that the structure was constructed in 2016.

CONSULTATION RESPONSES	Consulted	Supports	Comments	Objects	No objection/ no comments	No response
Community Council	✓	✓				
Local member(s)	✓					

Highways						
Public Protection						
Natural Resources Wales	✓		✓			
Welsh Water						
Other						
Neighbours	✓					

KEY COMMENTS MADE IF APPLICABLE

Community Council and Local Member: none

Consultees: NRW- development requires an appropriate assessment if approved

Neighbours: none

Ecology Officer:

The application site is within Fenns, Whixall, Bettisfield and Cadney Moss SSSI and Midlands Meres and Mosses SAC.

Previous applications on the site have been refused by the Planning Inspectorate and held up at Crown Court.

This Polytunnel has been the subject of enforcement action and a Habitats Regulations Assessment carried out at the time indicated that the proposal will be damaging to the features of interest of the SAC. The current state of the field backs this up and the tunnel should be removed as per enforcement notices.

OFFICERS OBSERVATIONS

Submitted documents: No comments

Planning Department records: the structure is on site in contravention of a valid enforcement notice, and therefore does not benefit from part 6 permitted development. The 1995 GPDO Wales Article 3 (5) states:

The permission granted by Schedule 2 shall not apply if—

- (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;
- (b) in the case of permission granted in connection with an existing use, that use is unlawful.

Conclusions:

A lawful use certificate should be refused.

Insert map/photo



RECOMMENDATION	
GRANT	
REFUSE	✓
S106 Required	
Cadw/ WG Referral Required	
Is application EIA Development?	

CONDITIONS OR REASONS The use was not lawful

INFORMATIVES

Planning Manager	Date Signed
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SF	19/5/22
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